

Displacing Danger: Managing Crime Through Deportation

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Abstract This paper traces the development of the introduction of Bill C-44, the “danger to the public” clause that amended the Immigration Act of Canada in 1995, and considers the effects of the amendment to Canadian deportation policy on Jamaican nationals living in Canada. Starting with an examination of the increase in criminal deportation to Jamaica from Canada, the paper draws attention to the overall increases in total deportations to Jamaica from other countries including the USA and the UK between 1990 and 2004. Official crime statistics, and interviews with deported individuals and other Jamaican stakeholders are used to highlight the negative effects of deportation on deported persons and on the Jamaican society. The paper concludes with a discussion of deportation as a form of punishment and considers the implications of current deportation practices on global conceptions of security.

Résumé Cet article présente les grandes lignes du développement de l'introduction du projet de loi C-44, l'article «danger pour le public »qui a amendé la loi sur l'immigration au Canada en 1995, et étudie les effets qu'a eus l'amendement de la politique canadienne en matière d'expulsion sur les ressortissants jamaïcains vivant au Canada. Se penchant d'abord sur l'augmentation de l'expulsion criminelle à partir du Canada vers la Jamaïque, nous attirons l'attention sur l'augmentation générale d'expulsions vers la Jamaïque à partir de d'autres pays, y compris les États-Unis et le Royaume-Uni entre 1990 et 2004. Des statistiques officielles sur la criminalité et des entrevues auprès de personnes expulsées et d'autres intervenants jamaïcains sont présentées pour souligner les effets négatifs de l'expulsion sur les personnes expulsées et sur la société jamaïcaine. Une discussion portant sur l'expulsion comme

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forme de punition et les conséquences des pratiques actuelles d'expulsion sur la conception que l'on se fait partout au monde quant à la sécurité, vient conclure l'article.

Keywords Criminal deportation · Transnational crime · Immigration and crime · Crime control · Jamaica

Mots clés Expulsion criminelle · Crime transnational · Immigration et crime · Lutte contre le crime · Jamaïque

Introduction

Deportation as exercise of sovereign power is concerned with the largely unchallenged right of states to remove foreigners who are not legally entitled to remain within their territories. Nonetheless, current practices in many developed nations raise a more thorny issue surrounding the involuntary removal of persons from the places that they have come to regard as home. While the use of deportation in the first sense remains relatively uncontentious,¹ this second dimension of deportation clashes with the vexed question of belonging and evokes memories of the historical use of deportation as banishment from a protected territory, whether for purposes of “ethnic cleansing,” as with the mass deportation of Jewish peoples by the Nazis, or to preserve morality and social order, as in the case of the British use of Australia as a penal colony. These historical antecedents to the use of deportation are now largely seen as indefensible, yet current practices often reveal a tendency to rely on underlying justifications that seem oddly reminiscent of those earlier days.

In 1995, the Immigration Act of Canada was amended to include new provisions that allowed for the deportation, without a right of appeal, of permanent residents deemed a “danger to the public.” A finding of dangerousness, as defined in the amended Act, was contingent upon a person being convicted of a criminal offense that could attract a sentence of 10 years or more. The “moral panic” that surrounded the introduction of the new legislation generated serious concerns that particular immigrant groups would become the target of heightened enforcement of Canada’s immigration laws, and raised the specter that racial bias, though at variance with the principles of equality and justice vaunted as symbols of progress throughout the Western world, could well be embedded in immigration policies of the 21st century.

The purpose of this paper is to trace the development of the introduction of Bill C-44, the “danger to the public” clause that amended the Immigration Act of Canada in 1995 and consider the effects of the amendment to Canadian deportation policy on Jamaican nationals living in Canada. The paper begins by documenting the increase in criminal deportation to Jamaica from Canada, and considers the overall increases in total deportations to Jamaica from other countries including the USA and the UK between 1990 and 2004. Official crime statistics and interviews with deported

¹ Puetz' (2006) study of the removal of Somalian nationals from Canada and the USA in the post 9/11 era problematizes the return of particular groups of people to a land where they can be considered effectively stateless.

individuals and other Jamaican stakeholders are used to highlight the negative effects of deportation on persons deported and on the Jamaican society. The paper concludes with a discussion of deportation as a form of punishment and considers the implications of current deportation practices on global conceptions of security.

