

# Gender at the border: Nationalism and the new logic of punishment

**Emma Kaufman**

Yale Law School, USA

*Punishment & Society*

2014, Vol. 16(2) 135–151

© The Author(s) 2014

Reprints and permissions:

sagepub.co.uk/journalsPermissions.nav

DOI: 10.1177/1462474513517016

pun.sagepub.com



## **Abstract**

Criminologists have spent the past decade writing about the border. Sociologists have documented the growing convergence of punishment and migration control, while legal theorists have critiqued the concepts of sovereignty and citizenship. Over time, these inquiries have cohered into what Katja Aas and Mary Bosworth call the ‘criminology of mobility’. One central premise of this new criminology, perhaps even its motivating concern, is that globalization has altered the relationship between punishment and identity. This article expands on that theoretical claim. What do we mean when we say that punishment and identity are intertwined? How have mass mobility and waning sovereignty affected the practice of punishment? With these questions in mind, this article examines the relationship between three aspects of identity – gender, sexuality, and nationality – in one space of punishment, the British prison. Drawing on interviews with foreign national prisoners in five men’s prisons, I argue that sexism and homophobia work as resources for prisoners who seek to establish themselves as members of the British polity. In the contemporary prison, asserting gender conformity is one way to lay claim to a British national identity.

## **Keywords**

border control, gender and sexuality, globalization, prisons, sovereignty

## **Introduction**

Criminologists have spent the past decade writing about the border (see, for example, Aas, 2007; Angel-Ajani, 2003; Bosworth, 2012; Grewcock, 2011). Building from a critique that first emerged in the late 1990s (see, for example, Simon, 1998b), scholars have tracked parallels between the effort to ‘manage’ migration

---

### **Corresponding author:**

Emma Kaufman, Yale Law School, 127 Wall St, New Haven, CT 06511, USA.

Email: emma.kaufman@yale.edu

and the practice of policing crime (Malloch and Stanley, 2005; Melossi, 2013; Weber and Pickering, 2007). Legal theorists have also argued that border control measures complicate the concepts of sovereignty and citizenship (see, for example, Brown, 2010; Stumpf, 2007; Zedner, 2010; see also Bosworth and Guild, 2008). Over time, these inquiries have cohered into what Katja Aas and Mary Bosworth (2013) call the ‘criminology of mobility’. We have witnessed the emergence of a field devoted to exploring the convergence of punishment and migration control.

One central premise of this new criminology, perhaps even its motivating concern, is that globalization has altered the relationship between punishment and identity. Citing restrictive legislation, scholars argue that the ‘architecture of crime control’ is increasingly dedicated to the identification and expulsion of particular kinds of people (Zedner, 2010; see also Bosworth, 2012). Crime control, in other words, has become a project of exclusion. The article that follows aims to put some flesh on this theoretical framework. How have widespread migration and waning sovereignty changed the practice of punishment? What does it mean to say that punishment and identity are intertwined?

With these questions in mind, this article examines the relationship between three aspects of identity – gender, sexuality, and nationality – in one space of punishment, the British prison. Drawing on interviews with incarcerated foreign nationals, I argue that gender is an integral part of what it means to be British in the prison. New border control policies have challenged prisoners’ senses of nationality, citizenship, and home. Faced with these policies, many prisoners seek to establish themselves as legitimate members of the British polity. Sexism and homophobia are key resources in this effort, for in the prison, asserting gender conformity is one way to show that you belong. In an era of mass mobility, gender becomes a metaphor for national identity.

This argument develops over three sections. Section one describes how recent penal policies have prioritized citizenship, and in the process, have thrown prisoners’ national identities into question. This section introduces a penal policy called ‘hubs and spokes’, which has redirected the prison toward the aims of migration control (MoJ and UKBA, 2009; see also Kaufman, 2013). Section two examines how the hubs and spokes policy interacts with existing dynamics of gender and sexuality in the prison. Paying close attention to the language prisoners use to describe their lives, this section argues that gender conformity – and in particular, demonstrations of masculinity and homophobia – work to establish the boundaries of a shared prisoner identity (Sim, 1995). Section three examines how gender norms resurface, and get recast as the basis for a national identity, when the prison becomes a site for border control.

### **‘I’m bloody English now’**

The British approach to incarcerated ‘foreigners’ has changed dramatically in the past several years. In July of 2009, prompted by a highly publicized scandal in the Home Office, the British government introduced its first explicit policy on foreign

nationals in the penal estate (MoJ and UKBA, 2009; see also Vine, 2012).<sup>1</sup> Dubbed ‘hubs and spokes’, that policy outlined a new institutional framework for the relationship between the Prison Service and the UK Border Agency (UKBA).<sup>2</sup> Under that framework, foreign national prisoners, who used to be incarcerated across the prison system, are now held either in ‘all-foreigner’ prisons or in specific prisons designated as ‘hubs’, which are ‘embedded’ with full-time immigration staff (MoJ and UKBA, 2009; Vine, 2012).<sup>3</sup> The hubs and spokes agreement also requires prison staff members to check prisoners’ immigration statuses and obliges prisons to hold some prisoners beyond the length of their criminal sentences as immigration detainees (MoJ and UKBA, 2009; Vine, 2012).<sup>4</sup>

This article emerges from a year of research on the lived effects of the hubs and spokes policy. In the summer of 2009, I embarked on an effort to examine how this policy affects identity dynamics in the prison system. To answer that question, I conducted semi-structured interviews with prisoners and staff members in five men’s prisons across England.<sup>5</sup> Each of the prisoners I interviewed had been identified as a foreign national either by the police or by prison staff. This designation did not mean that prisoners would ultimately be deported, nor even that they were actually non-citizens.<sup>6</sup> It did mean, however, that they were required to attend ‘immigration surgeries’, the meetings in which UKBA officials come into the prison to interview people who have been categorized as foreign nationals. I initially met prisoners during these surgeries and then held longer private interviews with people who volunteered to participate in my research. Ultimately, I conducted one-on-one interviews with over 150 foreign national prisoners and 32 prison and immigration staff members.

