
amnesty international

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Seeking asylum is not a crime: detention of people who have sought asylum

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Summary

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The number of those detained solely under Immigration Act powers in the UK -- the vast majority of whom have claimed asylum at some stage, including families with children -- has increased.

Amnesty International examines the increased use of detention both at the beginning and at the end of the asylum process. While the UK authorities have often claimed that detention is pivotal to their strategy to remove asylum-seekers whose claims have been dismissed, they have also stated that: "... detention would only be used as a last resort". Amnesty International found that many people who have sought asylum at some stage are detained at different points of the asylum process and, as this report will show, they are detained even though the prospect of effecting their forcible expulsion within a reasonable time may be slim.

The purpose of this report is to shed light on the hidden plight of a vulnerable group of people in the UK: those who have sought asylum at some stage and who are detained solely under Immigration Act powers.

For this report Amnesty International has examined the cases of asylum-seekers who were detained for the duration of the asylum process whose claims were considered under accelerated asylum-determination procedures predicated on detention. Even the UK authorities have recognized that accelerated procedures do not have to be premised on detention as they have introduced a "non-detained tightly managed approach" in the North West of England.

The report also looks at the cases of those people who were detained once their claim had been dismissed and were considered to be at the end of the asylum process. In this context, three of the people whose stories are cited in this report who had initially been refused asylum, following subsequent submissions on their claims, went on to be recognized as refugees.

In the course of a year no comprehensive statistics are produced on the number of those who have sought asylum who are held in detention, or the length of time for which they are detained. Therefore, Amnesty International is concerned that the picture of how many people who have sought asylum and are detained, and the length of detention remain unclear.

The UK authorities have argued that detention is necessary to prevent people from absconding at the end of the asylum process. But the organization is concerned that the

authorities are using the risk of absconding as justification for detention without a detailed and meaningful assessment of the risk posed by each individual, if any.

Whether at the beginning or the end of the asylum-determination process, the individuals concerned may be taken into detention on the basis that a bed is available within the detention estate, rather than on considerations of necessity, proportionality and appropriateness to detain them.

Under Immigration Act powers, the UK authorities are empowered to authorize the detention of people who at some stage have sought asylum in the country. No prior judicial authorization of detention is required and there is no prompt and automatic judicial oversight of the decision to detain nor are there automatic judicial reviews of the continuance of detention. In addition, there are no maximum time limits of the length of detention. This report examines the ability of detainees to challenge their detention, an area where Amnesty International concludes that the UK policy and practice lead to further injustice.

In April 2004, the UK authorities introduced new funding arrangements for legal work on asylum and immigration cases in England and Wales, with the aim of cutting the overall amount of public funding for this area of work. These arrangements have resulted in the withdrawal of established solicitors from this area of work leaving a dearth of expertise. This problem is particularly acute for those in detention who are at the end of the asylum process.

Finally, the report looks at the human cost of the increased use of detention in the UK. Many people who had sought asylum were detained in remote locations and in grim, prison-like establishments. The organization found particularly unacceptable the detention of families, including mothers with children, at times very young ones; victims of torture and other vulnerable individuals.

In light of its research for this report, Amnesty International found that the detention of these people has a terrible human cost, inflicting untold misery on the individuals concerned and their families.

The organization considers that detention is not being carried out according to international standards, is arbitrary and serves little if any purpose at all in the majority of cases where measures short of detention would suffice.

Amnesty International calls for, among other things, a statutory presumption against detention, and for an automatic and regular review by a court or a similar competent, independent and impartial body of the lawfulness of the decision to detain.

This report summarizes a 94-page document (35,794 words), *United Kingdom - Seeking asylum is not a crime: detention of people who have sought asylum* (AI Index: EUR 45/015/2005) issued by Amnesty International on 20 June 2005. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

http://www.amnesty.org/email/email_updates.html

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