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## Editorial: Foreign Women in Prison

Biko Agozino

*The University Of The West Indies Trinidad And Tobago*

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## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

The University Of The West Indies, St. Augustine  
Trinidad And Tobago

### **ABSTRACT:**

*The imprisonment of women worldwide has always been a controversial issue. This is partly because women do not end up in prison as frequently as men and so discussions of prison populations most often focus on the experiences of male prisoners. Therefore, any attempt to focus attention on the experiences of female prisoners raises questions in the minds of most scholars as to whether the conditions of women in prison are harsh enough compared to male prisons and whether we should not be focusing on the more severe conditions in male prisons? However, the rate of increase of female prisoners far outstrips the rate of growth of male prisoners partly because of the relatively small number upon which the increases are calculated and partly because of increasing attempts by criminal justice officials to grant women equality with a vengeance. If we move beyond this numbers game and look at the incarceration of foreign women in prisons around the world, we could be in a position to consider the nature of prisons in general and the imprisonment of women in particular and question their relative essentialisms.*

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

### **INTRODUCTION:**

Since the story of Eve, there has been a tendency to blame women for more than their share of the troubles on earth. This is known as the Eve syndrome. Many feminist writers have re-examined the narratives of the original sin to represent Eve as the mother of human rights. What she ate in the Garden of Eden was the fruit of knowledge and it is argued that knowledge is part of what makes us human and so it should not be censored, not even by God the Creator.

Without knowledge, we would be like the other animals rather than being fully human, in God's image, a likeness that provoked the jealousy of Lucifer who wanted all the creatures, including man, to be beneath the Divine rather than like the Divine, a pride that led to the fall of Satan to the lowly mission of trying to prove that it was a mistake to have made man with so much power that he would likely abuse when tempted, resulting in the fall of Lucifer from grace and the eventual loss of paradise by man. Yet, the image that is left in the minds of most believers is that Eve was responsible for bringing sin into the world and some try to corrupt her name to suggest that she was evil and that all women by extension are evil. 'It is the woman you made for me', cried Adam, 'she made me eat of the forbidden fruit because Satan made her eat it first and now we know that we are naked, that is why we are ashamed and in hiding', or something like that. Adam was being a typical man, he denied responsibility and blamed it all on the evil woman.

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

Was Eve framed in such a way because she was a foreign woman in Eden in the double sense that she was not there from the beginning (she was not the first woman, that one created at the same time that man was made, Male and Female made He They, the Bible said; and later, the story of a sedated Adam undergoing divine surgery to remove a rib and artificially make Eve for him, without telling us what happened to the first woman, a dark woman who was said to have refused to submit to the authority of Adam, According to Pfohl, 1994) and in the additional sense that she was not there earlier when Adam was made with the other woman and was later made from the rib of man? If you go through the bible, you will notice that most of the bad women were foreign women from the Queen of Sheba who came from Africa to tempt the wise king Solomon to Delilah the Philistine temptress that emasculated Sampson the Strong.

Some may see Esther as a good foreign woman but I doubt if the wife of the King that she displaced or the King himself who also lost out as a result of her charms would agree with the elasticity of goodness in Esther or Ruth in foreign lands. Their roles, as narrated by male authors, present them in less reputable lights than, say Joseph the slave who resisted the temptations of the wife of his master and was the target of the false accusation and hell-knew-no-fury of a woman scorned. The interesting thing is that the woman's husband did not rush to kill Joseph, the honer man, as Trinidadians and Tobagonians would call the adulterous man, instead, he

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

threw him in jail and seemed to forget about him until someone reported that there was a dream reader in prison who could help the Pharaoh figure out how to save for a rainy day before the crash of the stock market and an economic depression. Maybe the man had heard such allegations too often before from his apparently insatiable wife or maybe Joseph was extra cute as the bible suggested, although we do not see evidence of other women rushing to throw themselves at him and he had to woo the daughter of the priest before he could get a wife. What the whole story illustrates, as central theme of the bible from beginning to end, is that of unconditional love and mercy from God to humanity. Despite all transgressions of the great men in the bible, Malcolm X reminds us that each one of them erred but was forgiven for the things they got right. This story of mercy as a form of justice is yet to be fully written but that will be for another day. The focus here is how especially foreign women are viewed in official penal discourse.

