

Migrants Rights Network response
APPG on Refugees and APPG on Migration joint inquiry into Detention
September 2014

Background

1. The Migrants' Rights Network (MRN) is a registered charity set up in 2006 to strengthen civil society campaigns and advocacy work in support of a progressive, rights-based approach to immigration. MRN is now a leading UK network on migrants' rights issues, regularly contributing our perspective to public debate through the media and other policy fora. MRN supports evidence-based parliamentary debate on migration through our role as secretariat of the All Party Parliamentary Group on Migration.
2. Since 2006, MRN has campaigned on issues related to irregular migration, including government approaches towards immigration enforcement and use of detention. We are a member of the UK Detention Forum, and are closely involved in the Brussels-based Platform for International Cooperation on Undocumented Migrants.

Submission

3. We welcome the opportunity to contribute to the joint inquiry into immigration detention in the UK. MRN and our members have long had concerns about the policy and practice involved in the current UK detention system, and in particular the context within which it operates – that of a rapidly expanding immigration enforcement policy targeting irregular migrants since the 1970s. In this response, we wish to highlight our views on the impacts of the current use of immigration detention on migrant communities in the UK.
4. Over the past thirty years, Government policy has increasingly pursued the detention and removal of irregular migrants who do not leave the UK voluntarily. The Immigration Act 1971 made legal the detention of irregular migrants pending completion of examination, a decision to remove, the execution of removal directions, or deportation from the UK. At this stage it was envisaged that detention would be used relatively sparingly, and with a presumption in favour of temporary admission or release of the individual in question. As such there were no dedicated immigration detention centers, and detention spaces were limited to a small number managed by individual airports. Immigration enforcement was, at this stage, largely limited to interventions at the border and operated on a lower scale than currently. Government data reported in Hansard in answer to

the question 'how many people are currently held under the Immigration Act 1971?' shows that on 28 June 1983, a total of 172 people were detained under the Immigration Act 1971¹.

5. Since then, however, there has been a significant increase in the legislative and policy measures to identify, detain and remove irregular migrants from the UK. Both the previous Labour government and the current coalition government have taken wide-reaching steps to expand the capacity of the state to identify irregular migrants at the UK border and within local communities, resulting in increased detention of those liable to removal. The profile of immigration enforcement has increased through national and local media as well as government public information campaigns. These measures have had the intention of deterring and exposing irregular migrants in the UK, whilst supposedly reassuring the public that tough controls are in place.
6. But these developments have had significant implications for migrant communities living in the UK. Immigration enforcement, including detention itself, now has a higher profile than ever within local communities, through the government's measures aimed at creating a 'hostile environment' for irregular migrants. Local immigration enforcement measures are increasingly present, with employers, universities, colleges and hospitals required to play a role in policing immigration status. Home Office enforcement operations, often carried out in partnership with other authorities including HMRC and the Metropolitan Police, target diverse communities in order to carry out enforcement activity. Landlords in the private rented sector, banks and building societies will take on new responsibilities for checking documents and encouraged to report irregular migrants to the authorities, following commencement of measures in the Immigration Act 2014 over the coming year. The result of this for some migrant communities has been increased suspicion and resentment of the authorities, and growing concern that migrants are no longer welcome in the UK.
7. The rapid expansion in the UK's detention estate, and ongoing problems in managing it, has accompanied the hostile approach towards immigration enforcement. In 2014, the UK now operates among the largest detention facilities in Europe. Following the opening of the UK's first dedicated detention centre, Campsfield House, in 1993, the UK government has rapidly expanded its capacity to detain. As of September 2013 there were 10 immigration removal centers (IRCs), six residential and non-residential temporary holding facilities, 19 holding rooms at ports and 11 holding rooms at reporting centers. In addition, up to 1000 detainees can be held in prisons under an agreement with the National Offender Management Service². In 2014, at any point in time, between 2,000 and 3,000 people are held in detention awaiting removal, and around 30,000 people are held in detention every year. Since 2000, detention has controversially been used as an integral part of the asylum system through the Detained Fast Track.

¹ David Waddington MP, quoted in Hansard, 30 June 1983

http://hansard.millbanksystems.com/written_answers/1983/jun/30/immigration-act-1971-statistics

² Migration Observatory, Briefing: Immigration Detention in the UK, November 2013,

<http://www.migrationobservatory.ox.ac.uk/sites/files/migobs/Immigration%20Detention%20Briefing.pdf>