These interviews led to a series of discoveries about the day-to-day practice of imprisoning ‘foreigners’. At a bureaucratic level, it quickly became clear that the approach to managing non-citizen prisoners was less streamlined than its design. As of early 2013, there are approximately 10,000 foreign nationals in the British penal estate (MoJ, 2012).<sup>7</sup> While the hubs and spokes policy aims to concentrate these prisoners in and around the facilities with the strongest UKBA presence, both foreign national prisoners and immigration staff are scattered across the prison system (MoJ and UKBA, 2009). Some ‘spoke’ prisons, which are in theory less involved in migration policing, incarcerate a relatively high number of foreign nationals and employ full-time immigration officials. In every prison, moreover, the role that border agents play differs depending on context and institutional culture. Often, prison and immigration staff members criticize and resist the integration of their respective agencies.<sup>8</sup> These piecemeal qualities of the hubs and spokes system highlight the limitations of broad claims about the way ‘the prison’ works. Prisons have individualized identities of their own.

Nonetheless, the new approach to ‘foreigners’ has had concrete effects. In practice, the hubs and spokes policy has introduced the priorities of migration control into the penal estate. Today’s prison officers work as quasi-immigration agents, identifying foreign nationals and collecting their travel documents for the UKBA (MoJ and UKBA, 2009). Internal directives instruct prison managers to appoint

'Foreign National Coordinators', civilian staff members whose job duties include calling foreign embassies and serving legal notices on behalf of the Border Agency (HMPS, 2008). For prisoners, entry into the penal institution now includes a mandatory questionnaire about birthplace and nationality (MoJ and UKBA, 2009). Depending on his answers to those questions, a prisoner's daily experience of incarceration might include getting fingerprinted, photographed, and questioned by a border agent (MoJ and UKBA, 2009). If he is within five years of the end of his term, a foreign national prisoner might be transferred to a penal institution constituted solely of people facing deportation (MoJ and UKBA, 2009).

In the context of these penal practices, nationality and citizenship status have taken on a new salience in prison life. Many of the people I interviewed told me that citizenship mattered in the prison hierarchy, both to relations between prisoners and to the dynamics between prisoners and staff. Foreign national prisoners often felt that they were, as one prisoner put it, 'on the bottom rung' of prison society:

The reason they call us foreign nationals is to abuse us. They wouldn't treat the English boys the way they treat us. The place would be burning. (Anonymous)<sup>9</sup>

They only have x-ray vision eyes for me. It's like, this is our country, this is our prison, we only look after our own. (Rus)

Hindpal Bhui has documented inequities in the treatment of foreign nationals (Bhui, 2004, 2007, 2009; HMIP, 2010). Bhui's (2004, 2007, 2009) work demonstrates that incarcerated foreign nationals share unique and identifiable needs. While they hail from as many as 161 different countries, these prisoners often face greater language and cultural barriers than British prisoners; they tend to have difficulty maintaining family contact; and some studies suggest that they have higher rates of suicide and self-harm than their British counterparts (Bhui, 2004, 2007, 2009; see also Borrill and Taylor, 2009; Bosworth, 2011; Leerkes and Broeders, 2010).

These needs are highlighted by the institutional emphasis on citizenship. Several of the prisoners I interviewed said that nationality was more relevant and more stressful than it had been in the past. 'I was in prison in 1997', said Gus, a Jamaican prisoner who had lived in the UK for four decades and had been incarcerated twice. 'Nationality wasn't an issue then.' Patrick, who was born in the Congo, agreed: 'I've been to prison before. I never used to hear these things. I was in prison from 2000 to 2001 for 12 months and I had no problems with immigration then. It's since John Reid; he started all these things.'<sup>10</sup>

The causal nexus between Home Office policy and prison life may not be quite that straightforward. Bhui's (2004, 2007, 2009) research suggests that both discriminatory policies and xenophobic sentiments were percolating in the British prison system well before the hubs and spokes policy was conceived. Still, the sense that nationality is newly significant was a common refrain throughout my interviews.

This theme is notable in its own right. The policy on ‘non-citizens’ has not only subjected prisoners to a host of new migration control measures. On a more subterranean level, it has also recast the roles of prison life. In the aftermath of hubs and spokes, ‘the foreigner’ has emerged as a distinct category of existence in the penal institution.

This development has transformed foreign national prisoners’ lives. Many of the people I interviewed explained that facing the stigma of being ‘foreign’ and the prospect of deportation had altered the scope of their daily concerns. ‘It adds stress, imagining being dumped at an airport not knowing where I was going to go’, said Patrick. Another man, who asked to remain anonymous, described a similar experience: ‘I believe you do the crime, you do the time. What I don’t like is this immigration stuff. I could do my time fine. But I can’t focus with all this in my mind. My stress is about the rules, not being in prison.’ These comments suggest that policies like hubs and spokes shape the ‘pains of imprisonment’ (Sykes, 1958). For many prisoners, the government’s newfound emphasis on nationality has redirected their focus beyond prison walls.