The only good foreign woman that I can think of was Mary the Mother of Christ who is worshipped across Europe as the Black Madonna. But despite her Holiness, she was portrayed as an unwed mother who could have been stoned to death if Joseph had rejected her, and like African women abroad, she could not get accommodation in any hotel nor in any home in Bethlehem, the home town of her husband, Joseph. So she had to give birth in a manger, the way pregnant foreign women are forced to give birth in prisons around the world. The sex worker from Jericho who hid the spies and lied

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

about their presence could have been another example of a 'good' foreign woman in the bible but she was not foreign in Jericho and her role is hardly a good image for a woman to have – a whore and an unpatriotic one at that. The New Testament gave women more positive roles as Mary the mother of Christ and Mary Magdalene, Mary and Martha came to represent something holy but still none of them was given the privilege of writing any of the gospels despite their closeness and insight into the life of Jesus.

The negative perception of foreign women in the bible is not the cause of the treatment of foreign women around the world today but an indication that xenophobia is a long established tradition in the world. It is easier to blame a foreigner than to blame a fellow citizen for anything going wrong. The Salem witch craze was reported to have started when a slave from Barbados allegedly initiated some white American girls into witchcraft, although Stephen Pfohl (1994) interpreted the witch hunting as a product of the economic depression and threat of the withdrawal of the royal charter that the puritans faced at that time.

In the development of criminological theory, the role of the foreigner and the immigrant is prominent (Agozino, 2000). The Italian school of Lombroso almost explicitly blamed crime on foreigners by asserting that criminals were atavistic throw-backs to an earlier stage of evolution. Lombroso was describing the features of Sicilians as being closer to the features of Africans and Jews and as being signs of what he called atavistic stigmata or signs of the born criminal. The

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

female criminal was to him a monster because she was doubly atavistic – with a clitoris that approximated the male phallus which supposedly explained her sexual promiscuity and tendency to commit sexual crimes. Perhaps some law enforcement agents in Italy today still believe that there is something pathological about the poor women from Africa who are trafficked there for prostitution. More about this later.

The Chicago school later tried to move away from explicit stereotyping of the immigrant. Immigration still featured in their research but they used it to prove that immigrants are not essentially criminal given that crime remained high in the zone of transition irrespective of which ethnic group provided the majority of immigrants who populated the high crime zone from time to time. They emphasized structural problems of social disorganization and called for the reorganization of society as the solution to high crime rates instead of engaging in immigrant bashing.

Gabbidon and Taylor (2005) reported that when official records of criminals started being kept in America, a constant feature was a report on foreign born criminals but after some years, that category was dropped from the official reports without explanation. The reason may be found in an article published in *The American Journal of Sociology* in 1896 by Hastings H. Hart. In the article, 'Immigration and Crime' the author rebutted another article by Mr. F.W. Hewes on 'Delinquents' which was published in *Outlook* of

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCJS; Volume 3, No.2, July 2008*

March 7, 1896. Whereas Hastings concluded that white immigrants committed twice as many crimes as native born whites per ten thousand, Hart argued that immigrants committed only two thirds of the crimes of natives per ten thousand of the population. He claimed that he left female prisoners out of the comparison because the US Census Bureau did not include the nationality of female prisoners in the official records and that since female prisoners were only nine percent of the prison population, his conclusions would not be threatened.

Throughout the world, women are less likely to end up in prison than men. The average proportion of women in prison in any country of the world is about seven per cent. In response to this fact, some malestream criminologists doubt whether women are more law abiding than men or whether they are able to conceal their wrongdoings from law enforcement agents or, whether the mostly male law-enforcement agents are more likely to pardon a woman due to chivalry while the male offender is more likely to be arrested and charged. Lorraine Gelsthorpe (1986) suggested that it might not be the case that law enforcement agents are being chivalrous when they release girls with a warning while they detain boys. She suggested that due to socialization, girls are more likely to accept their responsibility and apologize while boys are more likely to deny responsibility and therefore could not be warned by police officers who could only issue warnings after the admission of guilt.



## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

In a review of the literature, it is noticeable that some authors argue in support of the chivalry thesis while others question its existence and yet others wonder whether it is chivalry or paternalism that benefits married women as well as married men (Agozino, 1997b). However, there is evidence that women are more likely to be incarcerated when they are not offenders or suspects but due to their proximity to suspected men (Agozino, 1997). And even when they are accused of a crime and are convicted, their alleged offences are often not serious enough to justify what Julia Sudbury (2005) termed a program of *Global Lockdown*. The most interesting thing about Sudbury's edited book is that the chapters on women trafficking, drug trafficking and international prostitution indicated that the women were arrested and locked up to be deported like common criminals when they could be said to be victims of crime and patriarchal violence.

If only women who committed violent crimes went to prison, then there would be too few female prisoners to justify the amazing rates of increase in female prison populations and if the same principle was applied to male prisoners, then the prison as a repressive fetish of western modernity would be arrested in its growth and might even wither away with time. There might still be a need for places to confine those who did something more serious than picking their noses but the growth of a prison industrial complex would not be sustainable. This is one important lesson we could learn by studying the articulation of race-class-gender relations (Hall,

viii

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

1980) concerning foreign women who are more likely to be detained for immigration offences than for committing a violent felony.

### **FOREIGN WOMEN IN UK PRISONS**

The Prison Reform Trust issued a briefing in May 2004 that looked at 'the startling increase over the last decade in the number of foreign national prisoners' in England and Wales, highlighting the disparate treatments and conditions of the foreigners compared to the natives. The briefing offered the following key facts and figures:

- There are 8,937 foreign national prisoners (defined as anyone without a UK passport), about one in eight (12 per cent) of the overall prison population. One in five women in prison are foreign nationals.
- They come from 168 countries, but over half are from just six countries (Jamaica, Irish Republic, Nigeria, Pakistan, Turkey and India). A quarter are Jamaicans, by far, the largest single group.
- There has been a 152 percent increase in foreign national prisoners in the last ten years compared to a 55 per cent increase in British nationals.
- In two prisons, the Verne in Dorset and the women's prison Morton Hall in Lincolnshire, foreign nationals

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

### **Biko Agozino**

make up half or more of the population. In sixteen prisons they make up a quarter or more.

- Despite their number the Prison Service does not have a dedicated policy or strategy to deal with foreign national prisoners.
- A recent prison service survey found that nearly 90 per cent of prisons holding foreign nationals are not making regular use of the available translation service.
- The vast majority of foreign national prisoners, four out of ten sentenced men and eight out of ten sentenced women, have committed drug offences, mainly drug trafficking. Six out of ten foreign national prisoners are serving sentences of more than four years.
- In 2003 eight foreign national prisoners committed suicide, out of a total of 94 suicides. In the past five years, 35, have taken their own lives.

The above report indicates how the war on drugs is primarily responsible for the huge increase in the number of women who are in prison. This pattern was already evident in the early 1990s with the conclusion that black women were still being subjected to colonial styles of control (Agozino, 1997; Chigwada, 1997; Carlen, 1998; Smart, 1995; Kalunta-

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCJS; Volume 3, No.2, July 2008*

Crumpton, 1999; and Worrall, 1990). It is evident that many innocent black women were subjected to criminal justice control because of their proximity to suspected black men who were their sons, husbands, boyfriends, fathers or brothers (Agozino, 1997).

It is rare to come across any male suspect who was arrested or attacked by law enforcement agents because of his proximity to suspected black women. The practice of what Agozino (1997) termed victimization as mere punishment seemed to be reserved for the black women and sometimes for Irish women but in the Irish case this was due to the war by the Irish Republican Army. These could be interpreted as instances of the attempts by the institutions of penalty to colonize the fields of victimization and represent them as part of the territory of penalty. This interpretation calls for the empire of punishment to be decolonized by recognizing what was being done to innocent black women as instances of victimization and not as cases of punishment (Agozino, 1997).

It is therefore surprising that a reform agency like the Prison Reform Trust could document thousands of cases of foreign women in prison but without identifying a single innocent person among them. On the contrary, Kalunta-Crumpton (1998) provides evidence that when black people make claims in court regarding their innocence, this was disregarded out of hand by the court officials and that even when diplomats supplied character witnesses for some of the defendants, the judges implied that the documents may have

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

been forged due to what was seen as high levels of corruption in their countries of origin.

