

**REPORT ON THE SECOND PARLIAMENTARY NETWORK MEETING ON
IMMIGRATION DETENTION**

7th DECEMBER 2011, 3PM TO 4PM, BOOTHROYD ROOM, PORTCULLIS HOUSE

Chair: Dr Julian Huppert MP

Secretarial support: The Detention Forum

Key themes that emerged from the meeting:

- **There was a shared disappointment and frustration with UKBA's responses to the recommendations made by the Independent Chief Inspector of UKBA and other monitoring bodies.**
- **There was a consensus at the meeting that the current detention system is leading to substantial numbers of people being detained with serious effects on their lives and health. This is causing a significant waste of resources – human lives and government finance.**
- **The parliamentarians present at the meeting were keen to work together to highlight detention problems and resolve them through committees and other parliamentary processes, with the help of NGOs via the Detention Forum. The ideas such as publishing regular newsletters for the parliamentarians and forming small cross-party groups in order to lobby on issues of joint concern were discussed.**

Julian Huppert MP opened the second parliamentary networking meeting on detention, and outlined some of the key issues.

- Around 3,000 people in detention (not including prisons)
- JH has asked some parliamentary questions about length of time held, some people are held around 1-2 years and are just released at the end of it [i.e. not deported] which raises the question of why so much is spent on such long detention if they are not deported/removed after detention.
- Capacity of detention has increased over the last fifteen years and described the increase in the use of detention as a real problem in the UK.
- Three deaths in detention over summer which raise the issues of healthcare in detention.
- The Home Affairs Select Committee has been looking at UKBA's work, and will also be doing an asylum inquiry (which has some overlap into immigration detention). The terms of reference of this inquiry are currently being looked at

John Vine, Independent Chief Inspector of UKBA, highlighted his main concerns contained his recent report [**A thematic inspection of how the UK Border Agency manages foreign national prisoners.**](#) JV noted that the Home Office's response to his report had been disappointing

The inspection looked at the way that UKBA applied its powers related to deportation during the period of March and May 2011, particularly following the 2006 controversy of the then-called Immigration and Nationality Directorate. (Note: Confusingly, the term Foreign National Prisoners – FNPs - has been generally used to denote both serving prisoners and post-sentence ex-offenders who are of foreign origins.)

The main points of the report were:

- There are 10,779 FNP in England and Wales which makes up 13% of the prison population.
- In 2006 Home Office had not been applying routinely for deportation.
- There is a need to more actively manage cases. 1,600 FNPs at end of prison sentence were detained under immigration powers. Far too many FNPs are detained when there is no realistic prospect of an imminent removal. 3,775 FNPs were released into community and are still there with no imminent prospect of deportation. The UKBA does routinely monitor length of detention and numbers detained.
- On the positive side, the Early Removal Schemes such as Facilitated Returns Scheme have seen a greater uptake and many FNPs are returning home voluntarily in this way.
- 32% of appeals against deportation order succeed, the overwhelming majority under Article 8 grounds. This shows a huge discrepancy between the UKBA and the courts in the application of the Human Rights Act. This was ultimately very expensive, wasting court time and money spent detaining people unnecessarily. For instance, between March and December 2011, in 425 cases First-Tier Tribunal overturned decision to deport. The cost of unsuccessful appeals alone amount to about half a million pounds a year.
- Not much evidence of any assessments being carried out as to the likelihood of reoffending when deciding whether the ex-offenders need to be detained or not. There is a clear misapplication of policy when it comes to crimes such as fraud and theft as the UKBA themselves state that these crimes do not usually carry a risk of reoffending.
- There are 800-900 staff working in the Criminal Casework Directorate and they should be doing much more to address the issues mentioned.
- There is a discrepancy between UKBA decision-making and courts application of Human Rights Act..
- Insufficient evidence gathered on risk of reoffending. In 94/97 cases, detention was maintained after end of sentence. Highest percentage of the offences of these cases were fraud/forgery (see above for why this seems to be a 'misapplication of policy' Interviews with staff and managers illustrated that there was a fear of releasing FNPs, undermining the presumption of release. This leads to the UKBA's default position, which is to identify factors justifying detention.
- Period of detention post-sentence for detainees has undergone a rapid increase, from 140 to 200 days since 09/10. In many cases where FNPs haven't been deported, it is due to difficulties with country of origin, most of which were predictable. As Lord Ramsbotham has recommended in the past, there should be more done to advance deportation when the criminal sentence is being served and the process should be started earlier.
- Some serious offenders are still in community. Other non-serious offenders are detained for long periods.
- JV recognises that there are complex problems in redocumenting process. However, more should be done to start redocumentation process at an early stage of the criminal sentence.
- The longer ex-FNPs remain in the UK, the more their rights will accrue and the more will be allowed to stay.