Background

Theoretical Perspectives on Immigrant Criminality

Popular theoretical explanations for criminal offending by immigrants range from “importation” models that focus on the social and cultural influences of an individual’s place of birth/origin as the primary explanation for immigrant criminality to “strain” theories that locate criminal behavior within the context of an individual’s total life experience, including the current environment in which the individual exists. Traditionally used to contextualize inmate adjustment in prisons (Irwin and Cressey 1962), when applied to the immigration/crime nexus, the importation model emphasizes immigrant behavior as a function of past social networking and cultural background prior to migration (Albini 1971; Ubah 2007). According to Becker and Geer (1960), behavior is not simply influenced by current social conditions but may well derive from an individual’s cultural underpinnings that predate membership in the social group to which the individual currently belongs. In supporting the importation model, Ubah (2007) highlights arguments that suggest that the prior structure, membership, and ideology of organized criminal networks in Sicily were imported into the USA by Italian immigrants, resulting in the establishment of the mafia in America.

In an innovative analysis of migration patterns of Mafias within Italy that considers the effects of deliberate governmental policies that encouraged the migration of serious criminal offenders from one geographical location to another, Varese (2006) argues: “Assuming that criminals make up a certain proportion of a given population, the greater the movement of individuals, the larger the influx of criminals to a new territory” (Varese 2006: 416). In his further analysis of efforts by the Italian Mafia to transplant criminal groups, Varese shows, however, that the outcomes of two deliberate attempts at transplantation were influenced by the social environments in which the group operated, resulting in success in one area of Italy and failure in another. Varese (2006: 421) argues that the comparison of these two efforts shows that “supply on its own is not sufficient for transplantation to be successful. Only when supply combines with the presence of a local demand for criminal protection can mafias create new branches outside their original territory.”

Varese’s contention that environmental factors are important determinants of the success of criminal organizations can be logically extended to the level of the individual and resonates with Robert Agnew’s (1992) general strain theory, which assumes that individuals experience strain as a consequence of some negative influence/relationship or negative treatment by others. Agnew et al. (2002) argue that strain increases the likelihood that individuals will experience a range of negative emotions, which may in turn create pressure for corrective actions that could include criminal behavior. Strain theorists such as Maimon and Fishman (2007)

argue, for instance, that higher rates of immigrant criminality can be explained in relation to higher levels of blocked opportunities and negative life events.

While such theories are important in understanding the underlying factors that may contribute to criminal behavior, they do not adequately account for the macro-level considerations that influence the development of immigration policies that must seek to balance the often contesting needs to maintain a stable flow of immigrants while protecting against the accessibility of borders to those deemed undesirable. Increasingly portrayed as “dangerous outsiders” who threaten the moral stability and security of society, immigrants are often perceived as persons who do not belong, and who encroach upon the rights of those who are entitled to the territorial benefits bestowed by citizenship. Mears (2001) acknowledges that although sociological research has consistently refuted simplistic explanations that depict immigrants as “more criminal” than the native-born population, negative public perceptions have fueled the development of “get-tough” laws to control immigration and the outlay of unprecedented levels of resources to target the “criminal immigrant” problem.

In a discussion of the convergence between criminal and immigration law in the USA, Stumpf (2006) posits a more nuanced theoretical explanation that argues that the lines between both areas of law have become indistinct, and proposes that by delineating the boundaries of social inclusion/exclusion, the use of membership theory “places the law on the edge of a crimmigration crisis. This convergence of immigration and criminal law brings to bear only the harshest elements of each area of law, and the apparatus of the state is used to expel from society those deemed criminally alien. The undesirable result is an ever-expanding population of the excluded and alienated” (Stumpf 2006:11). Stumpf (2006: 39) further suggests that “the result of the application of membership theory has been to create a population, often identifiable by race and class that is excluded physically, politically, and socially from the mainstream community.” As Miller (2005:113) nicely puts it: “Criminal aliens (deportable for their post-entry criminal conduct), illegal aliens (deportable for their surreptitious crossing of the US border), and terrorists (deportable for the grave risk they pose to national security) are all deemed dangerous foreigners for whom criminally punitive treatment and removal are uniformly appropriate and urgently necessary.”

The next section of the paper considers the background to the amendment of the Immigration Act of Canada to introduce a “danger to the public” provision that would facilitate the classification of some permanent residents as “dangerous outsiders” for whom removal from Canada could be deemed “urgently necessary.”

“Danger to the Public”

Introduced in 1995 as Bill C-44, and often referred to as the “Just Desserts” Bill, the new subsection 70(5) of the Immigration Act of Canada provided for the deportation, without the right to appeal, of permanent residents living in Canada, when “the Minister is of the opinion that the person constitutes a danger to the public in Canada....” A “danger to the public” ruling was contingent on an individual being convicted of a criminal offense for which a maximum term of imprisonment of 10 years or more could be imposed. Subsection 70(5) also allowed for the arrest and

indefinite detention of persons the Minister deemed to represent a “danger to the public.” An actual sentence of 10 years or more was not a prerequisite for a danger opinion.