Note that the reference is frequently to England and Wales rather than the whole of the United Kingdom which would include Scotland and Northern Ireland as well as Gibraltar where many African immigrants are detained. This is because the other jurisdictions are smaller and the major locations of foreigners in the UK are found in England and Wales. At the same time, the statistics do not tell us how many of the sentenced foreign nationals are in England and how many are in Wales despite devolution to the Welsh Assembly and the Welsh Language Act that calls for legislation and legal proceedings to be made available in the Welsh language but without provisions for the separate listing of Welsh criminal statistics yet. The Home Office for England and Wales gave the population of foreign prisoners in England and Wales at the end of 2003 as follows:

***Sentenced Foreign National Prison Population, 31 December 2003 (Home Office RDS)***

Offence Group	Male	Female	Total
Violence against the person	971	35	1,006
Sexual Offences	435	0	435
Burglary	238	8	246
Theft & Handling	220	16	336
Fraud & Forgery	309	46	355
Drug offences	2,383	533	2,916
Other	499	26	425
Not Recorded	48	2	50

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCJS; Volume 3, No.2, July 2008*

Total	5,551	677	6,228
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**Source: Prison Reform Trust Briefing, May 2004.**

The table suggests that 47% of sentenced foreigners were convicted of drugs charges with this category of offences covering nearly half the men under sentence (43%) and more than three quarters of the women (79%). By comparison only 13% of sentenced UK national men and 29% of sentenced female UK nationals were convicted of drugs offences. If drugs were legal, it means that nearly 80% of foreign women in prison would be free, the other cases of violence against the person, theft and fraud could also be drugs-related with the effect that there would be hardly any foreign woman in prison in England and Wales.

As indicated in the 1990s, Nigerian nationals were the single largest group sentenced for drugs offences but it was warned that given the small size of the Jamaican national population compared to that of Nigeria, it was alarming that they came a close second to Nigeria (Agozino, 1997). That warning is now borne out by the fact that Jamaicans are now reported to be the single most incarcerated group of foreign nationals in connection with drugs offences. The Prison Reform Trust reports that there were 2,500 Jamaicans incarcerated in 2003, nearly a quarter of all foreign nationals in prisons. Seventy per cent of Jamaican prisoners are there for drugs offences.

The Structural Adjustment Programs in Caribbean and African countries exacerbated the income inequality and unemployment situation in those countries, forcing many

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

more of the poor to be tempted with the risky prospects of resorting to being used as drug mules to help their family to survive increasing hardship from the small but tempting fees promised by often threatening drug barons. Greater control at Jamaican points of departure through measures like the loaning of Scotland Yard officers to Jamaica and stricter visa controls have reduced the number of Jamaicans arrested in London but the numbers of other Caribbean nationals arrested in London, such as those from Trinidad and Tobago, have also increased prompting the country to also invite Scotland Yard officers to help with the social control in the country. The reports in Prison Statistics, England and Wales reveal these trends.

The organization, Rethink (2003) avoided challenging the criminalization of drugs after noting that 90% of Jamaican women in prison were there as first time offenders while Jamaican women made up 96% of women in prison in England and Wales. The organization argues:

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

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

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 (Rethink, 2003).

The Rethink organization went on to recommend that once arrested, drug couriers should be deported to face trial in their own country or if convicted they should be sent back to serve their sentences in their own country, or that the UK government should assist Jamaica in developing non-custodial sentences that might involve peer-to-peer education in the community. None of these punitive reforms would solve the problem of poverty that helps to recruit drug couriers in the first place. The policy of deportation that is being suggested here is actually tried and tested and proven to be largely ineffective.

