

# Submission to the Parliamentary Detention Inquiry from the Campaign to Close Campsfield

## *End Britain's shame: the internment of 30,000 migrants a year*

### 1 Summary

1.1 The UK detains more migrants for longer and with less judicial oversight than any other country in Europe. Immigration detention is a national disgrace. It is wrong to detain innocent people. It is wrong to do so indefinitely. And it is wrong for people to be detained without proper judicial oversight. All of this happen in the UK. There are other arguments (cost, not accomplishing what the government claims), but these are the principal reasons why *immigration detention should be ended now*.

#### **2.1 It is profoundly damaging to a human being to be imprisoned in the manner this is done under UK immigration law, and the effects can be long-lasting and affect friends and family**

2.2 The effect of being detained when you have done nothing wrong is very damaging. Government is aware of this and must be told it is wrong and current practice must end.

2.3 The fact that there is no time limit, particularly, can make detention unbearable.

2.4 The fact that it is hard or impossible to access legal advice and representation is a further burden.

2.5 The conduct of guards and immigration official is sometimes disrespectful or insulting, even racist.

2.6 The effects of detention on the health of the people detained has been increasingly well documented. The small number of publications referred to here have extensive bibliographies on the subject.<sup>1</sup> Recently an inquiry in Australia heard evidence from psychiatrist Dr Peter Young, former director of mental health services at detention centre service provider International Health and Mental Services (IHMS), of the mental health damage caused to

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<sup>1</sup> Ali McGinley and Adeline Trude (2012), *Positive Duty of Care? The Mental Health Crisis in Immigration Detention*. Briefing paper by the Mental Health in Immigration Detention Project, Association of Visitors to immigration Detainees and Bail for Immigration Detainees. <http://www.aviddetention.org.uk/images/positive%20duty%20of%20care%20final.pdf>  
Gatwick Detainees Welfare Group (2012), *A Prison of the Mind: The Mental Health Implications of Detention in Brook House Immigration Removal Centre* <http://www.gdwg.org.uk/downloads/gdwg-prisoninthemind.pdf>  
Pourgourides, C., Sashidharan, S. & Bracken, P., (1996) *A Second Exile: The Mental Health Implications of Detention of Asylum Seekers in the United Kingdom*, Birmingham: Northern Birmingham Mental Health Trust.

detainees by their being detained.<sup>2</sup> He believes the process is akin to torture: “If we take the definition of torture to be the deliberate harming of people in order to coerce them into a desired outcome, I think it does fulfil that definition.” The “desired outcome” is detainees' abandonment of their hope of getting refugee status in Australia and deciding to go back to where they came from.<sup>3</sup> We believe the same judgement should be made of the UK's policy.

2.7 Stark evidence of the horrors that detention represents for detainees are the 22<sup>4</sup> or more people who have died a violent death in immigration detention, over half of them by suicide, and most recently Rubel Ahmed, aged 26, from Pakistan, on 7th September 2014 in Morton Hall.

2.8 It should be remembered that the effects of immigration extend well beyond the individual person detained to family, dependants, loved ones and friends who suffer from the exclusion of their relative and friend from their lives.

*2.9 We call for an end to immigration detention, and while it continues we call for a time limit.*

### **3 It is damaging to society as a whole to treat any group of people, especially vulnerable people, in a manner that would not be acceptable for others in the society**

3.1 We do not think that it is necessary to give references for this as history tells us it is true. If abuse is not dealt with it will spread. That is what is happening in the UK with the spread of immigration detention. Indifference, depraved or not, is not a defence for inaction.

### **4 Judicial oversight of immigration detention**

4.1 While immigration detention remains, there should be a check or balance to the exercise of the power to detain. This can be said to work to a large extent in criminal law: there is access to legal advice, there are time limits to the time police can hold a suspect, remand prisoners must be periodically brought before a court, if a person continues to be detained he or she must be charged and tried, if convicted may be sentenced to prison, and may appeal against sentence.