Noting that the danger provision covered a wide range of offenses, and included several nonviolent crimes such as fraud, forgery, and minor drug offenses, Pratt (2005:142–3) argues that the “use of conviction and sentencing criteria for determining whether someone is a danger to the public is thus an unreliable measure of dangerousness, an unreliability increased by a range of other factors, such as differential enforcement patterns and disparities in sentencing.” Pratt (2005:143) further explains that “danger to the public” decisions were not informed by legally defined standards, and “a person released from detention because he or she was found not to represent a danger to the public could still have been deported without appeal because the minister did detect a danger to the public.” With such far-reaching discretionary powers and the absence of meaningful oversight, deportation decisions based on an assumption of dangerousness, became virtually unchallengeable.

Before Bill C-44 was introduced into Parliament and subsequently signed into law, permanent residents of Canada, who did not have the constitutional right to remain that is afforded to citizens, nonetheless, had enjoyed a right to appeal a removal order when there were adequate grounds to do so. Dent (2002) notes that the Immigration Appeal Division (IAD) had jurisdiction to hear appeals where the specific circumstances appeared to mitigate against an individual’s removal from Canada. He suggests that the IAD was empowered to consider the following factors: “The seriousness of the offense; the possibility of rehabilitation; the impact of the crime on the victim; the remorsefulness of the applicant; the length of time spent in Canada and the degree of establishment; family in Canada and the dislocation that would be caused by deportation; efforts of applicant to establish him or herself in Canada, including employment and education; the support available to the appellant from family and community; and the degree of hardship that would be caused the appellant by his or her return to the country of nationality” (Dent 2002: 4). Under this scheme, appeals were only disallowed for permanent residents who had been issued a security certificate based on specific criteria contained in Section 82(2) of the Immigration Act.

The introduction of Bill C-44 effectively removed the right of appeal for permanent residents who would have previously been eligible for an IAD hearing and stripped the IAD of its discretion to stay the deportation of long-term residents where the circumstances may have otherwise warranted a stay of removal proceedings. Noting that Bill C-44 transferred the discretion to allow permanent residents to remain in Canada from the IAD to the Minister of Citizenship and Immigration, Dent (2002: 7) characterizes this departure from established practice as a “shift from the adjudicative to the political end of the spectrum.”

The political orientation of Bill C-44 was obvious from the outset, when it was introduced against the background of two interracial criminal events in late 1994 that received overwhelming media attention and led to calls for changes in immigration policies. The first was the Just Desserts case where four black males attempted to rob a café and a young white woman, Vivi Lemonios, was killed in the process. The second case was the shooting of white police officer, Todd Baylis, by a young black

Jamaican male who was living in Canada illegally, and had been previously ordered deported. Jamaicans were also, but not solely, involved in the Lemonios shooting. Pratt (2005) suggests that the introduction of Bill C-44 was, in fact, the first of several measures, introduced in the wake of the Just Desserts murder, that were designed to clamp down on “criminal immigrants.” She argues that the “danger to the public provision provides a powerful example of the guiding influence of the logic of criminality in the governance of immigration enforcement,” (Pratt 2005: 141) and suggests that the tough measures focused on immigrant offenders is consistent with the “get tough” policies of contemporary law enforcement regimes.

Certainly, the punitive orientation towards certain kinds of immigrants that lies at the heart of recent policy initiatives is by no means new. Indeed, Li (2003) makes it clear that while earlier expressions of Canada’s territorial interests, in blatantly racialized language, may no longer be considered acceptable, the principle of racial distinction and exclusion has been enshrined in Canada’s philosophy of nation-building and continues to form the premise on which current immigration practices are based. In their discussion of the “racialization of crime” in Canada, Henry and Tator (2002: 168) argue that in recent years, “the media have constructed Jamaicans as people from a crime-ridden and poverty-stricken country ... who consistently present Canadian society with myriad social problems.” These authors contend that the Just Desserts case revealed “powerful examples of newer forms of racism, such as those that invoke the supposed inferiority of ‘foreign’ cultures” (Henry and Tator 2002: 168), and conclude that the introduction of Bill C-44 was a direct response to public outrage against criminal immigrants that led to a moral panic, the consequences of which have been “excessive” for persons of African descent, and for the Jamaican community in particular.