#### FOREIGN WOMEN IN US PRISONS

Many of the above observations about the UK are applicable to the US and this point is brought out clearly by recent statistics on US prisons. Larger in scale than the UK prison populations, the proportion of foreigners in US prisons is also larger than that of the UK. However, analyzing the



## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

prison population simply in terms of citizens versus non-citizens in the US would appear misleading given that African Americans, Native Americans and Puerto Rico prisoners are not fully treated as citizens. If you add these categories of nominal citizens to those officially categorized as non-citizens in the US, it will become clear that the prison industrial complex in America is there primarily for the control of others. A similar point can be made about the UK prison populations in the sense that those categorized as UK nationals are also disproportionately Black British nationals who are often discriminated against as if they were not UK nationals. Commenting on this Chelotitis and Liebling (2006: 288) state as follows:

To take but a few examples, whereas one's race in France is perceived along the lines of being either a French citizen or a foreigner, with the latter representing and undergoing the exclusionary consequences of 'Otherness', 'the politics of race [in Britain] has historically been understood . . . in a more agonistic fashion, as one of belonging' (Bosworth 2004: 231). Irrespective of citizenship, Bowling argues, 'Englishness or another of Britain's national identities . . . privilege claims to *belong*, to be *of* Britain, "one of us," only to white British people' (1998: 11, original emphasis). This is not to be confused with a mere Black-White distinction which would fit somewhat better, but still not at all neatly, to the American paradigm.

xvi

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

Also similar to the UK is the fact that the war on drugs is the engine driving the over-representation of minorities in US prisons despite the fact that minorities are not more involved with drugs than Caucasians (Tonry, 1996) and despite the fact that the illicit drugs are safer than many legal substances (Reiman, 1979).

What was described as victimization as mere punishment refers to the fact that many of the black women who were subjected to social control were not suspects themselves but were simply proximate to suspected black men (Agozino, 1997). This finding was independently supported by Kemba Smith (2005), the young African American student who was sentenced to a long term in prison when her boy friend was found to be dealing in drugs. She was eventually pardoned by President Clinton in his last acts of clemency before handing over to George Bush, but Smith described her experience as akin to a modern day slavery driven by politically motivated drugs policies that disadvantage minorities in the US. Her analysis is indirectly supported by the US Bureau of Justice Statistics which state that:

Immigration offenses drove the growing case load, BJS noted, increasing by an average annual 14 percent in immigration arrests and 25 percent in prison sentences for immigration convictions.

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

Drug offenses were the felonies most frequently disposed of in federal district courts during the decade. There were 20,219 such cases during 1994 (with a 86 percent conviction rate) and 28,597 cases in 2003 (with a 92 percent conviction rate). There were 3,673 felony weapons cases disposed of in 1994 (85 percent conviction rate) and 8,147 cases concluded during 2003 (90 percent conviction rate).

The number of non-citizens in the federal criminal justice system increased steadily from 1994 through 2003. The U.S. Marshals Service arrested and booked 131,064 suspects during 2003, of which 38 percent were non-citizens, compared to 27 percent in 1994.

Unlike the UK, the US did not provide the number of the foreign nationals who were female but we can infer from trends elsewhere that they are more over-represented among female prison populations than male foreigners among male prisoners. The table below shows that whites, males and US citizens appear to be the only groups that dropped slightly while almost all the other categories recorded increases between 1994 and 2003. For instance, male prisoners recorded a slight drop while female prisoners recorded a slight increase in their proportions but the drop recorded by whites and the rise recorded by blacks were more dramatic. Note that this is only the tip of the iceberg represented by federal prisons and that including state prisons and county jails would be even more staggering as the US prison population exceeded two million during the period.

xviii

ISSN 1554-3897

AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:  
AJCJS; Volume 3, No.2, July 2008

**Characteristics of offenders in the custody of the  
Federal Bureau of Prisons, 1994-2003**

	All offences		Drugs offences		Drugs
Characteristics	1994	2003	1994	2003	Percentage
All inmates	84,253	152,459	50,555	85,789	
<b>Gender</b>					
Male	92.1%	93.1%	91.2%	92.0%	92% Male
Female	7.9%	6.9%	8.8%	8.0%	
<b>Race</b>					
White	62.1%	58.1%	61.9%	53.9%	54% White
Black	35.3%	39.0%	36.8%	44.5%	
Native Americ	1.5%	1.6%	0.3%	0.4%	
Asian	1.1%	1.3%	1.1%	1.2%	
<b>Ethnicity</b>					
Hispanic	25.1%	32.1%	31.3%	33.0%	
Non Hispanic	74.9%	67.9%	68.7%	67.0%	67% NonHi
<b>Age</b>					
Under 19	0.1	0.4	0.1	0.2	
19-20 years	1.3	3.3	1.0	3.2	
21-30	30.1	41.3	31.6	44.2	44% 21-30
31-40	35.9	33.0	36.4	32.3	
Over 40	32.6	22.1	30.9	20.2	
<b>Citizenship</b>					
US Citizen	77.5%	72.2%	71.8%	74.1%	74% US
Non-US	22.5	27.8	28.2	25.9	