4.2 None of this is true for a person held in an immigration centre or a prison under immigration law. The idea that there is judicial oversight of immigration detention is a farce.

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<sup>2</sup> *New Daily*, 2 August 2014: [http://thenewdaily.com.au/news/2014/08/02/asylum-seeker-mental-health-report-damning/#/?&\\_suid=141029113843701138697377434344](http://thenewdaily.com.au/news/2014/08/02/asylum-seeker-mental-health-report-damning/#/?&_suid=141029113843701138697377434344)

<sup>3</sup> <http://www.theguardian.com/world/2014/aug/05/-sp-australias-detention-regime-sets-out-to-make-asylum-seekers-suffer-says-chief-immigration-psychiatrist>

<sup>4</sup> <http://www.irr.org.uk/news/deaths-in-immigration-detention-1989-2014/>

4.3 The initial decision to detain is usually taken by a relatively junior immigration official. The ‘quality’ of these decisions has been brought into question by official and unofficial bodies. It is often arbitrary.

4.4 *The initial decision to detain should be brought before a public court/judicial authority within a time limit of a very few days.* The UNHCR recommend that the detained person should within 24–48 hours of detention be brought before a court or other independent body to have the detention decision reviewed, that the detainee and his/her legal representative should be able to attend automatic regular periodic reviews of the decision to detain before a court or independent body, and that a detainee should be able to appeal against the detention at any time before a court or independent body.<sup>5</sup>

4.5 In the arena of immigration detention, the right to apply for bail becomes even more important than it is in the criminal and civil courts. This is an extremely important area, but we refer to studies of the operation of bail hearings that have exposed serious shortcomings and suggested partial remedies for them<sup>6</sup> and whose authors will doubtless make submissions to the Inquiry.

## 5 Access to legal representation

5.1 None of the above oversight of the rights of individuals will mean anything unless the detained person has effective access to good legal representation. *Public finance must be made available to enable this to happen.* Government efforts in the Immigration and Asylum Bill to restrict access to legal aid for immigration detainees were frustrated, but cuts to legal aid (ridiculously small amounts of lawyers’ time being allowed per case, and a 50% likely success rate being introduced for a legal aid lawyer to be able to represent a person) must be reversed.

## 6 Contradiction between government policy and government practice

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<sup>5</sup> United Nations High Commissioner for Refugees (2012) *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention:* (<http://www.unhcr.org/refworld/docid/50348953b8.html>).

<sup>6</sup> Bail Observation Project (2011) *Immigration Bail Hearings: A Travesty of Justice? Observations from the Public Gallery:*

<http://closecampsfield.files.wordpress.com/2011/03/ccc-bop-report-low-res.pdf>

BOP (2013) *Still a Travesty: Justice in Immigration Bail Hearings:*

[6http://closecampsfield.files.wordpress.com/2013/04/2nd-bop-report-final.pdf](http://closecampsfield.files.wordpress.com/2013/04/2nd-bop-report-final.pdf).

Other surveys of immigration bail hearings are Bail for Immigration Detainees (BID) (2010) *A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty*, London, and BID (2012) *The Liberty Deficit: Long-term Detention and Bail Decision Making, A Study of Immigration Bail Hearings in the First Tier Tribunal*, London.

6.1 It is stated government policy not to detain pregnant women, mentally ill people, children, the elderly, those with serious medical conditions, torture survivors, people with serious disabilities, victims of trafficking. However, this is flagrantly ignored by the government itself. Alois Dvorzac died in handcuffs in immigration detention in 2013. He was 84 years old, suffered from Alzheimers and he had been handcuffed for five hours by the time he died. A centre doctor's Rule 35 report calling for his release was ignored by the Home Office officials responsible.<sup>7</sup> This is national practice. Nationally there were 983 Rule 35 reports during 2012, 909 were rejected, only 74 people deemed by doctors as unfit were released.<sup>8</sup>

6.2 The same contradiction between stated policy and what actually happens can be found in other aspects of the immigration detention system, for example judicial oversight, the right to apply for bail, or the right to legal representation, all of which are requirements of natural justice and international standards. It appears to be impossible for the government to conduct immigration detention in a 'humane' way.