In an analysis of section 70(5) of the Immigration Act, Pratt (2005: 145) acknowledges the vulnerability of Jamaican males to the deportation provisions of Bill C-44, and locates this reality in the fact that “the danger to the public provision, resting as it did on the policing and enforcement practices of the criminal justice system, necessarily applied and enforced the individual and systemic racism that traverses that system.” Pratt’s (2005: 139) discussion on the “governance of immigration penalty” is complemented by the work of other authors who focus specifically on the implications of the legislation for Jamaican nationals. According to one source, between July 1995 and December 1997, almost 40% of all persons declared a “danger to the public” and deported from Ontario under the new amendment were Jamaican nationals (Falconer and Ellis 1998). The data presented by these authors show that, during this period, of some 355 persons declared a danger to the public and deported to a total of 48 countries, Jamaica received 138 deportees, accounting for 39% of those removals. This represents more than six times the number deported to the next highest recipient country, Trinidad, which had 22 removals, or 6% of deportations from Ontario. Using data that supported the arguments presented by Falconer and Ellis, the ACLC (1999:17) further shows that 55% of danger removals were, in fact, to countries within the Caribbean region. Falconer and Ellis (1998: 24) report that Jamaica received more deportees declared a danger than the combined number to the USA, Europe, and South America, and cite these statistics as proof that the Canadian government developed the legislation to “target a specific racial group with the specific aim of cleansing the community of

those perceived as a ‘danger to the public.’ This view has been echoed by other legal practitioners who argue that Jamaicans have been targeted for deportation since the advent of Bill C-44. Another immigration lawyer, Barnwell, accused immigration officials of being involved in an apparent “frenzy to deport Jamaicans,” and suggested that the “hype” to deport Jamaicans seems linked to a “genuine fear that if a Jamaican is allowed to stay one extra day, they will commit crimes and embarrass the Department” (Barnes 1999: 13).

The following section of this paper examines the major findings from a study (Barnes 2007) that sheds light on Canadian deportation practices during the period immediately preceding, and following, the implementation of the “danger to the public” provisions, and helps to determine whether there was indeed a “frenzy” to remove Jamaicans from Canada. The study cited included the analysis of: official Canadian data on removals from Canada for the period 1991–2004; official Jamaican deportation data for the period 1990–2004; official Jamaican crime statistics for 1990–2004; quantitative data from a nonrandom combined sample of 111 persons deported from Canada to Jamaica; qualitative data from primary interviews with a convenience sample of 66 persons awaiting deportation or who had already been deported from Canada to Jamaica; and qualitative data from primary interviews with 25 Jamaican stakeholders including government officials, law enforcement personnel, human rights organizations, lawyers, academics, medical practitioners, and community groups involved in various forms of interaction with the deported population.

The findings presented in this paper highlight data from a study that questions the possible implications of “domestic” policy on increasingly global dimensions of security and examines the previously unexplored international implications of Canadian deportation policy through a documentation of its potential impact on another sovereign nation. The analysis engages the perspective of those deported, and, from a vantage point that considers the impact of deportation policies on receiving countries, examines the effect of the relocation of large numbers of criminal offenders on Jamaican society, and through the inclusion of primary interview data, supports the process of “coming to voice” for deported persons.

Summary of Major Findings

This section has been organized under two distinct headings to distinguish between the findings related to the analysis of Canadian deportation data versus official Government of Jamaica deportation and crime data, and qualitative data that assesses the impact of deportation on persons deported to Jamaica. The first section, “Deportation from Canada”, covers overall trends in deportation from Canada, including criminal and non-criminal removals and examines the specific impact on Jamaicans living in Canada. The next section, “Global Impact of Deportation on Jamaica”, examines overall trends in deportation to Jamaica from all major deporting countries, briefly discusses the relationship between increasing deportation and crime rates, and considers the impact of deportation from the perspective of persons deported to Jamaica and other Jamaican stakeholders.

Deportation from Canada

Following major changes to legislation that provide for the deportation of long-term residents involved in crime, total deportations from Canada have shown a consistently upward trend since the decade of the nineties. In 1991, Immigration authorities reported the removal of 5,620 persons from Canada, but by 2004, the number of persons deported had increased by 115% to a record high of 12,068. A total of 116,480 persons were deported during the 14-year period 1991–2004. The data show that even prior to the introduction of legislation to facilitate the speedier deportation of long-term residents, Canada had already begun to chart its path for the future, and that the highest ever comparative increase in annual deportation occurred between 1991 and 1992, when Canada's deportation totals increased by 53% above the previous year (moving from 5,620 to 8,584). Despite significant variations throughout the period, including a decline in total removals between 1993 and 1995 (the years immediately preceding the full implementation of Bill C-44)² total deportation from Canada maintained a general upward trend during the 14 years under review.

