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UNCERTAINTY, COMPLEXITY, ANXIETY – DEPORTATION AND THE PRISON IN THE CASE OF POLISH PRISONERS IN NORTHERN IRELAND

Introduction

Of course, there is one group I do want out of prison much more quickly, instead of British taxpayers forking out for their bed and breakfast: and that is foreign national offenders.¹

On the 8th February 2016, the then British Prime Minister (PM) David Cameron delivered what he said was the first speech by a PM focusing solely on the issue of prisons in over 20 years.² In the speech, the PM presented a vision of a system which would give “hope” to those “who are trying hard to turn themselves around” and “help those who’ve made mistakes to find their way onto the right path.” David Cameron did not want to see prisoners “as simply liabilities to be managed, but instead as potential assets to be harnessed.” To achieve that aim, he proposed a number of reforms to the prison system and the way in which imprisonment would be designed and organised to enhance its effectiveness in the rehabilitation of offenders.

It is beyond the scope of this introduction, and indeed this article, to discuss the details of the reform programme and its merits. What is, however, clear from his words quoted at the very beginning of this article is that foreign national prisoners in the United Kingdom (UK) will be much less likely to benefit from any reform. In their case, the PM promised legislation for earlier identification of ‘foreigners’ by the police and during the court process so they can be removed from

¹ D. Cameron, *Prison Reform: Prime Minister’s Speech, 8 February 2016*, <https://www.gov.uk/government/speeches/prison-reform-prime-ministers-speech> [accessed: 20.4.2016].

² *Ibidem*.

the UK more easily and quickly. While doing so, the PM differentiated between those ‘worthy’ British prisoners whom he wanted to see supported in gaining education, addressing mental health needs and substance abuse issues, and finding employment on release, and those less worthy, ‘foreign’ prisoners whose future options appeared limited to deportation. This division, which has been raised as an issue by a number of academic studies in the last decade,³ appears to have now been re-confirmed as a matter of official state policy. When it comes to the UK’s prison system, the only investment that can be expected in foreign national prisoners is one which improves the ‘efficiency’ of deportations.

The perception in the UK of foreign national prisoners as a *particular problem* to be *managed* rather than a group of prisoners who need to be supported is not new. In fact, it was just over a decade ago when on the 25th April 2006, the then Home Secretary Charles Clarke MP confirmed that between 1999 and 2006, over 1,000 foreign national prisoners had been released into the community without being considered for deportation.⁴ As a result of the political storm, or ‘scandal’, that followed Mr. Clarke resigned from his post, and the British Government focused on creating a separate legal and policy framework for the management of this group of prisoners in and beyond prisons. The central aim of this newly created system was to effect as many expulsions as possible through deportation, removal during the sentence, or removal under immigration rules post-sentence.⁵

Since 2006, the academic interest in the situation of foreign national prisoners in England and Wales has been growing steadily; this included a number of studies that focused on their experiences of the process of deportation and the related issues of a struggle for identity in a globalised world and criminal justice systems.⁶ No such research, however, has until now been conducted in Northern Ireland, leaving a gap in our understanding of how prisoners here perceive those processes and what are the challenges they are facing while in custody. This article, based on the author’s doctoral research with Polish prisoners in Northern Ireland, attempts to at least partially address this gap. Before presenting the findings of the research in this respect, the following section engages in a discussion of the UK’s deportation regime from both practical and theoretical perspectives. The research background and methodology is then discussed before introducing the findings. The article then concludes with a consideration of the implications of this research for deportation studies, and for deportation policy and practice.

³ See: H.S. Bhui, *Foreign national prisoners: Issues and Debates*, in: H.S. Bhui (ed.), *Race and Criminal Justice*, SAGE, London, 2009; E. Kaufman, *Punish & Expel. Border Control, Nationalism, and the New Purpose of the Prison*, Oxford University Press, Oxford 2015.

⁴ E. Kaufman, *Punish & Expel. Border...*, *op. cit.*

⁵ A. Martynowicz, *Warehouses for the Deportable: Foreign National Prisoners in the UK*, in: “Archiwum Kryminologii” 2013, t. XXXV, pp. 305–331.