For other prisoners, the integration of imprisonment and border control has played out more internally. Damian, a prisoner I met during my first prison visit, exemplified this process. Initially, Damian told me that he was British: ‘I’m never going to Jamaica anyway. I’m not dumb. Don’t let my hair fool you.’<sup>11</sup> When we spoke again a month later, Damian was concerned that he might actually be deported. After several more weeks in prison, Damian said he no longer felt British. Life behind bars had changed his mind: ‘It wasn’t until I got to prison that I realized I wasn’t British. When all this started, they made me realize I wasn’t British.’ Damian’s narrative captures how imprisonment can change a person’s national identity. The experience of incarceration taught Damian that, despite whatever he believed or felt, he was not in fact British. The law determined who Damian ‘really’ was.

Most of the foreign national prisoners I met discovered, like Damian, that they did not ‘truly’ belong in Britain. Some prisoners however, found that they actually *were* British. One man named George described imprisonment as a slow revelation about his national identity. George had always conceived of himself as Ghanaian despite possessing a British passport and having lived in the UK for decades. He felt differently after coming to prison:

If you asked me before I would’ve said I was Ghanaian. If you asked my mindset, my identity, I would’ve said Ghanaian. But since being here I’ve realized that I’m not Ghanaian . . . I don’t fit in with the Ghanaians . . . But I’m not English. It messes with my identity. I’ve started questioning exactly who I am. I’m not Ghanaian . . . we have totally different aspirations. Before I would’ve said, ‘no, I’m not English’. But I’m bloody English now and I have to accept it.

George’s testimony illustrates how prison policies take root in identity. The social dynamics of the penal institution forced George to bring his vision of nationality in

line with the boundaries drawn by border control policies. Imprisonment prompted a conversion in George's sense of self.

This conversion story is in some ways a familiar narrative. Sociologists of punishment have long noted that the practice of imprisonment operates on and through prisoners' beliefs about themselves (see, for example, Bosworth, 1999; Carlen, 1983; Carrabine, 2004; Carrabine and Bosworth, 2001; Crewe, 2007). Scholars such as Pat Carlen (1983) and Eamonn Carrabine (2004) have demonstrated that the effects of incarceration are often realized in the erosion and revision of a prisoner's subjectivity. The novel part of this picture is the role that nationality is playing in the process that Carlen (1983) and Carrabine (2004) describe. Under conditions of mass mobility, the experience of imprisonment appears to be unfolding through the concept of national identity, and specifically, through tension between the lived and legal notions of national belonging. New policies have situated the 21st-century British prison as a site for the negotiation and contestation of nationality. Today's prison is a place where the nation is made.

### **'He's either gay or scared'**

The nation-building that goes on in the prison intersects with – and at times disrupts – existing dynamics of gender and sexuality. There is a rich history of scholarship on the role that gender and sexuality play in prison life. While most of the criminological research on these topics has centered on women's experiences of incarceration (see, for example, Carlen, 1983; Rafter, 1985) and victimization (Hoyle, 1998; Walklate, 2007), the sociology of punishment has also produced scholarship specifically focused on the gender in men's penal institutions. In the mid-1990s, Tim Newburn and Betsy Stanko (1995) edited a collection of pieces that examined the relationship between masculinity and crime (see also Messerschmidt, 1993). During the same period, Joe Sim (1995) critiqued the 'hyper-masculine' posturing that defines the penal environment (see also Bowker, 1997). More recently, Ben Crewe (2006, 2009) has explored the role that masculinity plays in 'the prisoner society'.

This research dovetails with a related body of criminological writing on gender theory (Bosworth and Kaufman, 2012; Howe, 1996; Hudson, 2003). Inspired by Foucault (1978), and more generally by the critique he inaugurated, Mary Bosworth (1999), Adrian Howe (1996), and other feminist scholars (see, for example, Carrabine, 2004) have argued that assumptions about gender underlie punishment practices. In their view, punishment does not simply reflect beliefs about gender; it produces them. This theoretical account generates a slightly different reading of masculinity. For social constructionists, penal policies and power structures create gender norms, which prisoners reinforce when they adhere to codes of masculine behavior. Building from this picture of imprisonment, Howe (1996) argues that penalty is itself a gendered concept.

Both of these bodies of literature resonated with my fieldwork in men's prisons, where 'hyper-masculinity' (Sim, 1995) and gender performance were pervasive. The prisoners I interviewed almost universally subscribed to sexist and homophobic visions of the world. Many prisoners told me that being gay was completely

unacceptable in prison and that anyone who ‘hurt a woman or child’ would be alienated behind bars. These sorts of claims emerged when I asked prisoners how they made friends or who was ‘the worst off’ in the prison hierarchy. ‘I’m friends with everyone except the gays’, one man told me. As another prisoner put it, ‘Oh, it doesn’t matter as long as you aren’t gay.’ When I asked about making friends with foreign nationals in particular, a third prisoner reported that he was ‘friends with anyone’, including ‘any kind of foreigner’, unless that person was a ‘sex offender’. These comments raise thorny questions about the relationship between gender and sexuality. They also highlight the complicated exchange between homophobia and the stigmatization of sex offenders. These recurrent themes are worth examining in detail.

