

## A bitter pill to swallow

### The sentencing of foreign national drug couriers

This paper examines the case for rethinking the sentencing of drug couriers, primarily foreign national women, who have been caught bringing often relatively small amounts of drugs into the United Kingdom. It argues that current tough sentencing practice is not proving effective, is penalising the vulnerable and is putting unnecessary pressure on an already overstretched prison system.

#### Key facts: foreign nationals in prison at the end of June 2003

- Of the 8,835 foreign national prisoners in England and Wales, 886 were women.
- One in five women in prison in England and Wales did not hold a British passport, compared to one in nine men.
- 425 of these women – nearly half – were Jamaican.
- Of the sentenced female Jamaican prisoners, 96% were in prison for drug offences.
- 90% of women from Jamaica in prison for drug offences are first time offenders.
- Most are single parents in their mid thirties with three to four dependent children.
- Foreign national women account for the largest proportionate rise in the prison population in the last five years.
- Almost three quarters of women foreign nationals in prison are serving sentences of more than four years, compared to a third of UK national women, 63% of foreign national men and half of UK national men.

rethink

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## Introduction

In the summer of 2003 *The Times* newspaper carried a story suggesting that the Jamaican and British governments were considering a plan to build a prison in Jamaica. The prison, to be paid for by the British taxpayer, would hold deported Jamaican citizens currently serving sentences in the UK. A significant proportion of these would be likely to be women caught smuggling drugs into the UK; the so-called ‘drug mules’. The report came during a period of growing concern about the overcrowding in women’s prisons and the number of foreign nationals languishing in British jails. As *The Times* also reported, 65% of inmates in Morton Hall women’s prison in Lincolnshire were foreign nationals.\*

Against this background, this briefing argues for a rethink in the way the UK responds to the problem of foreign drug smugglers. Its specific focus is on female Jamaican drug smugglers, but its proposals are more generally applicable.

## The profile of female drug couriers

The declining economic situation and high levels of poverty have been highlighted as important factors in the decision of significant numbers of women in Jamaica to become drug couriers. In the mid 1990’s a quarter of Jamaicans were living on less than \$2 US a day. While the incidence of poverty has fallen, 17% of the population still live in poverty, with a higher percentage in rural areas. Research shows that Jamaicans perceive a significant decrease in the well-being of the very poorest groups over the last 10 years. (DFID 2001)

The majority of foreign national drug couriers are women who have been offered money to bring drugs into the UK. Many come from a background of poverty and see acting as a drug courier as a chance to make money. The money they can make, even £1,000, can provide a much-needed escape from poverty.

Drug couriers are almost always minor links in the international drugs trade chain and are largely ‘hired’ by organised criminal gangs based in the Caribbean or

the UK. There is evidence to suggest that coercion, against a background of violent, abusive and exploitative relationships, plays a part in the decision of some people to become drug couriers.

Almost all foreign national women prisoners who have been convicted of bringing drugs, usually cocaine, into the UK were couriers – ‘drug mules’ – rather than major players in the drugs trade. Typically they swallowed pellets of drugs before setting off by air for the UK. There have been cases of couriers swallowing more than 120 pellets of cocaine. The drugs may also be concealed in other ways - for example sewn into the seams of trousers, suspended in liquids or hidden in the soles of shoes and handles of suitcases. People who swallow drugs in order to smuggle them into the UK risk serious damage to their health and a number of drug couriers have died when the bags of drugs they have been carrying in their stomachs have burst.

## The role of foreign national drugs couriers in the UK drugs trade

The National Criminal Intelligence Service (NCIS) has reported that an estimated 35-45 tonnes of cocaine were smuggled into the UK in 2002 (NCIS, 2003). Since 1990, cocaine has been the Class A drug most frequently seized by Customs.

HM Customs and Excise estimate that 65 per cent of cocaine arrives in the UK on cross-channel transport, 15 per cent by ship, 15 per cent by air, four per cent by rail and one per cent by post (Corkery, 2002). Air smuggling is the preferred option only for smaller players in the international drugs trade.

According to NCIS there may be as many as 25 couriers on some direct flights to Heathrow and Gatwick (NCIS, 2002). However, people who bring in drugs by air still account for only a very small proportion of drugs entering the country. The Home Office Jamaica Working Group has acknowledged that the supply of cocaine via Jamaica is only part of the whole cocaine problem in the UK. Even if *all* Jamaican women were stopped it is unlikely that it would have a noticeable impact on the availability or price of drugs on the streets of the UK.

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### **Impact of imprisoning foreign national drug couriers**

Locking up foreign national drug couriers in prisons in England and Wales is an expensive business. It currently costs around £25 million a year to keep foreign national women drug couriers in prison. This compares with the £5million of bilateral aid that the DFID spends in Jamaica each year.