⁶ See e.g. M. Bosworth, *Subjectivity and identity in detention: Punishment and society in a global age*, “Theoretical Criminology” 2012, vol. 16, no. 2, pp. 123–140; E. Kaufman, *Punish & Expel. Border...*, *op. cit.*

1. The UK Deportation Regime – Uncertainty, Complexity, Anxiety

Since the 2006 foreign national prisoners ‘scandal’ described briefly in the introduction, the development of increasingly stringent laws and deportation policies in the UK has been relentless. Although the legal framework for the removal of non-British nationals who committed criminal offences has been available in different forms since the *Commonwealth Immigrants Act 1962*, recent years witnessed the introduction of an “automatic deportation” under the *UK Borders Act 2007* and the development of a raft of early removal schemes which enable the UK authorities to remove foreign national prisoners at greater speed and at different points of their sentence.⁷ At the same time, access to legal aid in deportation cases has been removed in all but very exceptional cases, and possibilities of appeals against deportation orders were curbed through the introduction in the *Immigration Act 2014* of the “deport first, appeal later” principle ensuring that prisoners are only allowed to appeal their deportation order once removed beyond the UK’s borders. As can be expected, these developments made it increasingly difficult for prisoners to challenge Government decisions on deportations, and in 2013–2014, the UK deported over 5,000 people.⁸

Alongside those legal and policy developments, foreign national prisoners experience many problems once they come face to face with the UK’s deportation machine. These include gaps in independent immigration advice, complexities of immigration law and complex individual immigration status of at least some of the prisoners, the service of documentation and deportation decisions in English only with limited access to translation, and instances of detention post-sentence in prisons and immigration centres, often for lengthy periods.⁹ Uncertainty over deportation or immigration status leads to anxiety for prisoners,¹⁰ exclusion from services such as resettlement support in prisons¹¹ and has also been blamed for increasing tensions between prisoners and prison staff.¹² Such uncertainty often continues once they are released from prisons and/or immigration detention centres

⁷ For a more detailed description, see e.g. A. Martynowicz, *Warehouses for the Deportable: Foreign... op. cit.*, pp. 305–331.

⁸ National Audit Office, *Managing and removing foreign national offenders*, The Stationery Office, London 2014.

⁹ See: I. Hasselberg, *Enduring Uncertainty: Deportation, Punishment and Everyday Life*, Berghahn Books, Oxford 2016; J. Warr, *The deprivation of certitude, legitimacy and hope: Foreign national prisoners and the pains of imprisonment*, “Criminology and Criminal Justice” 2016, vol. 16, no. 3, pp. 301–318.

¹⁰ J. Warr, *The deprivation of certitude, legitimacy... op. cit.*

¹¹ HM Chief Inspector of Prisons, *Annual Report 2013–2014*, The Stationery Office, London 2014.

¹² HM Inspectorate of Prisons, *Report on an announced inspection of HMP Morton Hall, 19–23 November 2007*, HMIP, London 2008.

while their deportation cases are being considered, and impacts negatively on the former prisoners as well as their families if the prisoner challenges the deportation order.¹³ Delays and confusion in decision-making persist, despite a massive investment of monetary and human resources; in 2014, the National Audit Office estimated that it costs £850m a year to manage foreign national offenders in custody and in the deportation system.¹⁴ In the same report, the National Audit Office stated that it took the Home Office 319 days on average to deport foreign national offenders in 2013–2014; also on average, deportations in the same year took place 139 days (i.e. over 4.5 months) after the end of their sentence. While the report looked at the process from the point of view of the “efficiency” of the system, and not the impact on prisoners with which this article is concerned, it confirmed the sources of prisoners’ frustrations when it considered that ‘inefficiency’ was caused by “delays in starting cases, over-reliance on form-filling, delays in communicating with FNOs in custody and inefficiency in processing cases once under way.”¹⁵ While considerations of ‘efficiency’ are central to the state’s focus on removal of foreign national offenders, for the prisoners and their families the lived experience is of uncertainty, confusion and anxiety.¹⁶

The quote from David Cameron at the beginning of this article clearly shows how foreigners who offend are “defined as social problem[s].”¹⁷ The refocusing of law and policy on the deportation of ‘foreigners’ puts nationality at the core of how prisons and the broader criminal justice system operate, and how custody is experienced by individuals.¹⁸ As Sykes points out, “The prisoner is never allowed to forget that, by committing a crime, he has foregone his claim to the status of a full-fledged, *trusted* member of society” [emphasis in original].¹⁹ In the case of foreign national prisoners this rejection has a double meaning, as through the process described by Kaufman as “finding foreigners”²⁰ in the prison estate, they are reminded that in fact they have *never* been trusted members of the society in the first place. The procedure of identifying foreigners on their entry to prison becomes the “bureaucratic classification” which can then be used to legitimise their treatment “by eroding the sense of moral responsibility towards them and making the differential, more intensive application of coercive powers against this group acceptable and compatible with the standards of decency upheld in

¹³ I. Hasselberg, *Enduring Uncertainty: Deportation...*, *op. cit.*

¹⁴ National Audit Office, *Managing and removing foreign...*, *op. cit.*

¹⁵ *Ibidem*, p. 7.