One of the most prominent ideas in prisoners’ testimonies was that men and women are inherently different, and as such, should have distinct social roles. Prisoners often told me that men have a duty to protect woman and children. They cited this unspoken rule to justify the discrimination against ‘sex offenders’:

If a foreigner is in for rape, we wouldn’t be friends. They’re most likely to get killed in prison. They have to be on the secure unit. Sex offenders don’t go on normal location.  
(Anonymous)

This testimony situates ‘the sex offender’ as a particularly marginal member of the prison population, one whose deviance unites the rest of the prison community. Specifically, sex offenders have contravened the dictate that ‘strong, real men’ – the only kind of men welcome in the prison – should protect women. This chivalrous discourse assumes, of course, that women are in need of protection. The stigmatization of sex offenders can thus be understood as an iteration of patriarchy.

Prisoners also advanced a set of claims about sexuality in the penal institution. The people I interviewed were often reticent to discuss sexuality in explicit terms, instead expressing their views as a kind of generalized homophobia. When I asked what rules were the most important in prison, one foreign national prisoner told me, ‘in prison, you can’t be gay’. During another interview, a prisoner assured me, ‘we all like women here’. Rus, a South Asian prisoner, explained that sexuality mattered to his daily interactions more than any other category of identity: ‘Nothing matters as long as you’re not gay.’ On the whole, prisoners described a penal culture in which heterosexuality was a deeply ingrained social norm.

This norm makes life extremely unpleasant for those prisoners who do identify as homosexual. One man I interviewed offered this account:

Being gay in prison is hard. People taunt you, staff take the piss. They’re verbally abusive, call you a fag. You get a sausage and they say, ‘You can come to mine and get fresh sausage’... ‘Give us a blow job’, and then somebody pulls their penis out. People force themselves on someone... it’s been known.

This prisoner was the only openly gay person I interviewed in a year of fieldwork. He spoke about forms of discrimination that many prisoners

downplayed or dismissed. His comments depict the violent realities of a penal regime structured on 'compulsory heterosexuality' (Rich, 1994).<sup>12</sup>

The relationship between gender and sexuality in these various narratives is difficult to parse. On one hand, prisoners' claims about what it is like to be gay in prison are conceptually distinct from their comments about the importance of protecting women or shaming sex offenders. Homosexuality, rape, and pedophilia – ideas that prisoners often invoked and conflated when describing the norms of prison life – are three different things. Considering them in tandem, even in the context of an academic article, threatens to obscure the distinctions between homosexuality, violent non-consensual sex, and sex between adults and minors. Scholars should be wary of reproducing the same stigmas we critique.

Yet, at the same time, the slippage between homosexuality, rape, and pedophilia in prisoners' narratives is telling, for it suggests the scope and depth of gender conformity in prison. The notion of a 'sex offence' has long been used to demarcate, and in doing so to construct, the line between deviant and acceptable forms of sexual behavior (Foucault, 1978; Laqueur, 1993; Singy, 2006, 2010; Singy and Lamb, 2011). By linking 'sex offences' to 'being gay', prisoners implied that homosexuality is aberrant in prison. By insisting that they always protect women, on the other hand, prisoners reinforced a masculine gender norm. These claims are two sides of the same coin: they are both expressions of what it means to be a 'real' man. Sexism and homophobia are two parallel modes of gender conformity, and both shape prison life.

Of course, it is crucial to note that prisoners articulated their ideas about prison life to me, a woman, in the highly charged space of the prison interview. My claim is not that the people I met subscribed to sexist and homophobic ideas outside of our discussions, nor even that these prisoners meant what they said when we spoke. There is no clear truth to these testimonies, at least not a truth that I could discover as an ethnographer with a subjectivity of my own. The point, rather, is that assertions of heterosexuality and chivalry had a certain currency in prisoners' representations of the penal environment. Comments about 'protecting women', 'being straight', and 'hating sex offenders' appeared with consistency and inflexibility in prisoners' depictions of their own incarceration. Ideas about gender conformity did important rhetorical work as prisoners made sense of their daily lives.

The question is what sort of work these ideas do. Mary Bosworth (1999) offers one answer in her writing on gender in prisons. Bosworth notes that claims about masculinity are a 'paradoxical resource' for prisoners, whose 'ability to reap the full benefits of masculinity is always held in check by the authority of prison staff' (Bosworth and Kaufman, 2012: 190). Prisoners, she explains, are 'entirely dependent on the institution for all their needs. . . This state of dependency is clearly at odds with the primary tenets of masculinity' (Bosworth and Kaufman, 2012; see also Crewe, 2006, 2009). In this reading, prisoners' testimonies about disliking 'sex offenders', protecting women, and being 'real men' are an assertion of masculinity in the face of a system that renders men subjects of power. Gender conformity is one means by which prisoners negotiate the prison's challenge to their subjectivity.



There is also a more collective dimension to prisoners' claims about gender conformity. This aspect of the prison dynamic first emerged during my interview with a man named Said. When I asked how prisoners new to the prison environment find friends, Said explained:

You learn about other prisoners over pool, table tennis, cards. They talk to each other. When you see someone who stays in his cell you ask, 'why is he not coming out of his cell? Is he gay? Is he scared?' That guy is either gay or scared.

Said portrayed a social regime in which homosexuality is a failure – or perhaps a refusal – to take part in prison life. His testimony suggests that sexuality is always at issue in the penal institution, and more to the point, that sexuality is a way to distinguish between members and outcasts of the prison community. 'Why is he not coming out of his cell? Is he gay? Is he scared?' These questions cast homosexuality as the border between those who do and do not belong. The prisoners on one side of the cell door, across that border, are not full members of the prison collective. They are the foil against which a shared prisoner identity becomes clear.