High levels of foreign nationals in prisons are also putting additional strain on an already overcrowded prison system. Foreign national women make up more than a fifth of the total women’s prison population. Jamaican women account for more 10 per cent of the total population.

Jamaican women prisoners are held thousands of miles from home, making family contact difficult if not impossible. Few are able to receive visits from their families, and phone calls home are expensive. This heavily impacts not just on the prisoners themselves but also on their families. Over a thousand children from outside the UK each year are kept apart from their mother because of their her imprisonment in a prison in England and Wales. Since Jamaica has no effective social welfare system, children are left to fend for themselves and are vulnerable to abuse, rape and recruitment into crime. Family members may also be at risk from criminal gangs if women return with neither drugs nor money.

Although Jamaican women prisoners may be able to take advantage of educational and training opportunities while in prison, prisons do little to prepare them for release. As a result many are ill-equipped to adjust to life outside after the long sentences that so many of them serve. At the end of their sentences almost all are deported and often face serious problems of reintegration.

### **Current policy responses**

#### **1. Tough sentencing**

People caught bringing drugs into England and Wales receive amongst the longest prison sentences handed down by the courts. Under the Misuse of Drugs Act

1971, the maximum sentence for supply, intent to supply or importation of a Class A drug such as cocaine is life imprisonment. Sentences handed down for drug importation, even of relatively small quantities, are typically longer than those handed down for most violent offences. A prison sentence of at least ten years is laid down in sentencing guidelines for people convicted of importing 500 grams of a Class A drug – the average amount that can be swallowed by a drugs courier.

The rationale behind such long sentences is the belief that long sentences will act as a deterrent to other people considering acting as drug couriers. As The report of the Committee on Women’s Imprisonment chaired by Professor Dorothy Wedderburn put it in 2000 ‘the deterrent purpose of sentencing these women to long periods of custody has not been evaluated and its effectiveness must be highly questionable.’ (Prison Reform Trust 2000). Consideration of the length of sentences is generally related closely to the quantity and purity of drugs. Little account is taken of personal mitigation relating to the individual circumstances and culpability of the offender or the impact of sentence on any dependents.

#### **2. Intercepting couriers in Jamaica**

There have recently been renewed attempts to prevent cocaine drug couriers boarding flights in Jamaica destined for the UK. Operation Airbridge, a partnership between the UK Customs, Foreign and Commonwealth Office and the Jamaican authorities led to the number of cocaine couriers arrested in Jamaica more than doubling in a year. Between June 2002 and May 2003 the number of drug couriers arrested in Jamaica was 216, in contrast to 82 in the previous 12 months. The number arrested in the UK fell by 75 per cent in the same period. The ‘Airbridge’ initiative involves the use of ion technology at Jamaican airports that can detect passengers travelling to the UK who have swallowed cocaine. The operation also included a £2 million investment by the UK Government to create a new Customs mobile strike force team to reinforce frontier controls at UK airports (HM Customs and Excise News Release, 47/03).

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Although Operation Airbridge has caused some disruption to the traffickers in Jamaica, there are indications that they are now using alternative routes and methods, in particular making use of other Caribbean islands (NCIS, 2003).

### **3. Visa controls**

Since January 2003, Jamaicans have needed a visa to enter the UK. Although this has been presented as a means to crack down on immigration overstaying, it is likely that the measure was also introduced with tackling drug smuggling in mind.

### **4. Propaganda and education**

The Jamaican government recently ran a publicity campaign to tackle the problem of drug couriers smuggling cocaine into the UK. The campaign targeted smugglers and potential drug mules in Jamaica, informing them of the new cocaine detection methods at airports and of the penalties they face if caught. The campaign covered TV, radio, press and poster ads. Leaflets were also produced and distributed with airline ticket wallets. The UK based charity Hibiscus has also conducted successful awareness raising campaigns in Jamaica using posters and other accessible materials.

### **The way forward?**

There are ethical and pragmatic reasons for the government to rethink policy on drug couriers, in particular the use of long terms of imprisonment.

There is no question that Jamaican women who smuggle drugs are breaking the law. But they themselves are almost always pawns in a much bigger game. Long spells of imprisonment cause hardship for them and their families.

On pragmatic grounds there are also good arguments for rethinking sentencing policy related to drug couriers. Giving drug couriers long prison sentences is not working as a deterrent. Given the significant levels of poverty in Jamaica, there will always be some who are prepared to risk imprisonment, are unaware of the consequences, or are coerced into importing drugs. At a time when the prison system is facing an

overcrowding crisis, it makes little sense to compound the problem by pursuing a sentencing approach that is so manifestly failing.

