

The Resettlement Needs of Foreign National Offenders

Hindpal Singh Bhui recommends action to address the resettlement needs of a sizable, but often forgotten, segment of the British prison population.

Although effective resettlement is not just a problem for foreign national prisoners (see HMIP, 2001), there is no doubt that their resettlement needs are generally more complex than those of British nationals and even more poorly met. The problem begins with the fact that there is very limited central guidance on any aspect of work with foreign nationals, despite the fact that they now constitute 12% of the national prison population. The main exception is a narrowly focused Prison Service Order on immigration detainees, who account for a relatively small proportion of all foreign national prisoners. Consequently, prison-based staff are working within a virtual policy vacuum, which does little to encourage the development of knowledge and good practice and usually results in poor outcomes (see Bhui, 2004, for more discussion). Meanwhile, the probation service, which was not a national organisation until 2001, has no central guidance at all and does not monitor the nationality of offenders being supervised in the community. Like the prison service, it does at least have some well-researched local policies (e.g. LPA, 2003) and a respectable record of achievement in prison-based work (*ibid.*). However, implementation of policy is undeniably patchy, even in London where foreign nationals account for 20% of the general population (LPA, 2003) and about 30% of the prison population (Bhui, 2004). This is clearly unacceptable given that foreign nationals present a range of very distinct needs and issues that complicate the whole notion of resettlement.

These issues become most apparent in three broad areas of practice: first, there is abundant evidence that foreign nationals in prison have more limited access to services and courses that could aid community reintegration; second, foreign national offenders in the community face similar difficulties in accessing services; third, foreign nationals may be resettling into a foreign community, which raises questions about public protection responsibilities and sentence progression.

Assessment and preparation for release

Foreign nationals usually resident abroad are less likely to receive visits from distant family and friends. They are often effectively isolated from the sources of support available to British prisoners and unusually reliant on support and services that are available through the prison. Some may have experienced torture, persecution and abuse in their homelands, and the mental health of detainees may be particularly fragile; they are held with little idea of their eventual release dates and are particularly likely to have suicidal thoughts (WHO, accessed June 2004). Many foreign nationals also experience extreme anxiety in anticipation of the stigma and shame associated with a return home. The distress of imprisonment for foreign national women, who make up about 20% of all female prisoners, is often particularly acute. The majority of them are serving long

sentences for drug offences and many have dependent children whom they often will not see again until release (see Bhui, 2004).

Language problems exacerbate all other difficulties: they mean that foreign nationals are often unable to access the range of services normally available in prisons, such as counselling, pre-release courses and offending behaviour programmes. ESOL classes (English for Speakers of Other Languages) are vital to enhance access, but it is notable that the standard and extent of provision, particularly in young offender institutions, has been severely criticised by adult learning inspectors (Ofsted/ALI, 2003).

Nevertheless, there are many relatively straightforward ways to improve provision; for example, in some prisons the appointment of foreign national orderlies and establishment of foreign national groups has provided vital information and support, helped to minimise cultural dislocation, and assisted foreign nationals to access resettlement and other services (see Bhui, 2004). Some embassies can also be useful; for example, the Dutch authorities are reportedly considering developing a system of distance learning, incorporating e-learning and tele-learning to meet the literacy and other educational needs of Dutch prisoners abroad (Lemmers, 2003).

Information is the bedrock of effective assessment and resettlement planning, but is commonly lacking for foreign nationals. For example, while pre-sentence reports (PSRs) are often a good source of information during sentence planning, they are unlikely to be written for foreign nationals resident abroad (some of whom eventually remain in this country, e.g. following successful asylum applications). Research by the pioneering Middlesex Probation Service Foreign Nationals Unit (Abernethy and Hammond, 1999) showed that they were a rich source of information on offenders' home circumstances and a valuable component of sentence planning and pre-release preparation. They drew on the Unit's extensive links with voluntary organisations working with foreign nationals in Britain and abroad (e.g. Hibiscus, which provided information on women from Jamaica and Nigeria), international NGOs (such as the Red Cross), and embassies and consulates, many of which arranged for enquiries to be conducted in home countries. For many foreign nationals, it was the only time that they were asked in any detail, using an interpreter, about their offending and possible welfare needs.