This account of sexuality suggests that gender norms have multiple effects in prison. As Bosworth notes, gender conformity is a response to the denial of agency implicit in incarceration (Bosworth and Kaufman, 2012). On an interpersonal level, gender norms are also a resource for prisoners seeking membership in a fraught social space. However true to a person's actual beliefs or actions, the claim to be a straight 'normal' man is one way for prisoners to show that they belong to the group. In this sense, assertions about what it means to be a 'real man' are part of a process of collective identity making. In an institution shaped by sharp hierarchies, gender conformity is a structural principle of social life.

### **'Gays do not belong to the country'**

The question that remains is how gender conformity and border-focused penal policies interact. Does gender have anything to do with the integration of immigration and imprisonment? Or are gender and sexuality just independent aspects of 'the prisoner society' (Crewe, 2009)? For the most part, criminologists have treated gender in the latter sense, as the site for a discrete (albeit worthwhile) sociological inquiry into the penal institution.<sup>13</sup> While this approach produces compelling scholarship on masculinity, it can obscure the degree to which gender norms produce and reinforce an exclusionary understanding of punishment.

Foreign national prisoners often described gender as an integral part of their national identities. One man told me in our first interview that 'in prison you can't be gay'. When he came into our second interview, I began the discussion, as I usually did, by asking him how his day was going. He sat down and said:

Jesus Christ, I'm worried about the gays. Today, someone said to me, 'you look good' ... If you are gay, unlike in America, you are a dead man. They will beat the shit out

of you . . . In England, it's all about macho this, macho that . . . And because this is a hold prison with short sentences . . . rapists and pedophiles? I stab them every day if I have to. I feel a victim of this. (Anonymous)<sup>14</sup>

This commentary presents prisoners who do not conform to gender norms as a threat to the rest of the prison community. Citing fears of victimization, this prisoner framed homophobia as a form of self-defense. The self in his testimony is part of an implicit prisoner collective. It is also a distinctly *English* self. 'Unlike in America', this prisoner stressed, 'in England, it's all about macho this, macho that'. This claim aligns beliefs about 'the gays' with an understanding of 'Englishness'. It suggests, in other words, that 'macho' norms are a constitutive part of the national culture.

Again, it is crucial to note that there is no identifiable truth to this assertion. This man's testimony does not prove or reveal that England is especially homophobic. To the contrary, his narrative troubles the notion of Englishness by demonstrating that national identities are both constructed and contested. Resisting his classification as a foreign national, this prisoner sought to demonstrate that he 'really knew' what English culture was, and in this sense, was in fact an English person. He invoked homophobia to lay claim to a British national identity.

Many prisoners drew these sorts of connections between sexuality and nationality. One man identified himself as British and then matter-of-factly informed me that 'Britain is a country where they never liked the gays'. Other prisoners attempted to explain to me what life was like in England by telling me about how British men, unlike other kinds of men, protect 'their women and children'. My own subjectivity was highly relevant to these conversations. My identification as a foreigner, and specifically as an American, tended to draw out prisoners' sweeping claims about the nature of British culture. Building from the same ideas that they had used to define the boundaries of the prisoner collective, prisoners employed homophobia and sexism to establish themselves as members of British society.

Such rhetoric was not confined to claims about Britain. In a narrative with illuminating parallels, a Jamaican national prisoner named John also described homophobia as a defining feature of his identity:

In the Caribbean, we kill gay people over there. We have them, but they undercover. Gays do not belong to the country. In my country, they prefer lesbians. Man on man, they shoot him. Over here them got gay rights. If any gay man come up to me, step off.

John's comparison between gays and lesbians drives home the gendered aspect of much homophobia. In his testimony, it is not simply homosexuality but *male* homosexuality that is particularly threatening and objectionable. The implicit fear within this claim is twofold: male homosexuality represents not only a rejection of heterosexuality, but also a violation of gender norms in which 'real men' are identified by their desire for women.<sup>15</sup> John argued that such norms are a part of

what it means to be Caribbean. Like many of the other prisoners I interviewed, he used homophobia as a way to distinguish the culture of the place he called home.

This testimony illustrates how homophobia becomes a metonym for broader cultural concerns. As John described it, homophobia was not just an expression of prisoner solidarity. It was also a way to situate himself outside the country in which he was incarcerated. It was also a way to situate himself outside the country in which he was incarcerated. The Caribbean, and with it John's sense of self, became intelligible through a sexuality norm. Sexuality literally defined the boundaries of John's geographic identity. This, of course, is not how the law identifies national and regional borders. The lines drawn in policies like hubs and spokes are very different than those that prisoners invoke.

Legal theorist Linda Bosniak has written about these different conceptions of citizenship and nationality. In 'Citizenship Denationalized', Bosniak (2000) presents a typology of the many citizenship discourses at work in liberal societies. Bosniak's list includes citizenship as a legal status, as a marker of rights, and as a mode of identity (see also Volpp, 2002: 1592). She argues that western capitalist countries tend to emphasize the 'citizenship as rights' discourse, and in the process, to marginalize people who experience their nationality and assert their citizenship in other ways. This theoretical account comes to life in testimonies from prisoners like John and Said. What Bosniak is describing, at its base, is the clash between different ways of understanding national belonging. In laws and prison policies, nationality is a category that determines what sorts of treatment apply, where you will be transferred in the penal estate, and whether you will ultimately be deported. In people's lives, however, nationality is a way to relate to those around you.

