

PRISON SERVICE JOURNAL

January 2013 No 205



Special Edition
**Migration, Nationality and
Detention**

Editorial Comment

The imprisonment and detention of foreign nationals has increased substantially in recent years. Immigration detention places have grown twelve-fold in the last 20 years, while the number of foreign national prisoners has more than doubled. Currently, around 11,000 foreign nationals are held in English and Welsh prisons, including around 600 immigration detainees. An additional 3,000 people, many with no criminal record, are placed in immigration removal centres¹.

Many prison staff will be aware of the stress and uncertainties foreign national prisoners experience as they near the end of their sentence. They are often confused about what is going to happen to them next and, if they are detained, they enter a kind of limbo. They are neither in the country nor out, unsure whether they will be released or removed, or when they will see progress on their cases. The contrast with the generally rigid certainties of 'normal' prison life is stark as people's lives become dominated by attempts to navigate a complex immigration system, often with inadequate specialist advice. This edition aims to broaden understanding of detention in the UK and abroad, with articles exploring life in detention and the politics of immigration control in the UK and abroad.

The edition is framed by Kizza Musinguzi's absorbing personal account, a man detained (as it turns out, unnecessarily) after fleeing persecution in his home country. Musinguzi offers insights into the day-to-day experience of someone subject to immigration control and detention. Details such as his first impressions of the detention centre, and the kindness of individual staff and fellow detainees, stand out in this thoughtful and fair-minded essay. If there is only one article that you read fully in this edition, it should probably be this one. It is followed by interviews with Karen Abdel-Hady and Jo Henney, respectively deputy director and Head of Detention Operations, in the Returns Directorate, Enforcement and Crime Group at UKBA, and centre manager at Harmondsworth, the UK's largest immigration removal centre. They describe the challenges and satisfactions of some of the most responsible positions in the detention estate.

The MQPL (measuring the quality of prison life) survey tool has become firmly established in prisons as an effective way of finding out about prisoners' experiences. In a logical step forward, a similar approach is being developed in detention. Mary

Bosworth and Blerina Kellezi discuss emerging findings from their MQLD ('Measuring the quality of life in detention') survey conducted in several immigration centres. A key finding is the exceptionally high level of depression reported by detainees. Both staff and detainees identified the open-ended nature of immigration detention and the cumbersome immigration decision-making process as factors contributing substantially to such feelings.

A broader perspective is taken by Judi Moylan, an Australian member of parliament with a long-standing interest in her country's approach to immigration control. Her paper illustrates the strongly politicised nature of immigration control, as she narrates the evolution of immigration debate from an unabashed 'White Australia' policy to current concerns about the number of people who continue to arrive, and die, in boats. She discusses the use of off-shore detention and the fact that a thousand children continue to be detained in Australia, contrary to the country's own guidelines and international law.

Three years ago, it was not uncommon for the UK also to detain 1000 or more children a year. There has been a substantial reduction in numbers since, mainly as a result of a change of policy by the coalition government. Hindpal Singh Bhui critically assesses contemporary child detention practices in the UK in light of this, arguing that the new and substantially improved approach may contain important learning for the management of adult detention. He echoes the concerns over the open-ended nature of detention revealed in Bosworth and Kellezi's piece, and argues that the most important lesson may be the rejection of previous assumptions about the need for indefinite detention to achieve effective immigration control. Children are held for no longer than a week, and there seems little reason why time limits cannot now be discussed for adult detainees.

The politics of immigration control is a theme in Lea Sitkin's paper on the distinct approaches to immigration control in Britain and Germany. Sitkin identifies several reasons for policy differences including geography. Britain's island status means that it is easier to stop people at points of entry, while Germany's more vulnerable land borders mean that more effort is put into identifying illegal entrants when they are already inside the country. She also considers the influence on policy of Britain's colonial history and multi-cultural

1. HM Inspectorate of Prisons and Independent Chief Inspector of Borders and Immigration (HMIP and ICIBI) (2012) *The Effectiveness and Impact of Immigration Detainee Casework. A Joint Thematic Review*.

citizenry on the one hand, and Germany's totalitarian past and 'guest-worker' culture on the other.

Andriani Fili's fascinating and disturbing paper illustrates how far the objectification of migrants and failure to see them as individual human beings can go if unchecked. She describes a system of immigration control and detention in Greece that is in crisis. It is hard to believe that up to 120 people have been locked, sometimes for months, in a space designed for nine people at the Athens airport detention facility. It is a sobering reminder that the inhuman, degrading and in some respects literally deadly system that she describes exists in the EU.

Ana Aliverti's paper moves us beyond immigration detention to a consideration of the criminalisation of foreign citizens for immigration offences. Exploring crown court and magistrate court records, she finds that few migrants are prosecuted for immigration act offences since dealing with them under the administrative immigration system is often easier than invoking criminal powers. However, those who do appear in court almost always receive custodial sentences. Given the range of immigration offences that may be dealt with in this way, she suggests that unless immigration policies shift, it seems likely that the number of foreign citizens in prison will continue to grow.

The final two contributions build on Aliverti's paper to explore the experiences of foreign national prisoners in a variety of jurisdictions. Drawing on the work of the Prison Reform trust in England and Wales, Francesca Cooney argues that foreign national prisoners in this country have suffered in the push to achieve deportation targets. She poses an important question: 'Is the prison service acting as an arm of the

immigration service ... rather than fulfilling its primary purpose of rehabilitation?' There is some evidence to support her position. The rehabilitation of foreign nationals seems to have been de-prioritised partly because of the mistaken view that they will all be deported, and partly because of the somewhat unethical position that reducing the risk of someone being released into another country does not matter.

Finally, Femke Hofstee-van der Meulen reports on her research into the experiences of Dutch nationals imprisoned abroad. The problems they report resonate to a large extent with those identified by Cooney. The major difference is the high level of effective support provided by consular staff, volunteers and chaplains, who regularly visit Dutch nationals in over 50 countries. The human concern shown for fellow citizens, both by the state and by private individuals, makes a big difference to Dutch prisoners, affecting their behaviour in prison and after release.

Spanning several countries and multiple jurisdictions these papers demonstrate both the interconnections between migration policies and punishment, and the range of perspectives from which these developments can be considered. Many of the essays raise tough questions about state practices. Others suggest emerging good practice. As the numbers of foreign nationals incarcerated in both the penal and immigration systems continues to grow, what is clear is that these issues need more sustained critical attention both from academia and from those who work with and for this population. We would like to thank all of our contributors for their thought-provoking papers and we hope this issue will lead to a more general discussion about these matters within the prison service and beyond.