Source: <http://www.ojp.usdoj.gov/bjs/pub/press/fcjt03pr.htm>

The role that immigration law plays in increasing the incarceration of foreign women, men and children is also highlighted by the above quotation more clearly than is the

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

case with UK statistics where this connection is relatively concealed. In their essay, 'Remaking Big Government: Immigration and Crime Control in the United States', Rebecca Bohrman and Naomi Murakawa (2005) expose this link more radically in a way that unites immigrants rights and prison activists for once to call into question the use of incarceration to deal with immigration offences when finance capital is allowed to roam the world without borders, often causing more harm by funding organized crime compared to the relatively harmless offence of being an undocumented immigrant.

### **Female Foreign Prisoners in Europe**

In her contribution to the abolitionist discourse, Asele Angel-Ajani (2005) focused on the repressive policing of immigrant African women in Italy where the prison population rose by 50% in two years due to over-reliance on incarceration as a response to immigration pressures, drugs offences and sex workers who are forced into Europe in the first place by oppressive policies imposed by international financial institutions on poor countries (see also, Andall, 2000). In her essay, 'Victims and Agents of Crime: The New Crusade Against Trafficking', Kamala Kempadoo (2005) adds to the perspective of Asele by pointing out how the repressive policing of immigrant sex workers is done under the guise of protecting the immigrants as victims of trafficking. She quotes the Sex Workers Association of Nigeria as responding

XX

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

to such pretence by declaring 'We want workers rights, not bloody sewing machines.'

Manuela Ivone Perieria da Cunha (2005) demonstrated in her essay, 'From Neighbourhood to Prison' that it is not only immigrant women who are suspected of any drugs offences that are incarcerated but their female children are also locked up with them due to the fact that the Portuguese authorities rely on their colonial tactics of collective targeting of whole communities under the assumption of collective responsibility. This challenges us to acknowledge that the positivistic differentiation between the insiders and the outsiders with reference to the prison walls is misleading because this boundary, like the international boundaries that fortress Europe tries but fails to seal, is porous and blurred. In her essay, 'Latinas and the War on Drugs in the U.S., Latin America and Europe' Juanita Díaz-Cotto (2005) reminds us that the war against poor women in the guise of the war against drugs affects poor Latinas, many of whom are black women, in three continents.

**Conclusion:**

The war on drugs is clearly a political project targeting minorities and foreign nationals, especially those of African descent. This is political in the sense that drugs do not cause public harm that is proportionate to the long sentences that are handed out to the mostly black prisoners who are often first time offenders. For instance, it has been stated that cocaine is less dangerous than tobacco which kills half a

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

million citizens in America alone every year and yet it does not only remain legal, the government offers subsidies to the mostly white farmers who grow it. Marihuana is also reported to be less deadly than alcohol and aspirin but these lethal legal drugs remain available without prescription while hundreds of black women are being jailed for long periods for trying to market relatively harmless substances.

Howard Becker (1967) revealed long ago that the main reason for this ridiculous policy is that alcohol and tobacco are easy to tax whereas marihuana is almost impossible to tax because users could grow their own if it is legal and if they grew their own, big tobacco and alcohol merchants would lose sales to the far safer substance. He explained that this was why moral entrepreneurs went all out to paint marihuana as being a demon drug in order to make it illegal at a time that doctors were prescribing it for many kinds of ailment. Evidence in support of this is the fact that the first law against marihuana was called the Marihuana Tax Act of 1937. When they found that it was impossible to tax, they then made it completely illegal 20 years later. Today, doctors still want to prescribe it but politicians around the world refuse to consider the scientific merit.