John Vine summarised that the solution to 'tilting at the windmills of the Human Rights Act' was either to adjust the Human Rights Act or stop tilting. **Julian Huppert MP** suggested however that another way of looking at it is that the UKBA should be respecting Human Rights, rather than seeking to change the Human Rights Act.

Lord Ramsbotham suggested that on release, FNPs should go straight to the airport for deportation. Also he said that he had previously suggested that the Prison Service should appoint a dedicated manager of FNPs in prison so they do not lose track of where they are and can build a better partnership with UKBA.

John Vine responded that there are liaison officers in prison. One difficulty was that prisoners often do not say which country they are from. There is a reluctance from UKBA caseworkers to go into individual circumstances of cases, and a sense that the agency wants to do the work by correspondence which is not an effective way of operating.

John Vine added that the inspection report on the Detained Fast Track would be published on 9th February 2012; and that a longitudinal report on detention and detention decision making in conjunction with HMIP would be published in April/May 2012. For this joint-report, John Vine's team would inspect the area of UKBA casework in individual detention cases which the HMIP inspection cannot investigate, since their remit is confined to looking at detention conditions.

Tim Flatman asked why there was no distinction made in the report as to whether crimes committed by FNPs were "real criminal offences" or merely "immigration offences". **Mark Voce** supplemented this: that they did not record how many of the offences were immigration offences as this was not within the scope of the report. This kind of information was often not taken into consideration – they had expected to see far greater individual casework done when decisions were made. **John Vine** added that maybe this is an issue that should be looked at in the future.

Elizabeth Bowles, Senior Social Analyst at the Equality and Human Rights Commission, reported that The EHRC are currently writing a Human Rights Review. They are looking at the positive developments in the UK's application of Human Rights, covering all of the ECHR articles, but focusing on those areas which are still of concern. The issue of immigration detention is a significant part of the review and falls under Article 5 (right to liberty and security). However, it does not go into as much depth as other reports as it is focusing on many other issues too. It is framed in a Human Rights framework. It draws on existing reports for evidence. The report is now due out in January 2012.

Julian Huppert MP asked if the report interacts with the Joint Committee on Human Rights. **Elizabeth Bowles** replied that the report uses JCHR reports as evidence, as well as UNHCR reports and legal cases. **Julian Huppert MP** pointed out that **Elizabeth Bowles** and **Mike Crockart MP** of JCHR (who was at the meeting) may wish to talk further.

Amy Summerfield, Lead Researcher at HMIP, reported on the Yarl's Wood IRC inspection report which was published earlier on the day. She explained that she carried out interviews with the detained women to find out how safe they felt in their environment as part of assessment of the immigration centre. It was further reported that:

- The report is generally positive
- No children in Yarl's Wood is a good development. HMIP championed this and is pleased with this change.
- Physical environment was very good and there were plenty of activities
- The majority of detainees said they felt safe in the centre

However:

- Detainees were made to feel unsafe by their immigration situation
- It was very difficult to contact UKBA staff responsible for their detention
- The immigration team in YW and the Welfare Officer are overstretched
- Very vulnerable women, such as pregnant women or those suffering from mental health problems, are being detained. 7 pregnant women were in the centre at the time of inspection, yet one of their progress reports did not even mention the woman's pregnancy.
- Rule 35 reports are inadequate and lack in detail, leading to vulnerable people being held for a long period.
- There were concerns about access to legal advice.