*Criminal versus Noncriminal Removals*³

Given the emphasis of Bill C-44 on the removal of persons on the grounds of criminality, an analysis of deportation trends by reason for removal provides an important measure of the extent to which removals on the grounds of criminality contributed to overall trends in deportation from Canada. Due to a high volume of missing data⁴ on reasons for inadmissibility for the years 1991 to 1993, data from 1994 to 2004 were used for an analysis of criminal versus noncriminal removals. Contrary to popular perceptions that equate increased deportation with serious criminality, however, the vast majority of removals from Canada for the 14-year review period were unrelated to the participation of deported persons in criminal activities, and removals from Canada on criminal grounds accounted for only 14% of total removals during the period 1991–2004.

In keeping with the general trend in total deportations from Canada, and with the exception of declines in 1995 and 2002, noncriminal deportations consistently trended upwards during the years under review. In 1994, 5,376 persons were removed under this category, compared to more than twice that number (11,078) in 2004. Overall, noncriminal deportations accounted for 79,700 removals, representing 86% of cumulative deportations for the years 1994–2004.

In contrast to the correlation between general deportation trends and the removal of persons on noncriminal grounds, deportation on grounds of criminality showed an

² Since Bill C-44 was approved in Parliament in July 1995, the first year of full implementation was in effect 1996.

³ An analysis of the data on noncriminal deportations by country, which would have provided important insights into the extent to which other Jamaicans were impacted by the net-widening effects of the legislation, was not available for in-depth review.

⁴ For instance, of the 8,584 persons deported in 1992, specific information on the grounds for inadmissibility was missing in 76% (6,942) of those cases. While there was some missing data on inadmissibility for the years 1994 to 2004, the missing numbers were mostly insignificant, and the reason for deportation was available in more than 99% of all cases.

overall marked decline for the years 1994–2004, with the exception of 1995–1996, which recorded the highest number of criminal deportations over the period (1,544 and 1,554, respectively). While 1,341 persons were deported on criminal grounds in 1994, those numbers had been reduced by 25% to 990 removals in 2004. When assessed as a percentage of total removals, the overall decline in the contribution of criminal deportations to total removals from Canada is even more dramatic, and highlights, by contrast, the immediate impact of Bill C-44 in helping to rid Canada of those deemed a “danger to the public.”

In 1994, criminal deportations accounted for 1341 removals and represented 20% of all removals from Canada. By 1995, in spite of a 13% decline in total deportations from Canada, there was a significant increase by 15% in criminal deportations, with a total of 1,544 persons removed from Canada on the grounds of criminality, representing 26% of total removals. In 1996, criminal deportations totaled 1,554, accounting for 23% of total removals. In other words, in spite of a reduction in total deportations from Canada during 1995 and 1996, criminal deportations remained consistently high, and recorded the highest annual number of persons deported from Canada on the grounds of criminality during the review period. In fact, these 2 years represented the highest rate of criminal deportations from Canada recorded during the period, not only in terms of actual numbers but also as a percentage of total removals.

A consistent downward trend in this category of removals throughout the review period resulted, by 2004, in criminal deportations representing only 8% of total deportation from Canada. The subsequent dramatic decline in the deportation of criminal offenders as a percentage of total removals, particularly when compared with the major increases in total deportation from Canada during the review period, lends credence to the view that the events surrounding the introduction and passage of the Bill resulted in a “hype” to deport criminal offenders from Canada for that specific period. Clearly, while those rates of removal were not sustained beyond 1996, the implementation of Bill C-44 facilitated the immediate removal of persons who were viewed as a threat to Canada during the specific period when the legislation was introduced.

The implication of this finding is significant for a number of reasons. First, it clearly demonstrates a link between the moral panic that spurred the introduction of Bill C-44 and an immediate increase in the removal of criminal offenders from Canada. Second, the subsequent significant decline in the contribution of criminal deportations to total removals from Canada raises questions about the extent to which perceptions concerning the association between immigrants and crime have led to the increased removal of other immigrants who may be seen as potential threats to the security of Canada. While increased removals may well be simply a function of the increased arrival of illegal immigrants to Canada, the possibility that the get-tough on criminals attitude that spawned the introduction of Bill C-44 has also created a net-widening effect that increases the prospects of deportation for other vulnerable immigrant groups, requires further research that will explore the specific factors impacting increased removals from Canada.