Imagine what would have been the case if tobacco was grown exclusively in Columbia, Jamaica and Nigeria and then sold in America and the UK to cause hundreds of thousands of death every year. Not only would they be illegal but that would be an excuse for America and Britain to invade

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

Columbia, Nigeria and Jamaica under the pretext of waging the war on terrorism and there would be no difficulty finding a smoking gun to justify the invasions. But since it is rich white men who dominate the billion dollar tobacco and alcohol businesses, they remain legal and are supported with tax-payers money while poor black women are being banged up for trying to make a living out of produce that are in high demand on the streets of Europe and North America. Jones (2004) observed that a government committee set up by Jamaica to review the law on Marihuana reached the same conclusion by calling for the drug to be decriminalized along the lines of policies in The Netherlands but the government ignored the recommendation of the official committee.

If the prohibition of drugs is lifted as was the case with alcohol, nearly 80% of the foreign women in prison and nearly half the men will be free on the streets making an honest living and paying taxes on their sales instead of being held at tax-payers expenses while big business peddles drugs of mass destruction under the monopolistic control of white men at the expense of the defenseless public. This is an example of what is known as the pyrrhic defeat theory which helps to explain why *The Rich Get Richer and the Poor Get Prison* (Reiman, 1979):

...we have an anti drug policy that is failing at its own goals and succeeding only in adding to crime. First, there are the heroin and crack addicts, who must steal to support their habit. Then, there are the drug merchants who are offered fabulous incentives to



## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

provide illicit substances to a willing body of consumers. This in turn contributes to the high rate of inner-city murders and other violence as drug gangs battle for the enormous sums of money available. Next, there are the law enforcement officials who, after risking their lives for low salaries, are corrupted by nearly irresistible amounts of money. Finally, there are the otherwise law-abiding citizens who are made criminals because they use cocaine, a drug less harmful than tobacco, and those who are made criminals because they use marijuana, a drug that is safer than alcohol and less deadly than aspirin... All this occurring at a time when there is increasing evidence that what does work to reduce substance abuse is public education (Reiman 1979:37).

This is to suggest that drugs addiction should be treated as health problems just like the more deadly addiction to alcohol and tobacco and thereby contribute to the gradual abolition of prison sentences for non-violent offences. It is surprising that the Prison Reform Trust did not mention this simple solution in its recommendations, concentrating instead on the provision of language translators for the prisoners. Once upon a time, the world carried on for centuries without the repressive fetish of the modern prison and so, maybe some day the world would reinvent itself and do away with this fetish once more, contrary to the pessimism of even the best intentioned prison reformers (Agozino, 2005).

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

Instead of maintaining the current absurd situation which regards certain drugs as criminal for the benefit of the drug lords who make a huge profit from the artificially high prices of drugs and probably launder the huge profits through terrorist and corrupt practices, history proves that legalization and the reliance on education would prove more effective in deterring people from using drugs. For instance, both alcohol and tobacco are legal but many of us shun them as health risks whereas if government raises an army to wage war on alcohol, the mafia will welcome the opportunity to make a killing. If tobacco and alcohol are controlled by Nigerian and Jamaican drug dealers, they would probably remain illegal today but the government would have had to build 100 percent more prisons to accommodate the addicts and smugglers. The government would spend all that money and still fail woefully to control the drugs while only succeeding in making criminal syndicates more powerful and so that is a classic case of pyrrhic defeat. Hence Julia Sudbury (2005) calls for the complete abolition of the British prison industrial complex that keeps relatively harmless Jamaican women and others under *Global Lockdown* while more menacing actors roam the streets with impunity.

I have left issues like the child-care for the children of incarcerated foreign women, their nutritional needs, their isolation from family members who could bring them supplies and their lack of religious rights that citizens enjoy in many cases. These issues are often taken up by reform groups but it is more important to question the foundations

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

of the incarceration of foreign women the way I have done here. In a related vein, Wood, Ken and Montaner (2007) question the 'global over-reliance on criminal justice approaches to illicit drugs' because such policies put the lives of drug users at risk of HIV infection especially in cases where the provision of needle exchanges for drug users could help to reduce the harm of exposure to HIV given that 'a substantial number of new infections' affect those who inject drugs.