Edward Benson of UNHCR asked what they meant by 'vulnerable women'. **Amy Summerfield of HMIP** responded that those with mental health problems, pregnant women, those with Rule 35 applications submitted, women who are not able to access immigration advice, language barriers. These women felt frustrated and isolated.

Tim Davies of Yarls Wood Befrienders echoed concerns about vulnerable women in Yarls Wood, which matches their experience visiting women there. They were also concerned about the women's behaviour (anything not strictly rational behaviour) were deemed as 'disruptive' by YW, and the root causes of the behaviour was not addressed.

Mike Crockart MP asked if report was based over period of time or a snapshot. He welcomed that children were no longer being detained in Yarls Wood but raised the concern of immediate pre-departure detention of children.

Amy Summerfield of HMIP replied that report was a snapshot of July 2011. As Yarls Wood is not family pre-departure accommodation, she couldn't comment on that as it was not in the report. However Cedars (pre-departure accommodation) will be inspected by HMIP in the future. **Julian Huppert MP** added that the APPG on Refugees will be trying to arrange a visit to Cedars so interested parliamentarians should contact him.

Richard Fuller MP mentioned that the report was presumably a statistical presentation, and didn't address whether the principle of detention was wrong. The question remained how to address the principle/moral issue of detention particularly of women. He also asked about the proposal for keeping male detainees at Yarls Wood. **Ali McGinley of AVID** commented that accommodation would be made available at Yarls Wood to make room for 38 men. It would be a 'lorry drop' short-term holding centre for men, like Oakington was. **John Vine of OICIUKBA** responded that his office would not be able to comment on government policy due to its statutory position.

John McDonnell MP referred to Yarls Wood Befrienders' briefing paper which mentioned that 15% of those detained that they had visited had mental health issues. He asked if HMIP's Yarls Wood inspection was able to drill down this into more specific issues, such as self-harm and so on. **Amy Summerfield of HMIP** replied that the number of incidents of self-harm monitoring were monitored which was relatively low; however numbers of those with mental health issues was relatively high as in common across the detention estate. **Amy Summerfield** again raised concern of a lack of detail in Rule 35 applications.

Lord Averbury commented on UKBA response to **John Vine's** report, saying that he felt it was 'lukewarm'. He added that detention of those awaiting an appeal in an immigration case is a largely

avoidable cost and a case should be made to the UKBA on this cost issue. **John Vine of OICIUKBA** responded that he felt that the UKBA response to his report showed a lack of understanding of the issues in the report. £55 million pounds is spent per year on detention of FNPs but it is not known, for instance, how much is spent on cases that are later overturned in court. **Julian Huppert MP** pointed out that a briefing paper from Detention Action mentions that £75 million could be saved if UKBA accurately identified at an early stage those migrants who had no prospect of removal within a lawful or reasonable period and did not detain these people. **Jerome Phelps of Detention Action** clarified that an independent report by Matrix Evidence on savings that can be made by better detention decision-making would be published early next year.

Edward Benson of UNHCR said that UNHCR have recently published a quality report on the Detained Fast Track. Four months on, while UKBA have accepted the recommendations, they have not yet been implemented. He asked John Vine if he had any insight into how the implementation of recommendations will be achieved. **John Vine of OCICUKBA** replied that his office is a new inspectorate and he is unable to change UKBA management. His office has produced 34 reports with around 300 recommendations so far but has tried to make fewer and more strategic recommendations. These have in the most part been accepted and some have been fully adopted by UKBA. The new chief executive of UKBA is keen to use the inspectorate as 'free consultancy' to improve things. There is a certain amount of reluctance and fear in UKBA but the chief executive has the responsibility to accept the recommendations and make some changes and his office has the responsibility to check that things are changing on the ground. Inspector's annual report will be laid before the parliament by Home Secretary soon.