The Case of Jamaicans in Canada

The other significant finding from the data on removals concerns the extent to which Jamaican nationals were impacted by the events that led to the introduction of Bill

C-44. The data reveal that Jamaicans seem to have borne the brunt of the punitive effects of stepped-up immigration enforcement efforts that preceded, and accompanied, Canada's "danger to the public" provision. A detailed look at the data on deportations from Canada to Jamaica shows the specific impact of the introduction and passage of Bill C-44 on Jamaican nationals living in Canada. In 1991, Jamaica accounted for some 229 removals, representing 6% of the top ten countries contribution to total deportations from Canada. By 1995, the number of Jamaicans being deported from Canada had more than doubled to 536, accounting for some 15% of the top ten countries contribution to total deportations from Canada. In fact, although Jamaica accounted for less than a third of the number of removals to the USA, the top receiving country, in 1995, Jamaicans were being deported at a rate more than 30 times greater than the rate of removals to the USA.

During the period 1991 to 2004, a total of 4,844 persons were deported to Jamaica. For the first 3 years, deportations to Jamaica followed the general pattern of total removals from Canada, but by 1994, there was a marked reversal. Whereas total removals from Canada experienced a sharp decline in 1994, with 29% fewer people deported than in 1993, deportations to Jamaica increased by 36% between 1993 and 1994, (moving from 435 to 593), and recording the highest number of persons ever deported to Jamaica from Canada. In spite of a slight decline in deportations to Jamaica between 1994 and 1995, the 3-year period between 1994, (the year of the Just Desserts killing that sparked the implementation of tougher immigration laws), and 1996, (the first full year of post Bill C-44 implementation), recorded the highest ever levels of deportations from Canada to Jamaica. Indeed, while total deportations from Canada in 1995 increased only marginally (by less than 5%) when compared to 1991 figures, deportation to Jamaica more than doubled over the same period.

Following the comparative "hype" to deport Jamaican nationals from Canada between 1994 and 1996, the levels of deportation to Jamaica have since consistently trended downward, and by 2002, was at the lowest level recorded for the 15-year period. For the years 2003 and 2004, however, deportations to Jamaica have once again started to increase significantly, even though at a significantly lower level than during the previous decade. This upward trend seems consistent with an overall increase in deportations from Canada for those 2 years, but could merit future investigation into how the implementation of the provisions of the new Immigration and Refugee Protection Act may further impact this particular group of immigrants.

Global Impact of Deportation on Jamaica

Analyses of deportation trends to Jamaica from Canada and the USA reveal increased rate of deportations immediately following the introduction of strict immigration policies that allowed for the deportation of long-term residents from both countries in 1995 and 1996, respectively. During the period from 1990 to 2005, deportations to Jamaica from all major source countries increased dramatically, with approximately 30,000 persons being returned to Jamaica from all departing countries. The USA, Canada, and the UK accounted for a combined total of 96% of all deportations to Jamaica, with the USA representing 59%, the UK with 26%,

and Canada with 11%. Of this number, close to 70% were deported on grounds of criminality, with drug-related offenses representing more than two thirds of those persons deported in relation to criminal activities. In relation to the Jamaican population, deported criminal offenders now represent a ratio of 1 in every 118 persons. Of those criminal offenders returned to Jamaica, over 66% were deported in connection with drug-related offending, demonstrating a clear link between the policies of the War on Drugs and the deportation of Jamaican-born criminal offenders from North America.

During the review period, Jamaica also recorded major increases in rates of violent crime, and in particular murder. For the 15-year period under review, the annual number of murders generally trended upwards, and by 1997, the number of murders (1,038) had almost doubled when compared with 1990. By 2004, the total number of murders in Jamaica had increased by more than two and half times, reaching a total of 1,471 murders for that year. Similarly, the country recorded a murder rate of 22/100,000 populations in 1990, but by 2004, the rate of murders had increased to 57/100,000 populations. Jamaica now has the highest murder rate within the Caribbean region, and ranks among countries recording the highest murder rates in the world.

Analyses of both deportation variables and murder rates showed a strong, positive correlation between increases in deportation to Jamaica and increases in murder rates. Spearman's measure of correlations was used to examine the relationship between various deportation variables and crime indicators for Jamaica, and the results show positive significant relationships between the number of murders in Jamaica from 1990–2004 and the total number of persons deported (0.929); persons deported on drug-related charges (0.883); persons deported in relation to murder/manslaughter offenses (0.853); and persons deported for gun-related offenses (0.722). While this finding cannot be taken as proof of a causal relationship between increased deportation to Jamaica and higher crime rates in that country, it is supportive of the hypothesis that the increased deportation of criminal offenders is likely to result in higher rates of crime in the receiving country.