The hubs and spokes policy exacerbates the tension between these modes of nationality. This policy singles out particular prisoners as foreign, alters the dynamics of prisoners' daily interactions, and introduces deep anxiety about citizenship into prisoners' lives. In practice, hubs and spokes puts the legal and lived notions of nationality into direct conflict. Faced with this conflict, foreign nationals attest to their membership in an imagined community (Anderson, 1983). Prisoners contesting their deportation assert their Britishness, while those who identify as foreign describe why they represent and prefer their 'home' countries. In both versions of the nationality narrative, homophobia and sexism surface as powerful vehicles for belonging. Gender conformity, already used to establish the borders of the prison collective, becomes a way to identify the borders of the nation as well.

## Conclusion

In 1998, Jonathan Simon (1998a) published 'Managing the Monstrous', an article that traced the emergence of restrictive sex offender laws in the United States. At the time, Simon (1998a: 452) argued that sex offender registries exemplified a new penology, one concerned less with the rehabilitation of individuals than with the management of high-risk populations (see also Feeley and Simon, 1992, 1994). As Simon (1998a) noted, this penology assumed that criminals come in classes, that their characters are fixed, and that the best response to crime is heightened

crime control. Nearly 20 years later, this assessment of criminal justice is part of the canon of criminological thought. The new penology, with its actuarial logic and managerial solutions, has become the dominant understanding of late modern punishment.

As we reflect on the 21st-century prison, it is worth revisiting the relationship between sex and punishment in Simon's account. While he was tracking a larger sociological trend, Simon (1998a: 452) located 'the transformation [of] the penal process' in the treatment of sex offenders, whose deviance seemed particularly 'intransigen[t]'. For Simon, attitudes toward sex offenders reflected social phobias and revealed assumptions about how to handle the threat of crime. This description has much to offer scholars concerned with gender's role in border control.

Though he was not making an explicit gender critique, Simon implicitly acknowledged that conceptions of punishment are intertwined with fears about sex. He recognized, in other words, that gender conformity is a vehicle for beliefs about the purpose of the prison. These insights hold true today. In an age of mobility and expulsion, the machinery of crime control is increasingly directed toward the identification of 'foreigners'. Globalization has made punishment a boundary-drawing project, and as Simon's work foreshadowed, these boundaries are drawn through gender.

Today, the borders of the prison community, and of the nation, take root in the construction and endorsement of gender norms. Prisoners invoke gender to explain where they are from, where they want to go, and how they cope with incarceration. Gender and sexuality shape prisoners' identities and ground their claims about why they should not be expelled. In the global prison, gender and sexuality are thus more than themes of prison life. Gender conformity is a language of exclusion and a powerful way to determine who among us 'really' belongs.

### **Acknowledgements**

I am grateful to the prisoners, prison, and immigration staff members whose testimonies made this article possible. My research was funded through the generous contributions of the Marshall Scholarship and the Clarendon Scholarship Fund. Mary Bosworth, Ian Loader, Lucia Zedner, Coretta Phillips, and Eric Gardiner offered thoughtful feedback during my research.

### **Notes**

1. The new prison policy on foreign nationals emerged from a scandal that began in April 2006, when then-Home Secretary Charles Clarke announced that more than 1000 foreign nationals had been 'improperly' released from prison without being considered for deportation (see BBC, 2006). The 'foreign criminal' scandal, which prompted Clarke's resignation, also led to a significant restructuring of the prison bureaucracy. I have examined this bureaucratic reorganization elsewhere in more detail (Kaufman, 2013).

2. In April 2013, the UKBA was split into two separate divisions – one for immigration enforcement, one for visa requests – both of which were absorbed into the Home Office. This means that the UKBA is no longer a stand-alone agency. For clarity, I refer throughout the article to the UKBA, the name by which the organization was known at the time that the hubs and spokes policy was introduced.
3. When the hubs and spokes policy went into effect in 2009, the two ‘foreign-only’ prisons were HMP Bullwood Hall and HMP Canterbury, which has since closed. The seven ‘hub’ prisons were: HMP Risley; HMP Hewell; HMP Morton Hall; HMP The Mount; HMP The Verne; HMP Wandsworth; and HMP Wormwood Scrubs (MoJ and UKBA, 2009). HMP Huntercombe has since been added to the list of ‘all-foreign’ facilities, while Morton Hall was ‘reeroled’ as an Immigration ‘Removal’ Centre (IRC) in May 2011.
4. The 2009 agreement between the Prison Service and the UKBA states that prisons should be used to ‘maximize’ the immigration detention estate (MoJ and UKBA, 2009: 9). That agreement sets the ‘performance target’ for the number of detainees held in prisons at 250 (MoJ and UKBA, 2009: 9). However, according to the Vine Report, approximately 760 ex-prisoner detainees are currently imprisoned in England and Wales (Vine, 2012: 19). These statistics raise concerns about the structural relationship between prisons and detention centers (see Bosworth, 2012; Kaufman, 2013).
5. These prisons included one ‘all-foreign national’ institution, a hub prison, and several spoke facilities. My semi-structured interviews with prisoners, each of which lasted between 40 minutes and three hours, began with questions about that prisoner’s migration to the UK and centered around his experiences of the hubs and spokes system. However, I intentionally let conversations develop around different themes where it seemed appropriate, and as a result, many interviews included discussions of gender, race, and British colonialism, among other topics. These interviews took place in the rooms where prisoners typically meet with their legal counsel. For a fuller discussion of my research methodology, see Kaufman (2012b).
6. Some of the prisoners I interviewed in immigration surgeries were black British citizens who had been misidentified as foreign nationals by prison staff members. I have documented this process elsewhere, arguing that the identification of foreign nationals is a profiling exercise that depends on racialized assumptions about what foreignness looks and sounds like (Kaufman, 2012b). While that line of thought is beyond the scope of this article, the enduring relevance of race bears mentioning here.
7. It is extremely difficult to calculate the precise number of ‘foreigners’ behind bars. As of 31 December 2012, there were 9975 foreign nationals listed in official Ministry of Justice polls of the prison estate (MoJ, 2012). However, another 795 prisoners are listed in those tables as ‘nationality not recorded’ (MoJ, 2012). Both my own research and Hindpal Bhui’s work for the Prison Reform Trust suggest that these ‘unidentified’ prisoners are often foreign nationals, and more to the point, that official statistics on nationality are often inaccurate (Bhui, 2004; Kaufman, 2012b).