There are a number of options for dealing with the problem. The most obvious might be simply to deport drug couriers on arrest and ban them from re-entering the country for a fixed period, or indefinitely. This would avoid the financial and social costs of imprisonment in the UK. The stigma of arrest and deportation would provide some sanction. But a process of immediate deportation might look to some as though there were nothing to lose by trying to bring drugs into the country.

A second option might be to repatriate Jamaican nationals so that they can serve their sentences of imprisonment at home. This would enable women to retain family ties. But the Jamaican prison system does not have the capacity to deal with a large influx of women prisoners. The prison population in 2002 was 3592 plus 800 remand prisoners held in police cells. The official capacity of the 12 penal establishments is 2,700. With 133% occupancy levels, Jamaica is currently not in a position to take back prisoners. This is why Jamaica has refused to enter into a Repatriation Agreement with the UK. The building of a new prison would address this but at a substantial financial and human cost.

A third option would be for the UK government to assist the Jamaica to develop its community based correctional services with a view to women being able to serve non-custodial penalties at home. The UK government could build on its existing penal reform project, which is developing alternatives to custodial sentencing. The Community Service Enhancement project is supporting the Jamaican government's efforts to reduce overcrowding in prisons and enable those sentenced to make a productive contribution to their communities. (DFID 2001). While there is a probation service in Jamaica, it is chronically underfunded. The Canadian government is also providing assistance in the development of sentencing alternatives and conflict resolution. Resourcing probation and NGOs to run credible community

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based alternatives would be a much better investment than a maximum-security prison.

In the UK, the average annual unit cost of a prison place is more than twelve times as much as the cost of a probation or community service order. Even a more intensive programme offering daily supervision and surveillance of an offender costs the taxpayer less than a third of the price of a prison place. The cost ratios are likely to be similar but less marked in developing countries where prison conditions are often basic.

The cost equation needs also to take into account the benefits of the unpaid work carried out by offenders serving community service sentences.

Being returned to their own countries and serving some form of community sentence might also act as more of a deterrent for drug couriers than staying anonymously in a UK prison. Community sentences could include outreach work, with convicted drug couriers educating other people on the risks of becoming drug mules.

One particularly promising dimension of community sentences might be peer education. Peer education involves individuals offering training and support to their peers. As an approach to education it can be very powerful and effective as peer educators tend to have more credibility with target audiences than those who might differ from them in terms of age, class, gender, race or life experiences.

Peer education models have been operating in Jamaica for some years on drug-related issues. The National Council on Drug Abuse – part of the Jamaican Ministry of Health – and the NGO Addiction Alert Organisation have run peer education programmes with young people on the issue of drug abuse. The European Union has funded some of this work. The Ministry of Health has also developed peer education projects in the field of HIV and AIDS.

A peer education programme related to drugs smuggling could involve a range of activities, including the formal imparting of facts, discussion groups, mentoring and support, community mobilisation against drugs, and so on.

## Summary of proposals

The British Government should act urgently to rethink policy relating to drug couriers - the majority of whom are foreign national women. Amongst the policy proposals that should be considered are:

- That the sentencing advisory panel review the sentencing guidelines in England and Wales so that drug couriers, who are minor players in the drugs trade, do not normally receive long custodial sentences and are considered for community sentences
- That new guidelines should allow courts to take account of the individual circumstances of the offender, in particular the effect of sentencing on the welfare of children dependent on the offender
- That a repatriation agreement is negotiated with the Jamaican government which would enable offenders sentenced to community penalties to serve these in their country of origin
- That new guidelines allow courts to impose a community penalty where the offender agrees to undertake this in their country of origin and a place on a suitable programme is available
- That an urgent programme of financial and technical assistance to develop community penalties is established in countries such as Jamaica using expertise from the Probation Service and NGOs. This should build on the existing enhanced community service programme currently underway
- That the contribution of peer education approaches is explored and where appropriate incorporated into community based sentencing options in Jamaica and elsewhere

- That special arrangements for parole or conditional early release are introduced for foreign national women held in prison in the UK
- That further support is given to the work of NGOs such as Hibiscus, which seek to raise awareness of the risks of drug importation and help to resettle women at the end of long sentences
- That overseas aid and the activities of the Department for International Development (DFID) help address the poverty and lack of opportunities that lead to many foreign nationals becoming drug couriers.

This briefing was written by Rob Allen, with Joe Levenson and Richard Garside.

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#### Notes

\* 'Prisons crisis as foreign inmates soar,' *The Times*, August 6, 2003. See also 'Jamaica may take prisoners,' *The Times* August 28, 2003.

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