Interviews with Deported Persons

In an attempt to better understand the impact of deportation on some persons who had chosen to make Canada home, interviews were conducted with persons who had been returned to Jamaica. Using a combined nonrandom sample of persons with whom original interviews were conducted and respondents who had previously been deported, the author analyzed quantitative data drawn from a combined sample of 111 respondents who had all been deported from Canada to Jamaica during the review period in connection with criminal offenses. A total of 105 persons, representing 95% of the sample population were male, and 5% were female. The vast majority (75%) had entered Canada legally, with almost two thirds having entered Canada as permanent residents. More than half (55%) of the sample had migrated to Canada as children or young adults, at age 21 or under, with the single largest group of respondents (38%) having migrated at age 16 or younger. Seventy-eight percent of the sample had lived in Canada for more than 6 years, with 60% having lived in Canada for 11 or more years.

Deportation in relation to drug-related offenses comprised almost half of the sample, accounting for the single largest category of persons deported (46%). Seventy-one percent of persons deported from Canada were 35 years old or younger. Of all persons deported from Canada, the largest single category (45%) had been deported in connection to a drug-related offense. Twenty percent of the sample had been deported in relation to the commission of serious violent crimes, including 2% who were deported for the crimes of murder and/or manslaughter. Four percent were deported for the illegal possession of a firearm; 1% for sexual offenses; 22% for property crimes; and 8% in relation to other criminal charges. The analysis of reason for deportation reveals that the majority of criminal deportations in this sample were in relation to serious offenses. The dominance of drug offenses points to a relationship between tougher enforcement of drug laws in Canada and the deportation of foreign-born criminal offenders. While from a purely domestic point of view, the deportation of drug offenders may be seen as a successful attempt to rid Canada of those deemed undesirable, from the perspective of the receiving country, the drug-deportation connection raises questions about the extent to which such crimes may have been economically motivated, and raises the specter of continued criminality as these individuals seek ways to regain the lifestyles to which they might have become accustomed prior to deportation.

In addition to the insights gleaned from the quantitative data, personal interviews revealed that most deported persons had experienced intense feelings of dislocation and social alienation. The most notable findings from the interviews reveal that almost all respondents who had been deported felt that their deportation had resulted in severe damage to family relationships, and had negatively affected their family members who remained overseas. Most respondents reported that they had been psychologically affected by their deportation, with the vast majority expressing feelings of alienation and isolation. The deportation of parents was perceived as having contributed to behavioral problems in children who had been left overseas, leading in some instances to the onset of criminal behavior. Although the majority of deported persons with children reported that they had actively supported their families prior to their incarceration/deportation, often as the main breadwinner, they all reported that they were no longer able to provide any financial support to their families in Canada. Respondents reported their most significant challenges as: difficult economic conditions; unemployment; lack of family support; social alienation; inability to cope with new environment/lifestyle; and psychological problems (depression, anxiety, and paranoia were frequently mentioned). Many expressed the view that it was inevitable that they would be forced to resort to criminal activities in order to survive.

All respondents identified racial bias and discrimination as a significant contributing factor in their deportation decision, and most respondents felt that the Canadian legal system, including the police, the courts, and immigration, was marked by racism, and that blacks were singled out for the harshest treatment. Deported persons felt overwhelmingly that the decision to deport them had been unfair, and even after deportation, 45% of those respondents claimed that they would have chosen extra prison time over deportation. While clearly valuing their freedom, the majority of these respondents said they would have been willing to give up a few years of liberty to ensure they could remain in the place that they had come to regard as home. For many deported persons, their involuntary return to their country of birth was viewed as a more draconian form of punishment than the deprivation of their freedom.

Interviews with Jamaican Stakeholders

The overwhelmingly negative attitude towards deportation was shared by many Jamaican stakeholders, who expressed the view that the increased deportation of Jamaican nationals was a direct response to political pressures related to issues such as high rates of crime by immigrants and problems with overcrowded prisons in the deporting country. Several respondents stated that for receiving countries, instead of having any beneficial impact, deportation could only have negative effects on those societies by exacerbating existing social problems such as unemployment, drug abuse and crime. Persons who were optimistic about the potential benefits of increased deportation to Jamaica raised questions about whether most deported persons were indeed criminals, and suggested that Jamaica could potentially benefit from the return of highly skilled persons or individuals with significant assets.