¹⁶ I. Hasselberg, *Enduring Uncertainty: Deportation...*, *op. cit.*

¹⁷ M. Bosworth, *Theorizing race and imprisonment: Towards a new penalty*, “Critical Criminology” 2004, vol. 12, pp. 221–242.

¹⁸ M. Bosworth, I. Hasselberg, S. Turnbull, *Imprisonment in a global world: Rethinking penal power*, in: Y. Jewkes, B. Crewe and J. Bennett (eds.), *Handbook on Prisons*, Oxon, Routledge 2016, pp. 698–711.

¹⁹ G. Sykes, *The Society of Captives*, Princeton University Press, Princeton 2007, p. 66.

²⁰ E. Kaufman, *Punish & Expel. Border...*, *op. cit.*, p. 114.

[liberal] societies”²¹ Nationality, adds Aliverti is “the last category that allows legally sanctioned differential treatment”²² To paraphrase Hudson,²³ foreign national prisoners fail to demonstrate their identification with the “reasonable person of law” as required by their host state and society, and therefore simply cannot be trusted to remain being part of it.

The state actions targeted at foreign national prisoners can be seen as yet another phase of what has been described by De Giorgi as “the war against immigration” in which the “myth of immigrant crime and of immigrants as a dangerous class” is used to generate societal consensus to exclusion.²⁴ In response to this perceived ‘threat’ from migrants, governments engage in a “war on migration,”²⁵ which has been fought through the introduction of restrictive immigration legislation and complex regulations, stemming from deeply embedded State racism, xeno-racism and xenophobia.²⁶ Added to that are “militarised borders, systematic deportations, and (specifically in the European context) the hyper-incarceration of migrants.”²⁷ That ‘war’ is not waged on the rich. As Webber argues, those highly mobile migrants whose “youth, salary, qualifications and talent” are sought by governments to prop up the states’ economic system, are often welcomed – and even invited by the government and corporations – into labour markets and wider societies.²⁸ The poor and the persecuted, on the other hand, are met with “real-life militarised external border controls [and] fully fledged and virtually unregulated internal border police force.”²⁹

With the expansion of the European Union in 2004 by 10 new Member States, including Poland, that “militarised external border” became more permeable to Polish citizens. Subject to EU regulations, and in particular to the 2004 EU Citizens’ Directive, Poles could exercise their right to free movement within the boundaries of the EU since 1 May 2004. Although at the time of the enlargement, several ‘old’ Member States imposed restrictions on access to labour markets for up to seven

²¹ A. Aliverti, *Doing away with decency?: Foreigners, punishment and the liberal state*, in: A. Eriksson (ed.), *Punishing the Other: The social production of immorality revisited*, Oxon, Routledge 2016, p. 127.

²² *Ibidem*, p. 138.

²³ B. Hudson, *Difference, diversity and criminology*, “Theoretical Criminology” 2008, vol. 12, no. 3, p. 277.

²⁴ A. De Giorgi, *Immigration control, post-Fordism, and less eligibility. A materialist critique of the criminalization of immigration in Europe*, “Punishment and Society” 2010, vol. 12, no. 2, p. 154.

²⁵ F. Webber, *Borderline Justice: The Fight for Refugee and Migrant Rights*, Pluto, London 2012, p. 5.

²⁶ D. Scott, H. Codd, *Controversial Issues in Prisons*, Open University Press, Maidenhead 2010; F. Webber, *Borderline Justice: The Fight...*, *op. cit.*; H.S. Bhui, *The place of “race” in understanding immigration control and the detention of foreign nationals*, “Criminology and Criminal Justice” 2016, vol. 16, no. 3, pp. 267–285.

²⁷ A. De Giorgi, *Immigration control, post-Fordism...*, *op. cit.*, p. 148.

²⁸ F. Webber, *Borderline Justice: The Fight...*, *op. cit.*, p. 5.

²⁹ *Ibidem*.

years, three of them – the UK,³⁰ Ireland and Sweden – opted to allow free movement of workers from the date of expansion.³¹ By the end of 2014, over 850,000 Polish nationals resided in the UK; 20,000 of those made their home in Northern Ireland.³²

Since 2004, EU migrants from the ‘new’ Member States made significant contribution to the UK’s economy.³³ In Northern Ireland, a study by Oxford Economics in 2009 submitted that without the inflow on migrant workforce, many vital services and industries would have either struggled to find employees or disappear all together. These services and industries included the health service, social care sector, hospitality sector and food production and processing.³⁴ Many of the men interviewed for the research on which this article is based were part of that economic story, working in lower skilled and often lower paid positions yet providing vital labour support to, in particular, agriculture, food production and food processing. That contribution, however, appears to count for little when they are accused of or sentenced for commission of criminal offences. At that moment, they are placed back at the hard frontier of the state, of which prisons are now an intrinsic part, awaiting decisions about their fate.