**6.3 *In view of this impossibility, we call for the policy to be changed and for immigration detention to end.***

## **7 Failure of immigration detention to fulfil functions claimed by government**

7.1 Reasons given by governments for detention include: a) to effect removal, b) where there is a suspicion that the person might abscond, c) as part of the detained fast-track (DFT) system, and d) for administrative purposes.

7.2 Government claims that increased capacity is needed to be able to remove undocumented migrants. But the numbers of those being deported are falling. According to the government's figures, 'Enforced removals from the UK decreased by 12% to 12,621 in the year ending March 2014 compared with the previous 12 months (14,283). *This represents the lowest figure since the series began in 2004.* [emphasis added] ... There was a continuing decline in the proportion of detainees being removed from 60% in the year ending March 2013 to 56% in the year ending March 2014. There was an increase in the proportion of detainees granted temporary admission or release from 33% to 37% in the same period.'<sup>9</sup>

7.3 A very tiny proportion of those people being detained are 'about to be removed', being either in receipt of a removal order or where the collection of the necessary papers by the Home Office is 'imminent'.

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<sup>7</sup> <http://www.freemovement.org.uk/deaths-in-detention-home-office-legal-duties-and-rule-35/>

<sup>8</sup> Answer to Parliamentary question from Bridget Phillipson, 24 January 2013:  
<http://www.theyworkforyou.com/wrans/?id=2013-01-24b.137251.h>

<sup>9</sup> <https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2014/immigration-statistics-january-to-march-2014#asylum-1>

7.4 There are hundreds of thousands of undocumented (or ‘irregular’) migrants in the country. It would take a total halt on immigration and many decades to deport them at current rates of deportation. The solution is not to delude people into thinking ‘deportations are the answer’. They are not. ***The answer is for papers to be issued to the undocumented migrants. Parliamentarians should play a leading role in re-casting public discourse on the subject of migration.***

7.5 Home Office presenting officers at bail hearings in the First Tier of the Immigration and Asylum Tribunal frequently give, as a reason for refusing bail, that a bail applicant in detention is likely to abscond, to fail to abide by reporting conditions of bail. They rarely provide evidence for the statement in individual hearings. Furthermore, the evidence that people abscond on large scale basis is lacking; if it exists the Home Office is sitting on it. The little research evidence that does exist<sup>10</sup> indicates that many more people could be granted bail without or with low risk of their absconding.

7.6 The Detained Fast Track system has recently been declared in the High Court to be unlawful.<sup>11</sup> ***It is unfair and should be abolished.***

7.7 The UNHCR has often raised its concerns about administrative detention that is for the convenience of the government, most recently on the subject of Detainee Fast Track: ‘UNHCR considers that depriving an individual of their liberty for reasons of administrative convenience risks breaching international human rights principles.’<sup>12</sup>

7.8 Governments claim (not to the UNHCR) that by sending a ‘tough message’ to those abroad, immigration detention, and other measures against undocumented migrants, will reduce immigration. But there is no evidence for this.

## **8 Financial cost**

8.1 UK BA’s expenditure on detention and removal costs in 2012-13 was £210,778,000.<sup>13</sup>

8.2 In answer to a question from Richard Fuller MP on 17 January 2014, Minister Mark

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<sup>10</sup> Breugel, Irene and Natamba, Eva (2002), *Maintaining Contact: What Happens When Detained Asylum Seekers Get Bail?*, South Bank University; 10 Field, O. (2006), *Alternatives to Detention of Asylum Seekers and Refugees*, UNHCR Legal and Protection Policy Research Series No. 11, United Nations; Stone, C. (2000), ‘Supervised release as an alternative to detention in removal proceedings: some promising results’, *Georgetown Immigration Law Journal*, 14, 3: <http://www.vera.org/pubs/supervised-release-alternative-detention-removal-proceedings-some-promising-results>