8. For a more specific description of the ways that prison and immigration staff members resist the hubs and spokes policy, see Kaufman (2012b).
9. All names used in this article are pseudonyms chosen by the prisoners. Where they are not named, prisoners requested to remain anonymous.
10. John Reid was the British Home Secretary from 2006 to 2007. He replaced Charles Clarke after the foreign national prisoner 'crisis' and initiated the inter-agency negotiations that led to the hubs and spokes policy.
11. Damian's reference to his hair raises crucial questions about the relationship between race and nationality in the British prison. That relationship is beyond the scope of this article, but as this quote suggests, it is impossible to think critically about the prison (and about gender) without addressing race. I have written elsewhere about the role that race plays in identifying foreign nationals (see, for example, Kaufman, 2012a, 2012b) as have other scholars (see, for example, Bhui, 2009; Bosworth, 2011).
12. The late feminist poet Adrienne Rich coined and developed the term 'compulsory heterosexuality' in her work on 'lesbian existence' in a society dominated by heterosexual norms (see Rich, 1994).
13. See Bosworth and Kaufman (2012) for a fuller analysis of this claim, including a literature review of the moments where gender surfaces in the sociology of punishment.
14. A 'hold' prison is a remand facility that incarcerates unconvicted prisoners pending trial.
15. To be clear, my claim is that John's specific articulation of homophobia has a gendered dimension. Legal scholars have spent considerable time teasing out the relationship between gender and sexuality (see, for example, Franke, 1995; Koppelman, 1994). In the context of sexual harassment law, for instance, scholars note that homophobia does not reduce entirely to gender discrimination (Franke, 1995; Koppelman, 1994). This article does not contest that argument, but rather, aims to explore its limits and analogues in the British prison system.

## References

- Aas K (2007) Analysing a world in motion: Global flows meet 'criminology of the other'. *Theoretical Criminology* 11(2): 283–303.
- Aas K and Bosworth M (eds) (2013) *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*. Oxford: OUP.
- Anderson B (1983) *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso.
- Angel-Ajani A (2003) A question of dangerous races? *Punishment and Society* 10(5): 433–448.
- BBC (2006) How the deportation story emerged. *BBC News Online*. Available at: [http://news.bbc.co.uk/1/hi/uk\\_politics/4945922.stm](http://news.bbc.co.uk/1/hi/uk_politics/4945922.stm) (accessed 15 January 2013).
- Bhui H (2004) *Going the Distance: Developing Effective Policy and Practice with Foreign National Prisoners*. London: Prison Reform Trust.

- Bhui H (2007) Alien experience: Foreign national prisoners after the deportation crisis. *Probation Journal* 54(4): 368–382.
- Bhui H (2009) Foreign national prisoners: Issues and debates. In: Bhui H (ed.) *Race & Criminal Justice*. London: SAGE, pp. 154–169.
- Borrill J and Taylor D (2009) Suicides by foreign national prisoners in England and Wales 2007: Mental and cultural issues. *Forensic Psychiatry and Psychology* 20(6): 886–905.
- Bosniak L (2000) Citizenship denationalized. *Indiana Journal of Global Law Studies* 7: 447–488.
- Bosworth M (1999) *Engendering Resistance: Agency and Power in Women's Prisons*. London: Ashgate.
- Bosworth M (2011) Deporting foreign national prisoners in England and Wales. *Citizenship Studies* 15(5): 583–595.
- Bosworth M (2012) Subjectivity and identity in detention: Punishment and society in a global age. *Theoretical Criminology* 16(2): 123–140.
- Bosworth M and Guild M (2008) Governing through migration control: Security and citizenship in Britain. *British Journal of Criminology* 48: 703–719.
- Bosworth M and Kaufman E (2012) Gender and punishment. In: Simon J and Sparks R (eds) *Handbook of Punishment and Society*. Los Angeles, CA: SAGE, pp. 186–204.
- Bowker L (ed.) (1997) *Masculinities and Violence*. London: SAGE.
- Brown W (2010) *Walled States, Waning Sovereignty*. Cambridge, MA: Zone Books.
- Carlen P (1983) *Women's Imprisonment: A Study in Social Control*. London: Routledge.
- Carrabine E (2004) *Power, Discourse, and Resistance: A Genealogy of the Strangeways Prison Riot*. Aldershot: Ashgate.
- Carrabine E and Bosworth M (2001) Reassessing resistance: Race, gender, and sexuality in prison. *Punishment and Society* 3(4): 501–515.
- Crewe B (2006) Male prisoners' orientations towards female officers in an English prison. *Punishment & Society* 8(4): 395–421.
- Crewe B (2007) Power, resistance and adaptation in the late-modern prison. *British Journal of Criminology* 47(2): 256–275.
- Crewe B (2009) *The Prisoner Society: Power, Adaptation, and Social Life in an English Prison*. Oxford: Oxford University Press.
- Feeley M and Simon J (1992) The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology* 30(4): 449–474.
- Feeley M and Simon J (1994) Actuarial justice: Power/knowledge in contemporary criminal justice. In: Nelkin D (ed.) *The Future of Criminology*. London: SAGE.
- Foucault M (1978) *The History of Sexuality, Volume I: An Introduction*. Trans. Hurley R. New York: Vintage.
- Franke K (1995) The central mistake of sex discrimination law: The disaggregation of sex from gender. *University of Pennsylvania Law Review* 144: 1–99.
- Grewcock M (2011) Punishment, deportation and parole: The detention and removal of former prisoners under section 501 Migration Act 1958. *Australia and New Zealand Journal of Criminology* 44(1): 56–73.