2. Research Background and Methodology

As stated earlier, this article is based on the author’s doctoral research which considered the treatment and experiences of custody of adult Polish male prisoners in Northern Ireland. In the course of the research, the first in the United Kingdom specifically to consider the situation of Polish prisoners, seventeen such prisoners were interviewed either individually or in small groups at two different stages of the fieldwork: between October 2013 and June 2014 and between April and June 2015.³⁵ The interviews took place in Maghaberry (high-security) and Magilligan (medium-security) prisons, which accommodate all male prisoners over the age

³⁰ Although the UK allowed for free movement of workers, it introduced certain restrictions in access to welfare benefits. For the first seven years following expansion, workers from “new” EU Member States were also subject to registration under the Worker Registration Scheme.

³¹ European Commission, *The transitional arrangements for the free movement of workers from the new Member States following enlargement of the European Union on 1 May 2004*, EC, Brussels 2004.

³² Northern Ireland Statistics and Research Agency, *Census 2011. Key statistics for Northern Ireland, December 2012*, NISRA, Belfast 2012, http://www.nisra.gov.uk/Census/key_report_2011.pdf [accessed: 25.3.2016].

³³ See e.g. C. Dustmann, T. Frattini, *The Fiscal Effects of Immigration to the UK*, “The Economic Journal” 2014, No. 124, pp. 593–643.

³⁴ A. Martynowicz, *It’s not how they should treat people’. Migrants and the workplace in Northern Ireland*, Irish Congress of Trade Unions Northern Ireland Committee, Belfast 2014.

³⁵ While Polish prisoners constituted the largest group of foreign national male prisoners in Northern Ireland throughout much of the research timeframe, the actual number of such prisoners on any given day is relatively small, i.e. between 15 and 25.

of 21 in Northern Ireland.³⁶ In addition to interviews with prisoners, a small number of core prison staff responsible for equality and diversity policies were also interviewed, together with representatives of prison monitoring and oversight bodies. The study also included observations of aspects of the prison regime, and in particular the quarterly Foreign National Forum in each of the prisons (a consultative meeting with foreign national prisoners) and monthly Equality and Diversity Meetings (which, while including prisoner representatives, are more formal meetings for core staff responsible for equality issues). Research access was facilitated by the Northern Ireland Prison Service; the study was, however, fully independent of the Service.

The study sought to “uncover the truth”³⁷ about prisoners’ experiences, and the use of qualitative methods was therefore deemed the most appropriate approach. As Davies argues, a qualitative approach enables the researcher to “explore respondents’ feelings and experiences” and “throw[s] light on feelings, prejudices and subliminal ideas that it is difficult to tap into by more structured methods.”³⁸ One of the “unique features of qualitative method is that it seeks to start from where people are at and actively looks for the means to enable them to share their experiences.”³⁹ Noaks and Wincup submit that “qualitative methods are particularly suited to exploratory, small-scale studies”⁴⁰ such as this one as “exploration” suggests a need for a close study of a particular group and their circumstances and “in qualitative research, the researcher is encouraged to become involved with the subjects, looking for meaning and developing emergent theories through the analysis of soft, non-numerical data.”⁴¹ Qualitative research with small samples also allows respondents “to supply the researcher with wide-ranging perspectives on complex issues,” as well as introducing the potential for interviewees to “exercise more democratic responsibility in the encounter”⁴² through at least some level of control over the flow of the conversation. This latter consideration is of particular importance in undertaking a research project with prisoners as a literally captive audience whose lives in prison are otherwise strictly regulated. For all those reasons, the use of semi-structured individual and small group interviews was chosen as the main method of data collection.

³⁶ Maghaberry accommodates remand and sentenced prisoners while Magilligan accommodates sentenced prisoners only.

³⁷ D. Scott, *Ghost Beyond Our Realm: A Neo-abolitionist analysis of prisoner human rights and prison officer occupational culture*, PhD thesis, University of Central Lancashire, Preston 2006, p. 34.

³⁸ M.B. Davies, *Doing a Successful Research Project*, Palgrave Macmillan, Basingstoke 2007, p. 140.

³⁹ L. Noaks, E. Wincup, *Criminological Research: Understanding Qualitative Methodologies*, SAGE, London 2008, p. 75.

⁴⁰ *Ibidem*, p. 16.

⁴¹ I. Crow, N. Semmens, *Researching Criminology*, Open University Press, Maidenhead 2008, p. 28.

⁴² M.B. Davies, *Doing a Successful Research...*, p. 140.