<sup>11</sup> <http://detentionaction.org.uk/high-court-finds-operation-of-detained-fast-track-asylum-system-unlawful>

<sup>12</sup> E.g., [http://www.unhcr.org.uk/fileadmin/user\\_upload/pdf/DFT\\_PressRelease.pdf](http://www.unhcr.org.uk/fileadmin/user_upload/pdf/DFT_PressRelease.pdf);  
<http://www2.ohchr.org/english/issues/migration/taskforce/docs/administrativedetentionrev5.pdf>

<sup>13</sup> Detention Action FOI request, November 2013. Source: UK Border Agency, *Annual Report and Accounts 2012–13*, page 73.

Harper said the cost of detention per night per detainee was:

2011-12	£102
2012-13	£102
2013-14	£100 (£36,500 a year)

8.3 Previous answers to parliamentary questions elicited the following figures:

14/1/2009:	£130 a day (£47,450 a year)
10/2/2010:	£120 a day (£43,800 a year)
26/4/2011:	£110 a day (£40,150 a year)
31/10/2013:	(£102 a day) £37,230 year

8.4 In his January answer, Mr Harper stated: ‘The overall cost of operating the detention estate has fallen, a contributing factor of which is the way the Home Office has developed a healthy interest in its services from the private sector. Competition has helped to drive service improvements and reduced costs.’

8.5 An enforced removal costs between £13k and £15k, including arrest team costs, escorting and detention costs (excluding legal costs of any appeals challenging removal).<sup>14</sup>

8.6 These figures do not include:

- a) Costs of the Asylum and Immigration Tribunal courts in dealing with bail and other matters related to detention.
- b) Legal aid.
- c) Millions of pounds paid out by the government in cases of wrongful imprisonment.<sup>15</sup> These cases are only the tip of the iceberg in terms of wrongful imprisonment, even as defined currently in the courts.
- d) Costs of transporting detainees round the country.

8.7 ***A reduction in detention, deportations and litigation would save a lot of money.*** One economic analysis of alternatives to long-term detention argues that an improved risk assessment [resulting in earlier release of detainees] could produce cost savings of £377.4 million over a 5-year period.<sup>16</sup> ***Allowing asylum seekers to work, spend and pay taxes would further reduce the bill as well as benefiting them.***

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<sup>14</sup> FOI answer published on the gov.uk website, reported in AVID, *InTouch*.

<sup>15</sup> E.g., ‘£2m paid out over child asylum seekers illegally detained as adults’, *Guardian*, 17 February 2012, <http://www.theguardian.com/uk/2012/feb/17/home-office-payout-child-asylum-seekers> “Minister 'admits paying millions to detained migrants'”, BBC World Service, 11 February 2010: <http://news.bbc.co.uk/1/hi/uk/8509417.stm>

<sup>16</sup> Kevin Marsh, Meena Vengkatachalam, Kunal Samanta (2012), *An Economic Analysis of Alternatives of Long-term Detention*, Matrix.

## 9 The pernicious impact of private companies

9.1 Private companies have strongly pushed for, and greatly benefited from, the great increase in immigration detention in the UK.<sup>17</sup>

9.2 This is at the cost of a decrease in accountability. The policy of using private contractors, usually big multinational companies, allows the government to duck its responsibilities. As stated by Michael Doe, Assistant Bishop in the Diocese of Southwark,<sup>18</sup> ‘There are of course fundamental moral issues about 1) a commercial agency being paid to incarcerate others and 2) an elected government betraying its duty by transferring its responsibilities to others. I note that in the Chairman’s report [of Mitie] the public sector is a “client” rather than an employer or manager, so one is able to hide behind the other.’