Jamaican stakeholders were most likely to express concerns about the impact of deportation on national security in general, and in particular, felt that the deportation of serious criminal offenders to Jamaica would increase crime rates and challenge the capacity of the law enforcement apparatus. Many persons expressed the view that some of the deportees had spent most of their lives overseas, had developed their criminal lifestyles there, and were importing new forms of criminality, higher levels of viciousness, and greater sophistication in criminal enterprise into the Jamaican society.

Stakeholders expressed serious concerns about the ability of some deported persons to become reintegrated in Jamaican society and cited factors such as the stigmatization of deported persons, lack of access to gainful employment, and the emotional and psychological trauma experienced by many as some of the most significant obstacles to their successful reintegration.

Conclusion

The data presented in this paper documents the fact that the moral panic generated by the circumstances that preceded the introduction of Bill C-44 had an immediate impact on the number of Jamaicans removed from Canada annually. While the implementation of the Bill may have been more symbolic than real, as seen in the reduced number of criminal deportations from 1997, the introduction of Bill C-44 within less than three months after the Just Desserts killing, clearly sent a strong “get-tough” message that influenced the bureaucracy to step-up their immediate enforcement efforts against deportable Jamaicans.

Canadian officials, based on data presented in this paper, seemed certainly more inclined to deport Jamaican nationals in the years immediately following the Just Desserts incident, than at any other time in recent history. During the 3-year period, 1994–1996, deportations to Jamaica increased dramatically, even though total deportations from Canada declined for those particular years. While the USA accounted for the bulk of removals to Canada, Jamaican nationals were deported at a rate more than 30 times greater than the rate of deportation to the USA.

Official data from Jamaica show that deportations to Jamaica from all source countries increased dramatically over the 15-year period, with spikes in deportation coinciding with the introduction of legislation designed to effect the removal of

foreign-born criminal offenders from both Canada and the USA. Indeed, if the increased deportation of Jamaican nationals can be seen as a reflection of societal attitudes, and is linked, as suggested by Barnwell quoted above, to a general “anti-Jamaican sentiment,” then it appears that immigration officials everywhere became rather less willing to “take a chance” on keeping Jamaican nationals who had run afoul of the law within their borders.

Cohen (1994:9–10) suggests that deportation practices have avoided “vigorous judicial scrutiny” because courts have traditionally interpreted the removal of non-citizens not as punishment, but as an administrative sanction. He argues however, that removal from “what has become one’s homeland can be a deprivation even more serious than imprisonment,” and concludes that deportation shares more in common with traditional notions of punishment than it does with typical administrative sanctions. He makes the point that while deportation is a punishment that is directed at immigrants, the removal of the offending party is no less difficult for their friends and family members. In the words of James Madison, (cited in Schwartz 1999: 10), “If banishment of an alien from a country into which he has been invited ... where he may have formed the most tender of connections, where he may have vested his entire property ... and where he may have nearly completed his probationary title to citizenship ... if banishment of this sort be not a punishment, and among the most severest of punishments, it will be difficult to imagine the doom to which the norms can be applied.”

Cohen’s and Madison’s interpretation of deportation as punishment, and indeed, as a form of crime control, has been supported by the data gleaned from interviews with deported persons who report that their deportation had caused severe damage to their relationships with family members left in Canada, had created severe hardship for their children, and had resulted in deep-seated feelings of social alienation. Undoubtedly, for the 45% of persons deported to Jamaica who revealed that had they been given a choice, they would have chosen additional time in prison over the option of deportation, not only is deportation seen as punishment, but as a far more draconian form of crime control and punishment than the years of incarceration already experienced by many deported persons.

The continued deportation of criminal offenders from developed to developing nations, as a security measure in a global world, produces incongruence between the implementation of policy and the achievement of its ultimate objective. For receiving states, the use of deportation as crime control is fraught with potential perils, and the mass, involuntary return of their nationals raises serious national security concerns. The propensities, real or imagined, that enabled the classification of certain non-nationals as serious or dangerous offenders, and which allows for their deportation out of territory by removing them to their countries of birth, do not simply disappear into thin air. Whereas the immediate domestic advantages of deportation are obvious for the deporting country that benefits from the banishment of a cohort of criminal offenders, the potentially negative repercussions could hardly be seen as enhancing global security. If global concerns about security are to be taken seriously, it seems counter-intuitive that the nations at the forefront of the charge to create a safer global community would deliberately engage in action that effectively shifts the burden of maintaining that security to countries that are the least equipped to do so. Moving beyond the contentious debates engendered by deportation practices will require a truly transnational approach

that goes beyond the mere accommodation of insular security agendas to the development of practical solutions that account for the international consequences of “domestic” actions, and which will seek to enhance global security in a world that can no longer be contained within geographically defined borders.

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