- HM Inspectorate of Prisons (HMIP) (2010) *Muslim Prisoners' Experiences: A Thematic Review*. London: HMIP.
- HM Prison Service (HMPS) (2008) *Prison Service Order 4630: Immigration and Foreign Nationals in Prison*. London: MoJ.
- Howe A (1996) *Punish and Critique: Towards a Feminist Analysis of Penalty*. New York: Routledge.
- Hoyle C (1998) *Negotiating Domestic Violence: Police, Criminal Justice, and Victims*. Oxford: OUP.
- Hudson B (2003) *Justice and the Risk Society*. London: SAGE.
- Kaufman E (2012a) Finding foreigners: Race and the politics of memory in British prisons. *Population, Space and Place* 18(6): 701–714.
- Kaufman E (2012b) *Foreign Bodies: The Prison's Place in a Global World*. DPhil Thesis (on file at the Bodleian Library).
- Kaufman E (2013) Hubs and spokes: The transformation of the British prison. In: Aas K and Bosworth M (eds) *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*. Oxford: OUP.
- Koppelman A (1994) Why discrimination against lesbians and gay men is sex discrimination. *NYU Law Review* 69: 197.
- Laqueur T (1993) *Making Sex: Body and Gender from the Greeks to Freud*. Cambridge, MA: Harvard University Press.
- Leerkes A and Broeders D (2010) A case of mixed motives? Formal and information functions of administrative immigration detention. *British Journal of Criminology* 50: 833–850.
- Malloch E and Stanley M (2005) The detention of asylum seekers in the UK: Representing risk, managing the dangerous. *Punishment and Society* 7(1): 53–71.
- Melossi D (2013) *Crime and Migration*. London: SAGE.
- Messerschmidt J (1993) *Masculinities and Crime: Critique and Reconceptualisation of Theory*. Totowa, NJ: Rowman & Littlefield.
- Ministry of Justice (MoJ) (2012). *Offender Management Caseload Statistics, Sept 2011 to December 2012*. London: MoJ.
- Ministry of Justice (MoJ) and UK Border Agency (UKBA) (2009) *Service Level Agreement to Support the Effective and Speedy Removal of Foreign National Prisoners*, 1 May.
- Newburn T and Stanko B (eds) (1995) *Just Boys Doing Business? Men, Masculinities and Crime*. London: Routledge.
- Rafter N (1985) *Partial Justice: Women in State Prisons, 1800–1935*. Boston, MA: Northeastern University Press.
- Rich A (1994) *Blood, Bread, and Poetry: Selected Prose 1979–1985*. New York: WW Norton.
- Sim J (1995) Tougher than the rest? Men in prison. In: Newburn T and Stanko B (eds) *Just Boys Doing Business? Men, Masculinities and Crime*. London: Routledge, pp. 100–117.
- Simon J (1998a) Managing the monstrous: Sex offenders and the new penology. *Psychology, Public Policy, and Law* 4(1): 452–467.



- Simon J (1998b) Refugees in a carceral age: The rebirth of immigration prisons in the United States. *Public Culture* 10(3): 577–607.
- Singy P (2006) Il Caso ‘Sade’. *Rivista Sperimentale di Freniatria* 130: 83–102.
- Singy P (2010) What’s wrong with sex? *Archives of Sexual Behavior* 39: 1231–1233.
- Singy P and Lamb K (2011) Perverse perversion: How to do the history of a concept. *GLQ* 17: 405–422.
- Stumpf J (2007) The crimmigration crisis: Immigration, crime, and sovereign power. Paper No. 2007–2, Lewis & Clark Law School Legal Research Paper Series.
- Sykes G (1958) *The Society of Captives: A Study in a Maximum Security Prison*. Princeton, NJ: Princeton University Press.
- Vine J (2012) Thematic inspection of how the UK Border Agency manages foreign national prisoners: February–May 2011. *Independent Chief Inspector of the UK Border Agency*. London: HMSO.
- Volpp L (2002) The citizen and the terrorist. *UCLA Law Review* 49: 1592–1618.
- Walklate S (2007) Risk and criminal victimization. In: Hannah-Moffat K and O’Malley P (eds) *Gendered Risks*. London: Cavendish.
- Weber L and Pickering S (2007) *Borders, Mobility, and Technologies of Control*. Dordrecht, The Netherlands: Springer.
- Zedner L (2010) Security, the state, and the citizen: The changing architecture of crime control. *New Criminal Law Review* 13(2): 379–403.

**Emma Kaufman** received her M.Phil. and D.Phil. from the University of Oxford. She currently attends Yale Law School.