Convenience or “availability”⁴³ sampling was used to select interviewees, i.e. respondents who were available, easy to access (through the Foreign National Forum in both prisons) and willing to take part in the research. Although convenience sampling results in non-random samples and it cannot be therefore assumed that the views expressed by participants “are representative of the population,”⁴⁴ its use for this study allowed the author to access a group of interviewees with a variety of incarceration histories. The largest group – nine interviewees – were in prison having been sentenced for offences committed in Northern Ireland. The length of their sentences ranged from six months to life imprisonment. Another three were held on remand in relation to alleged offences committed in Northern Ireland. Five further interviewees were held on foot of a European Arrest Warrant, awaiting the outcome of their extradition proceedings.

The interviews were based on a set of questions relating to the prisoners’ background prior to their incarceration, the prison life, relationships with other prisoners and staff and their future plans. Interview data was analysed using a thematic analysis (TA) approach.

3. Experiences of Deportability – Polish Prisoners in Northern Ireland

Although the study did not specifically focus on the experience or processes of deportation, this theme – perhaps inevitably – run through a number of research encounters: it was discussed in individual and small group interviews; was a subject of often fierce debate at the Foreign National Forum in both prisons; and featured prominently in interviews and more informal conversations with Equality and Diversity Co-ordinators (especially in Magilligan prison where most of the prisoners subject to deportation orders would be accommodated towards the end of their sentence). In interviews with prisoners, discussions of deportation were often linked to conversations regarding their plans after release, as the ever-present threat of expulsion from Northern Ireland (and therefore the United Kingdom) directly impacted on how those were conceived of.

Most of the Polish prisoners’ post-release plans were linked to staying in Northern Ireland; they wanted to go back to work, continue or re-establish relationships with families and friends, settle back into routines outside of the prison walls in their “new” communities. Artur⁴⁵ remarked that as he reached his forties, he wanted to *really go back to work now, go to my own home after work, my partner there with me, visits [to family and friends], dinners with [her] parents, you know. I just want to settle now.* Sławek, who worked in the food processing industry

⁴³ I. Crow, N. Semmens, *Researching...*, op. cit., p. 49.

⁴⁴ *Ibidem.*

⁴⁵ All names of prisoners used in this article are pseudonyms.

before his imprisonment, also wanted to go back to work: *The first thing I'll do when I'm released will be to sign on [unemployment benefit] and then start looking for work. If I get out in the next month, it will be in good time before Christmas so they will need workers in [food factories]. So there should be no problem with work, at least that's what I think.*

Sławek could hope to be released into the community as his sentence was very short. Many of the Polish prisoners were, however, very mindful that their plans might come to an abrupt end if they were to be deported at the end of their sentence. In contrast to Hasselberg's interviewees⁴⁶ who were often shocked and surprised at the possibility of them being deported, most of the Polish prisoners interviewed for this study anticipated being subjected to deportation procedure; two specifically mentioned that they in fact wished to return to Poland as soon as possible. Those who were sentenced for more serious offences were aware that their chances of staying in Northern Ireland post-release were small, especially if they did not have strong family connections in the country which could help them to argue that deportation would infringe upon their right to family life. The Equality and Diversity Co-ordinator in Magilligan prison confirmed that they had every right to be concerned stating that: *I would say most, I would say maybe 80, 90% of foreign nationals will be deported or at least taken away by the Home Office.* Anxiety about the deportation process was, therefore, at the core of many of the prisoners' experience of custody.

The deportation process is complex⁴⁷ and the anxiety experienced by Polish prisoners was heightened by the lack of understanding of how decisions are made by the immigration authorities. For example, and as alluded to in the preceding sections, prisoners were asked to fill in lengthy, complex questionnaires in English about many details of their lives, including about their history of migration, family connections and their offences and sentence. While some of the prisoners acknowledged assistance from solicitors, much of the advice on the processes appeared to come from other prisoners rather than from lawyers. Stories and advice about preparation for deportation were often exchanged in small group interviews during the research, with prisoners reflecting on previous experiences of people they knew to have been deported. The fact that much information came from other prisoners often meant that it was contradictory and partial. Some prisoners reported that consultations with their legal representatives did not provide much clarity about the process either. As Bartosz remarked: *I got the deportation papers before Christmas, the solicitor said 'Maybe you will be deported, maybe not', the case is on-going. I got the papers before Christmas, they told me to contact my solicitor, because there are 20 days to appeal it. But [the solicitor] came, well, just over a week*

⁴⁶ I. Hasselberg, *Enduring Uncertainty: Deportation...*, *op. cit.*

⁴⁷ See: I. Hasselberg, *Enduring Uncertainty: Deportation...*, *op. cit.* The process since Hasselberg's research has been made even more difficult since the introduction of a presumption of out-of-country appeals in 2014.

ago, so over a month passed then, Christmas, there was a break. But the solicitor came, helped me fill in the papers, and said 'Maybe you will be deported, maybe not'.