Accessing services in the community

It is important to dispel the common myth, encouraged by the fact that detainees and deportees are often the centre of debate, that most foreign nationals are removed from the country after sentence. In the absence of reliable statistics it is difficult to be exact, but it is probable that the majority return to the community in the same way as British offenders (Bhui, 2004). However, as in prison, community provision that responds to their particular

needs tends to be lacking (Ball and Griffin, 2001). One exception to the general lack of provision is the work of the Refugee Probation Advice Service (RPAS), a voluntary sector partnership established following a London Probation Area initiative. RPAS assists probation staff to provide a service that is responsive to the unique challenges presented by many foreign nationals. For example, it can provide assistance with benefits applications for asylum seekers (whose entitlements are severely restricted) and links to relevant community support groups. However, like most organisations that work with foreign nationals, RPAS's work is restricted to certain areas in London, and it is much harder to identify resources outside of the capital. Despite such good initiatives, the London Probation Area – which absorbed the former Middlesex Probation Service and inherited much of the good work done there – has still not implemented a foreign national strategy.

Public protection and sentence progression

Some foreign nationals may leave the country through choice following release from prison. For those serving less than four years, probation managers are empowered to suspend reporting requirements following a risk assessment and a consideration of where the prisoner's resettlement needs are best met. Others are forcibly removed via the Immigration and Nationality Directorate (IND). This relatively small group is nonetheless likely to contain the most serious offenders. Yet, even though the risk of further offences in the country to which someone is returning is considered if a parole or early release scheme assessment is completed, there is no systematic procedure in place to ensure that the risk assessment is shared with home country authorities. There would be many delicate judgements to be made within such a procedure; the most obvious dilemma would be about what to do when it is known that home governments take a punitive approach to nationals imprisoned

or applying for asylum abroad. This may be legally sanctioned, but could also take the form of extra-legal victimisation, which has been reported anecdotally but, for obvious reasons, is something for which it is difficult to provide solid evidence. Although all foreign national offenders recommended for deportation are in theory eligible for provisions designed to assist resettlement, such as release on temporary licence (ROTL) and D-category status, in practice they face significant problems in getting either. ROTL can be granted at the discretion of the governor as long as IND agrees to lift the detention order. However, this is extremely rare because the risk of the person absconding will generally be judged too great. In practice, deportees are rarely granted temporary release to sort out their affairs, prepare for release and simply get used to normal life. Deportees are now more likely to receive D-category status following a recent judgement establishing the illegality of automatically excluding all deportees without a full risk assessment taking place. However, before D-category can be granted, prisons have to conduct potentially time-consuming checks with the Immigration Service, which means that it often takes longer for foreign nationals to be recategorised. Also, a foreign national prisoner can become subject to a detention order at any time during sentence, right up to the day of release. This means that any resettlement arrangements, including painstakingly arranged hostel accommodation, job interviews or places on probation run offending behaviour programmes, can be lost. Even if detention lasts for no more than a few days after the sentence end date, the disruption can be enormous.

The need for policy development

The challenge of providing for foreign nationals a good resettlement package "that encompasses the totality of work with

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prisoners, their families and significant others in partnership with statutory and voluntary organizations" (HMIP, 2001) is very considerable. But it is a challenge that must be met – not least because both prison and probation staff are failing in their duty to work towards eliminating discrimination and promoting race equality under the Race Relations Amendment Act 2000 if they do not attempt to identify and respond to the specific needs of foreign nationals.

The innovative work taking place in some prisons (see Bhui, 2004), and of organisations such as RPAS show what can be achieved to tackle many of the resettlement needs identified above. If applied appropriately, using interpreters where necessary, OASys might also prove a useful assessment tool, bridging the information gap in relation to all foreign national offenders. However, good practice will not take hold across the board unless considered and comprehensive policy is developed by the prison and probation streams of NOMS. In the meantime, there is a considerable need for more research and the development of knowledge on the needs of what has for some time been a 'forgotten' group in the British criminal justice system. ■

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