### **In this issue:**

We begin with a fascinating essay by Dr Obiozo on graffiti, a phenomenon which is commonly seen in criminology as evidence of social disorganization, along with broken windows, which must be cracked down upon by agents of social control, at least as aspects of hooliganism or anti-social behaviours that could escalate to more serious felonies if unchecked. The article reminds us of the theme of mercy with which this editorial started – that the exercise of authority is not always best expressed punitively and that sometimes, tolerance of the relatively harmless would be more productive for society artistically, educationally, linguistically and morally, as Durkheim implied in his doctoral dissertation, *The Division of Labour and Society*, where he argued that a moderate level of deviance is necessary and positive for the health of the collective conscience. Since graffiti are ubiquitous and antiquitous,

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

despite ancient and modern attempts to confirm the repression hypothesis that Foucault dismissed with reference to the history of sexuality, should we not follow the example of the radically republican Igbo culture of Nigeria by learning to appreciate graffiti as an art form for which no one needs to risk incarceration or a criminal record as is the case in many industrialized countries where the ownership of private property and control of public property define away possible artistic spaces from exceptional individuals with meaningful communications? Perhaps, every major city in Africa should follow the example of the Onitsha market traders and dedicate public spaces where graffiti artists could feel free to express their creativity without fear and maybe even introduce annual competition and prizes to nurture talents.

As I suggested in this editorial, such a liberal approach to graffiti could be extended to drugs and prostitution given that we know that countries like The Netherlands which have liberalized the drugs trade have not fared worse than countries wasting money and lives on the war on drugs while states like Nevada and countries like Senegal which regulate rather than repress the sex trade have fared better in the prevention of sexually transmitted diseases than repressive states. Similarly, the prohibition of abortion in almost all parts of Africa and the Caribbean, has failed to prevent abortions while endangering the lives of women. This lesson is the message that this editorial tries to emphasize by calling on our criminologists and policy makers to attempt loving approaches that would increase the prosperity and happiness of our people while reducing violence and strife.

## **EDITORIAL: FOREIGN WOMEN IN PRISON**

**Biko Agozino**

The article on graffiti is followed by another important one on HIV/AIDS and health, national security, crime and the administration of justice in Africa. Dr Meni's article could not have come at a better time as Africa battles this major pandemic that threatens our very survival as a people. Once again, there is evidence that harm-reduction works better than repressiveness given evidence that those using intravenous drugs and sex workers and their patrons who do not use condoms are more prone to infection. The message of this editorial is echoed here by suggesting that if our women and men are allowed to trade in the prohibited drugs that are less harmful than tobacco and alcohol and if sex work is regulated rather than repressed, we may be better able to protect the health of our people and reduce the harm of HIV in Africa and the Caribbean.

Wilson rounds off the main article section for us this month with insights into the International Court of Justice that African countries have embraced as an innovation in international jurisprudence that could help to reduce war crimes in international conflict. I am particularly pleased to note that the author is affiliated to a university in Cameroon, a country that could have gone to war with Nigeria over millimeters of colonial boundary in the area of Bakassi. Luckily for us, the leaders of the two countries resolved to accept the decision of the International Court of Justice and when the judgement went in favour of Cameroon, Nigeria peacefully ceded the oil-rich peninsula back to Cameroon

xxviii

ISSN 1554-3897

*AFRICAN JOURNAL OF CRIMINOLOGY & JUSTICE STUDIES:*  
*AJCS; Volume 3, No.2, July 2008*

rather than risk war in which millions of our African brothers and sisters could have been killed. Although that judgement came from a different international court, I believe that it illustrates the point that Wilson is making about the potential benefits of the new court for world peace. The peaceful resolution of the Bakassi dispute also echoes the recommendation in this editorial that we should shy away from waging war against our own people in the form of war on drugs, war on crime, war on this and war on that. We should leave war-mongering nations to wage war against their own citizens for as Victor Hugo said in *Les Misrables*, the republic is not so rich in men that it could afford to waste them. Let us return to the philosophy of peace and love which our ancestors bequered to us.

Finally Zoller and Onyeozili offer us a review of a book on social thought that should interest African scholars of justice given the emphasis on economic history and colonialism. However, the relative silence on African thinkers and African history in the book, judging from the review, should be seen as a challenge to African thinkers to be bold in the development of their ideas so that no such book could be complete in the future without adequate reflection on African issues.

## EDITORIAL: FOREIGN WOMEN IN PRISON

**Biko Agozino**

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XXX

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**Biko Agozino**

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