Bartosz got some information from another prisoner and in the research interview appeared confused as to whether his prison term meant that he would be automatically considered for deportation. He appeared to know very little about the process itself, or its consequences for his situation, and as the quote above illustrates, the assistance he had from a solicitor did not alleviate his concerns. Kuba remarked that he was asked to fill in a questionnaire by the immigration authorities at the beginning of his sentence and had asked to see his solicitor but nearly three months later he was yet to be contacted by anyone. Other prisoners mentioned to Kuba that he would probably not hear anything until just before his release: *You'll find out in the last month of your sentence*, Dominik told him during small group interview, *or even later than that*. This statement did little to reassure Kuba about what his future holds. Paweł was asked to fill in the immigration services' questionnaire a month into his two year prison sentence. Seven months before the date of his conditional release he met with his solicitor again but the only thing that the lawyer was able to tell him was that the decision whether to deport him will not be taken until around a month before his release date. Artur, who was in a similar situation, wanted to know what happened if he was to be deported and had many questions: *And how do they do that? How does it look like, you know? Will they take me from here to the airport? How?* It was clear from the interview that while he was told that he may be deported, no other information was provided to him about the actual process. Neither Paweł nor Artur were even sure if they would be informed about deportation decision directly or will the news come through their solicitors. All they appeared to have been told was that they have to await their fate.

Similar confusion was also experienced by others. When asked if he knew why the immigration services were visiting the prison and asked to speak with him, Marcin was clear he was not going to give them any information while at the same time being unsure about the purpose of any interview: *I don't know, they asked me why I was here, I didn't reply, of course, as I don't have to talk to them. Generally, I was going to leave [the meeting], because I didn't know why they asked all this information, right? The woman wanted to get some information from me, because she claimed that she can find out everything, so [I said] 'go and find out then', right?*

He later contacted his solicitor who reassured him that this was not something that he should be concerned about as he was subject to extradition proceedings, and not a deportation process, and therefore the immigration authorities should not have an interest in his case. Nevertheless, it is clear that being approached by immigration officers in the prison was an unnerving experience. Uncertainty over deportation decisions and the fact that many prisoners did not know until last minute if they would be deported and removed immediately or placed in immigration detention, was also a source of frustration to staff:

All the Home Office and Immigration Service documentation and paperwork only come into force whenever the [prisoners] leave us at time served, so... Which is an issue for a lot of inmates because we could facilitate appeals, bail and the rest of it, and we could help them with their solicitors to try and do that but they can't challenge an IS91⁴⁸ detention order until the date of the time served, so the time that comes into force, they've gone from us. So, it's one thing that, that's happening that frustrates me a wee bit as well, because you'd like to help people, you know... [...] It would be useful for us to help with frustrations that some inmates have because, they leave us, and they go to Larne,⁴⁹ and they can stay up to seven days in Larne, and then they go usually to Dungavel in Scotland,⁵⁰ [get] immigration bail, they come over here again, they may have part of their licence [still to serve], so then all the conditions start to kick in again. So, if we were able to do that before they went, if they were able to challenge the IS91 before they went 'time served' [...] that would help some of the inmates, would help us from sentence planning point of view as well... (E&D Co-ordinator).

For those who did not challenge deportation, the actual process of physical removal was daunting as the quote from Artur above has already showed. It was clear from interviews with the prisoners that little advice was provided to them as to how to deal with matters such as packing of personal belongings, transferring money kept in bank accounts or any other practical aspect of preparation for deportation, although the E&D Co-ordinator in Magilligan was adamant that he would facilitate requests such as access to money if approached by a prisoner. This was yet another area where prisoners appeared mostly to depend on each other for advice, passing on to newly arrived prisoners any knowledge that they had gained from the deportation of others. Adding to apprehension about the deportation process was the possibility – however remote – of spending additional time in immigration detention centres. While some prisoners thought that they would only be detained after sentence if they were contesting the deportation order (Dominik), others were aware that detention was a possibility for other reasons. In one research meeting, a story was exchanged about a prisoner who was subject to deportation but who, having been transported to England or Scotland at the end of their sentence, was later returned to Maghaberry prison under immigration detention order. The possibility of spending additional time in detention under immigration authority (either in prison or an immigration detention centre) created anger in particular in those who agreed to being deported. As Jerzy observed: *[When being deported] you have to go to England and spend two, three days in England, and only then to Poland. This is some kind of a joke! Because once I agreed to being deported, then maybe I would like to be deported directly to Poland? I don't need to see a deportation centre in England.*

⁴⁸ IS91 is a document authorising detention under immigration legislation.