8. The UK's immigration detention system, the running of which is now largely outsourced to private contractors, comes under regular criticism from HMP inspectors, journalists and advocacy groups for the failure of some IRCs to secure adequate standards for detainees, including 'prison-like' conditions³. There are ongoing reports of mental health issues, violent outbreaks, self-harm and suicide among detainees. The long-term detention of a small number of individuals, lasting for months or even years with no clear end date, has significant physical and mental health costs, as demonstrated by Detention Action, among others⁴. More widely, this approach sends the message to migrant communities that the UK chooses to treat some migrants according to standards which would not be considered acceptable within our criminal justice system.
9. Wider migrant communities are often aware both of the headlines and of the experiences of friends or family members who have experienced detention and shared their stories with others. Evidence that migrants may be poorly treated within detention centers and/or held for prolonged periods of time can increase fear and mistrust of the authorities. Although in the past, community-led campaigns could on occasion lead to the release of an individual from detention, they are now very unlikely to be successful regardless of the scale of support they generate, resulting in a sense of injustice and anger among communities. Poor treatment of migrants in the detention system is likely to deter others with irregular status from risking coming into contact with the authorities.
10. The impacts of detention on migrant communities were highlighted within a recent MRN research project into irregular migration, carried out in partnership with Manchester University⁵. The project ran focus groups with asylum seekers and refused asylum seekers in the Manchester area. A number of individuals spoke of their traumatic experiences within immigration detention, and in particular Yarl's Wood IRC. They gave emotional accounts of their treatment during apprehension and detention, and particularly of their inability to access adequate medical care or legal advice within removal centers. It was apparent that poor experiences within detention had been shared across the community, supporting the wider perception that the immigration authorities had chosen not to treat people with fairness and dignity during enforcement operations.

³ See reports of the Chief Inspector of Prisons into Harmondsworth IRC, August 2014 (<https://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/immigration-removal-centre-inspections/harmondsworth/harmondsworth-2014.pdf>) and Dover IRC, July 2014 (<http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/07/Dover-2014-Web.pdf>)

⁴ Detention Action, *No Return, No Release, No Reason: Challenging Indefinite Detention*, September 2010: http://detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/No-Release_Report_WEB.pdf

⁵ University of Manchester and Migrants Rights Network, *Law, order and irregularity: Undocumented migrants and UK immigration policy*, July 2014
<http://www.law.manchester.ac.uk/medialibrary/Main%20site/CCCJ/Migrants/Undocumented-migrants-policy-briefing.pdf>

11. In our view, the current operation of immigration detention, coupled with an increasingly localized approach to enforcement, is damaging for individuals and wider migrant communities. Rather than operating as a necessary and efficient element of the immigration enforcement system, the UK's large detention estate often appears to be poorly managed, costly and unfair. The poor treatment of migrants within detention erodes trust in the immigration system overall, and potentially undermines the integration of some migrant communities in the UK.
12. Looking ahead, we support the views of other groups including Detention Action and the Detention Forum that particular reforms are needed to improve immigration detention, and believe that some of these improvements could be made relatively quickly. The struggle to end the detention of children in the UK has now been partially achieved after years of campaigning, demonstrating that improvements can occur when the political will is there. However, there are now a number of significant areas where further improvements are now needed.
13. We continue to be concerned that the conditions within detention are disproportionately punitive and do not meet the needs of detainees who are held for more than very short periods of time and who may not have committed any criminal offence. Three IRCs (Brook House, Colnbrook and Harmondsworth), reportedly detain asylum seekers under the same security conditions as high security prisons. In our view this is inappropriate and damaging. In addition we continue to have concerns about the role played by private firms in immigration detention, and in particular the level of regular, independent oversight given to the conditions which operate within immigration detention and during removals from the UK.
14. We would like to see the introduction of more judicial oversight over detention, and are concerned at measures within the Immigration Act 2014 which further restrict access to bail. Steps should be taken to address the claims made by supporters of immigration detainees that some centers fail to provide adequate access to appropriate healthcare treatment and/or legal advice / representation.
15. We would welcome an end to the use of the Detained Fast Track system for asylum seekers, which detains individuals, sometimes for prolonged periods, at the administrative convenience of the Home Office – and which the evidence suggests promotes a system which, according to Justice Ouseley in a High Court judgement on the DFT, “*carries with it too high a risk of unfair determinations*”⁶. We also believe that there should be a time limit on immigration detention, and are working with others through the Detention Forum to support an end to indefinite detention.
16. We also believe, more widely, that there needs to be a wider consideration of the use of detention and how far alternatives can be introduced into the system. This is an area where politicians can

⁶ See the ruling in *Detention Action v Secretary of State for the Home Department* [2014] EWHC 2245: <http://www.bailii.org/ew/cases/EWHC/Admin/2014/2245.html>

play a leadership role in making improvements. The current policy approach, which favours tough talk, visible enforcement activity and the creation of a 'hostile environment' for irregular migrants, is divisive and damaging. It creates a highly-charged context which makes it more difficult for politicians to consider common-sense reforms to the detention system, even where the evidence suggests they could be more effective and less costly than current processes⁷.

17. Instead, we would welcome a more measured, objective political approach to the use of immigration detention within a wider review of the current approach to immigration enforcement. The aim of such an approach would seek to sustain and support migrant communities with a long-term view to their integration, rather than to escalate enforcement measures which generate fear, mistrust and resentment.

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⁷ See Jerome Phelps, *Alternatives to detention in the UK: from enforcement to engagement?* Forced Migration Review, September 2013. <http://www.fmreview.org/en/detention/phelps.pdf>
See also Matrix Evidence, *An economic analysis of alternatives to long-term detention*, January 2012
<http://detentionaction.org.uk/wordpress/wp-content/uploads/2011/10/Matrix-Detention-Action-Economic-Analysis-0912.pdf>.