Lord Avebury echoed his concern about the difficulty of engaging UKBA. He had recently asked a question about exempting women who had been subjected to gender-based violence from detention. However, he received an unsatisfactory response.

General discussion on the future of Parliamentary Network Meetings on detention

Julian Huppert MP said that the Home Affairs Select Committee will carry out an inquiry into asylum in the new year and the Detention Forum supporters are continuing to lobby the JCHR to revisit its 2007 report. It was suggested at the last parliamentary network meeting that a pseudo-select committee could be formed to investigate detention, however it was thought that there was enough current prospect of one of the parliamentary committees taking up the issue of detention for this not to be necessary.

Tim Flatman asked if these meetings could be used as organising space where NGOs could encourage the parliamentarians to speak out to challenge detention. **Eiri Ohtani of the Detention Forum** explained that the Forum provides secretarial support to these parliamentary network meetings so that the parliamentarians can discuss detention issues in a neutral, cross-party, space. Immigration detention is often not talked about in the political sphere because it is a politically very sensitive and unpopular subject. While many individual MPs and peers carry out a lot of good work on individual casework level, they do not necessarily have chance to meet centrally and discuss the common issues. The hope is that MPs and peers will meet and continue to discuss these issues outside of these meetings and know that NGOs are here to provide them with support and information. **Julian Huppert MP** said that NGO sector has plenty to say and can be relied upon to provide back-up information and supporting evidence for MPs and Peers and he feels that there is a small band of interested MPs. **Richard Fuller MP** added that input and ideas from NGOs are always welcome. He reiterated that not only was immigration detention not working in a fair

manner as it should, but that some people may also wish to question the whole existence of the detention system.

John McDonnell MP suggested that an effective network would support the parliamentarians to form small cross-party groups in order to lobby on issues of joint concern. He asked if The Detention Forum could provide details of upcoming parliamentary processes, potential legislation and other relevant information from NGOs on reports/activities. **Eiri Ohtani of the Detention Forum** replied that the Forum is now planning to produce regular newsletter after each parliamentary network meeting on detention that would contain such information, as well as key issues that are raised by NGOs. **Julian Huppert MP** suggested that we could consider inviting Damian Green to one of the future network meetings. He reminded the attendees that the parliamentary network meetings on detention meet every six months and the next meeting would welcome the HMIP who would present findings from the joint inspection report mentioned earlier. **Eiri Ohtani** added that the Detention Forum would host a parliamentary meeting in February 2012 where John Vine will talk about his Detained Fast Track inspection report.

The date of the next parliamentary network meeting: Wednesday 23rd May, 4-6pm

Attendees:

Lord Avebury
Baroness Hamwee
Lord Ramsbotham
Mike Crockart MP
Richard Fuller MP
Julian Huppert MP
John McDonnell MP
Henry Smith MP
Pete Wishart MP

Adam Clarke (Alistair Carmichael MP's office)
Tim Flatman (Andrew Smith MP's office)
Jonathan Graham (Nicola Blackwood MP's office)
Hamad Kamal (Caroline Dinenage MP's office)
Claire Mathys (Baroness Williams of Crosby's office)
Matthew Moore (Gareth Thomas MP's office)
Josie Millwater (office of? Lord Sands??)

John Vine (Chief Inspector, OICIUKBA)
Mark Voce (Assistant Chief Inspector, OICIUKBA)
Alex Marinkovic (Executive Officer, OICIUKBA)
Elizabeth Bowles (Senior Social Analyst, Intelligence Team, Equality and Human Rights Commission)
Amy Summerfield (Research Lead, Her Majesty's Inspectorate of Prisons)

Eiri Ohtani (The Detention Forum)
Maurice Wren (Asylum Aid)
Liz Peretz (Campaign to Close Campsfield)
Ali McGinley (AVID)

Jerome Phelps (Detention Action)

Tim Davies (Yarl's Wood Befrienders)

Lisa Matthews (National Coalition of Anti Deportation Campaigns)

Edward Benson (Senior Protection Associate, UNHCR)