⁴⁹ Larne House is an immigration Short-term Holding Facility close to Larne Harbour in Northern Ireland. Detainees can only be held there for up to 7 days; after that they have to be transferred to one of UK's Immigration Removal Centre's (IRCs) in England, Wales or Scotland.

⁵⁰ Dungavel is an IRC in Scotland that was previously used for transfer of immigration detainees from Northern Ireland to centres in England and Wales.

Considering the confusion and dearth of information, it is not surprising that group discussions of the issue of deportations were occasionally heated, including during the Polish Foreign National Forum. At one meeting of the Forum in Magilligan a prisoner raised the issue of being given papers which he did not understand in response to a question from the Prison Service's Equality and Diversity Manager⁵¹ about the use of interpretation (Research note, 5 March 2014). The prisoner appeared agitated and angry, his voice raised. He said he was given deportation papers by a Senior (prison) Officer, but no-one explained what these were and what they said: there was no interpretation available, and no contact from immigration officers. He understood that he had agreed to deportation but could not understand the conditions imposed on his future travel to the UK. Although angry, he did not want his case to be raised with prison staff, but wanted to let the Equality and Diversity Manager know "for future reference" (Research note, 5 March 2014) about prisoners being asked to comply with conditions and sign documentation which they did not understand.

At another Forum, a prisoner again raised the issue of being served deportation papers without interpretation or explanation. He stated that some prisoners in the group were given "forms" in English the day before the Forum and told by an officer to sign them (Research note, 3 June 2015). Despite having informed staff that he did not speak English and wanted to speak to his solicitor, he described feeling pressured into signing the forms straight away. A heated discussion followed between the prisoner and the equality and diversity staff about his "choice" to send the papers back, unsigned, as immigration did not provide translated forms in deportation proceedings. The prisoner insisted that he will not sign anything without consultation with his solicitor; he considered this not his "choice" but his "right."

Those two latter examples can be seen as a form of protest relating to the *process* of deportation but were not necessarily about resisting deportation itself. Prisoners may have agreed to being removed at the end of their sentences, but they wanted to be treated with respect and to be afforded the opportunity to understand their own situation and the consequences of their decisions. As the above observations show, in many cases this understanding was lacking and few opportunities for clarification existed while still in prison, adding frustration to anxiety. Perhaps because of that frustration, some – like Bartosz – were very keen to sever the ties with Northern Ireland as soon as possible even if their deportation cases were resolved in their favour: [...] *if I'm not deported, I will stay two, maybe three months, to earn some*

⁵¹ The Equality and Diversity Manager was a member of Prison Service Headquarters staff, responsible for overseeing the implementation of the Service's equality and diversity policies. The Manager worked with Equality and Diversity Co-ordinators (prison officers) in individual prisons to ensure such implementation, and also had a central function in the organisation of Foreign National Fora which are quarterly meetings with prisoners classified as 'foreign national.'

money [...] and then I'm going back to Poland. [...] I don't like this country, most people don't. [...] it's a dangerous place.

Discussion and Conclusions

Situated on the edges of the UK's carceral archipelago,⁵² prisons in Northern Ireland have been less affected by the foreign national prisoner 'scandal' in 2006 than those in England and Wales. Preoccupied with the overwhelming problems resulting from the legacy of armed conflict,⁵³ prisons in Northern Ireland stumbled from crisis to crisis marked by lack of appropriate care and provision for prisoners; overfocus on physical security; poor industrial relations; all within an inappropriately configured and managed prison estate.⁵⁴ Inside, male and female prisoners suffer the consequences of this legacy, among them a small number of 'foreign nationals'. In a way, the 2006 'scandal' presented an opportunity – if it can be so called – for the visibility of foreign national prisoners in Northern Ireland to increase. The nationality of prisoners was now recorded, and in 2008 first attempts were made on designing a NIPS policy which would direct their treatment in prisons.⁵⁵ However, this increased visibility in policy terms did not translate into any positive practice and in 2011, the Prison Review Team reported that foreign national prisoners felt unsafe and unsupported in prisons; were subjected to discriminatory attitudes of some staff, as well as casual racism; they were linguistically excluded; not provided with appropriate support when it came to their health needs; and some reported feelings of despair. It was clear that when it came to the treatment of minority ethnic and foreign national prisoners, staff exhibited a "considerable degree of cultural and racial blindness"⁵⁶ of which the consequences for those prisoners were very serious.

While this article was not concerned with the detailed treatment of Polish prisoners throughout their custody in Northern Ireland, but with a specific theme of their views on the deportation process, it is clear from the evidence presented in the previous section that foreign national prisoners are still provided with little support, including at the time when they struggle to understand and navigate the deportation system. Polish prisoners in Northern Ireland are less likely to have established links to the community as their histories of migration

⁵² M. Foucault, *Discipline and Punish: The Birth of the Prison*, Penguin Books Ltd., London 1977.

