



Detention of foreign national ex-offenders: recent developments

The long-term detention of foreign ex-offenders has been repeatedly condemned in recent months. In October 2011, the **Chief Inspector of the UK Border Agency** criticised a culture of the immigration detention of foreign ex-offenders as “the norm.” Although law and policy require a presumption of liberty, the Chief Inspector observed that “(t)he default position is to identify factors that justify detention rather than considering each case in accordance with the published policy.” Of particular concern was the detention of people who cannot be deported because of the particular situation in their country of origin.

Also in October 2011, the **High Court** found for the second time in a few months that the immigration detention of a severely mentally ill man constituted inhuman and degrading treatment, **breaching his rights under Article 3 of the European Convention on Human Rights**. The man, a Nigerian ex-offender known as BA who came close to dying in detention, was detained between December 2010 and October 2011 despite “a crescendo of professional voices” claiming that he was unfit to be detained. There was “a deplorable failure” to recognise the nature of his illness.

In August 2011 the **High Court** found that Amin Sino had been detained unlawfully for four years and eleven months. Mr Sino, a petty offender with a mental disorder, was detained although there was never any realistic prospect of removal in a reasonable period. The Court found that the UKBA had sought to justify further detention on the basis of “false and misleading” witness statements and factual assumptions that were not true. Mr Sino’s detention is thought to be **the longest ever period of unlawful immigration detention**.

Independent research by Matrix Evidence, to be published in early 2012, has found that **savings of £75 million per year could be made** if the UKBA were to accurately identify early those migrants who cannot be deported in a lawful and reasonable period, and who are currently subject to long-term detention. This amounts to the cost of three detention centres.

Opportunities for change

In response to a Parliamentary Question following the Chief Inspector’s report, the Minister has promised that, with regards to ex-offenders, the UKBA will “review the template and guidance for making the initial detention decision to ensure that all detention decisions are based on a sound consideration of the evidence.”

Recommendation to the Minister

Detention Action urges the Minister to ensure that the UKBA revise the Enforcement and Instructions Guidance in line with the Chief Inspector’s recommendation that cases must be “managed actively with regular assessments of whether it is feasible to enforce deportation.” If deportation is not feasible, it is essential on human rights and efficiency grounds that detainees should be released as early as possible to appropriate community-based support.

Detention Action (formerly London Detainee Support Group) provides emotional and practical support to people in immigration detention, primarily in Harmondsworth and Colnbrook Immigration Removal Centres near Heathrow Airport, and campaigns for improvements to the detention system.