9.3 G4S, Serco, and Mitie run most of the detention centres in the UK. The same and similar businesses run tagging, deportations, white van transports, interpreters and videolink. Healthcare is subcontracted, now by the National Health Service. ***Healthcare should be provided directly by the NHS so the profit motive is taken out of the healthcare of detainees.***

9.4 We have seen many scandals of racism among guards, abuse of women detainees, failure to protect or care for vulnerable detainees, the Serco and Group4 tagging scandal, Capita’s threatening Christmas texts to thousands of migrants who in fact had the official right to be in the UK, and the killing of Jimmy Mubenga by G4S ‘escorts’ on a British Airways aircraft.

9.5 On the initiative of the private companies, detainees are paid peanuts (£1 an hour) to do cleaning, food preparation, painting and other work. Whether the centre is state or privately run, this is exploitation of highly vulnerable people. ***Detainees who work should be paid at least the minimum wage and the law should be amended accordingly.***

9.6 ***There is no place for private companies in immigration detention.*** A thorough and open audit of these contracts and of how they are monitored, and their cancellation, bringing services back into the more accountable public sphere, would bring considerable benefits.

## 10 International calls for a change of policy

10.1 The UN High Commissioner for Refugees, and the Human Rights Commissioner of the Council of Europe have called for the UK government to limit detention to the shortest

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Evidence.

<sup>17</sup> Christine Bacon (2005), *The evolution of immigration detention in the UK: The involvement of private prison companies*, Oxford: Refugee Studies Centre working paper 27.

<sup>18</sup> Private communication.

possible time, to use it as a last resort, to *reduce, not expand, the number of immigration detention places, and to develop alternatives to detention.*

## **11 Alternatives to detention**

11.1 *'Alternatives to detention' should not be punitive* ('voluntary' returns, tagging, etc.) They should involve helping migrants to live in the community. Asylum seekers whose cases are being considered (or not being considered, simply sat on) should be allowed to work.<sup>19</sup>

## **12 Domestic calls for a change in policy**

12.1 Debate, if not actual change, is in the air to an unprecedented extent. In 2014, for the first time ever, the question of a time limit to immigration has been debated in Parliament (twice, in the House of Lords). The formation of the Detention Forum has been important in bringing many very active organisations together to challenge the policy of immigration detention. The spring conference of the Liberal Democrats voted for a time limit to detention and for the right of asylum seekers to work. The Scottish government's *Scotland's Future* publication for the independence referendum debate made a commitment to close Dungavel immigration detention centre in Scotland in the event of a Yes vote. There has long been concern about immigration detention among Britain's trade unions. Over the past 20 years six or seven have come out in their national conferences against it.

## **13 The Campaign to Close Campsfield**

13.1 The campaign was established in 1993 in opposition to the opening of the detention centre of that name near Oxford. Its aims are to stop immigration detentions and imprisonment; close Campsfield and all detention centres, and detention wings in prisons; stop racist deportations; repeal immigration laws which reinforce racism. It has no paid workers and relies on donations.

13.2 The campaign plays a prominent role in the movement against immigration detention. It:

- holds a monthly demonstration at Campsfield and a monthly campaign meeting;
- works with detainees protesting at their detention;
- works with local trade union, student, human rights and party organisations;
- works nationally with such bodies and helped set up the Barbed Wire Britain anti detention network and is a founder member of the Detention Forum;
- publishes the bulletin Campsfield Monitor;

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<sup>19</sup> See Field, O. (2006), 'Alternatives to Detention of Asylum Seekers and Refugees', UNHCR Legal and Protection Policy Research Series No. 11, and other UNHCR publications.

- submits evidence to national and international parliamentary and human rights organisations;
- helped establish the Campsfield Nine, Yarls Wood 13 and Harmondsworth Four defence campaigns in the show trials of protesting detainees;
- organised an international conference on detention in 2000 with 120 people from 20 countries;
- helped establish the Migreurop network and initiate European Days of Action for migrant rights.

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