⁵³ A. Martynowicz, *Not so multi-cultural prison: Polish prisoners in a transitional prison system*, "Criminology and Criminal Justice" 2016, vol. 16, no. 3, pp. 337–349.

⁵⁴ Prison Review Team, *Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Interim report February 2011*, PRT, Belfast 2011; Prison Review Team, *Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Final report October 2011*, PRT, Belfast 2011.

⁵⁵ Northern Ireland Prison Service, *Northern Ireland Prison Service's Draft Foreign National Prisoner Strategy 2008–2010*, NIPS, Belfast 2008.

⁵⁶ Prison Review Team, *Review of the Northern Ireland...*, *op. cit.*, p. 39.

tend to be shorter and more recent than many of the foreign national prisoners in particular in England and Wales. Many would have arrived in Northern Ireland after the 2004 expansion of the European Union and while they may have started to establish their lives here, many cannot count on support from their family and friends who tend to live abroad. In that situation, they often feel isolated and have to deal with the deportation process on their own. While some advice appears to be available from specialised prison staff, most prisoners then turn to other prisoners for advice. This risks them getting information which is partial and not always correct, which heightens the anxiety about the process of removal. As the evidence presented shows, they appear to be almost entirely at the mercy of the system, where information from solicitors can be scarce and where their experience is dominated by waiting – waiting for contact with lawyers, waiting for the deportation decision, waiting to be deported. While they wait, their release plans are put on hold and their reintegration into the community is jeopardised as they are unable to prepare for their life after release while not knowing where that life will be.

This is because, as Aas argues,⁵⁷ expulsion is not concerned with reintegration. She suggests that in modern ‘cimmigration’ systems (combining immigration control with criminal justice) even the punishment itself is secondary to the ultimate goal of exclusion beyond the national borders. Aas suggests that the proliferation of early return schemes provides evidence for the latter – the individual no longer has to serve their full sentence if they agree to being removed beyond the national border; they are no longer incapacitated but ex-capacitated. However, this analysis does not consider the fact that the process of expulsion is not only a symbol but also a reality of the ultimate moral rejection and moral condemnation of the ‘criminal’ and their offending act.⁵⁸ If, in the context of the treatment of “foreign national offenders” deportation “assures the voting public that the problem has been identified, and is being addressed through state authority,”⁵⁹ the state plays a central role in that rejection. In addition to the physical removal, the state also imposes another sanction on the deportees, that is a temporary ban on returning which can last up to 10 years.⁶⁰ Deportation – or expulsion by other means – previously “resorted to relatively rarely and with a degree of trepidation”⁶¹ has therefore become both

⁵⁷ K.F. Aas, *The Ordered and the Bordered Society: Migration Control, Citizenship and the Northern Penal State*, in: K.F. Aas and M. Bosworth (eds.), *The Borders of Punishment. Migration, Citizenship, and Social Exclusion*, Oxford University Press, Oxford 2013, pp. 21–39.

⁵⁸ G. Sykes, *The Society...*, *op. cit.*

⁵⁹ I. Hasselberg, *Balancing Legitimacy, Exceptionality and Accountability: On Foreign-national Offenders’ Reluctance to Engage in Anti-deportation Campaigns in the UK*, “Journal of Ethnic and Migration Studies” 2015, vol. 41, no. 4, p. 565.

⁶⁰ *Ibidem.*

⁶¹ M.J. Gibney, *Asylum and the Expansion of Deportation in the United Kingdom*, “Government and Opposition” 2008, Vol. 43, no. 2, pp. 146–167.

a new form⁶² and a *new aim* of punishment, a penal goal on its own. The punitive nature of deportation is clear when one considers the findings of this research with respect of issues such as lack of translation and interpretation to enable prisoners to understand documentation and the consequences of their decisions throughout the deportation process; the lack of assistance provided to prisoners in preparation for removal; non-consideration of issues such as the transfer of their belongings and financial means; separation from family and community and the potential for extended detention in the immigration detention estate. Throughout this process, prisoners are reminded that they are being punished for what they have done (commission of a criminal offence) *and* for who they are (meaning 'foreign'), and therefore everything else – their lives, their belongings, their future – is only a secondary consideration.

⁶² J.P. Stumpf, *The Process is the Punishment in Crimmigration Law*, in: K.F. Aas, M. Bosworth (eds.), *The Borders of Punishment. Migration, Citizenship, and Social Exclusion*, Oxford University Press, Oxford 2013, pp. 58–75.