

Written evidence to the All-Party Parliamentary Group inquiry into ‘quasi-detention’

Submission by René Cassin on 23.06.2021

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About René Cassin

René Cassin is a UK-based human rights organisation that works to promote and protect universal human rights, drawing on Jewish experience and values. The Jewish people have been forced to seek asylum many times throughout their history. Due to this experience, we believe that the Jewish people should encourage the protection of human rights for other groups including asylum seekers and migrants.

In our efforts to do so, we have been at the centre of mobilising interfaith campaigns to end indefinite detention in the UK; we have taken Rabbis to Harmondsworth Detention Centre and have engaged Jewish and non-Jewish communities through numerous public events. We are also proud members of the Detention Forum, as network of organisations with the intended goal of challenging the UK's policy of indefinite detention.

Key recommendations

Given our campaign portfolio, René Cassin has elected to respond to questions 2, 7, and 8. Our answers reflect and address our key concerns, including the violation of human dignity and the right to claim asylum time evidenced in practice of indefinite detention.

As stated in our response to question 8, to address our concerns we recommend three actions to be taken with immediate effect: a 28-day time limit and alternatives to detention, the immediate closure of Penally and Napier Barracks, access to free and readily available legal advice for all asylum seekers, and an immediate cease to plans of a new women's detention centre in County Durham, Hassockfield.

Question 2) What are the key features of the site(s) that generate concern?

The policy of indefinite detention

The damage the lack of time limit causes is clear. In research done by *Medical Justice* in 2015, 83% of detainees between 2000 and 2015 reported they experienced a negative impact on their mental and physical health because of their experience within detention.¹

The flexibility provided by absence of a statutory limit in UK law has led, we believe, to neglecting safeguards for detainees, especially the 2%-3% held up to 6-12 months², who have limited recourse to legal action and live in perpetual insecurity over their position.

Failure to address detainees' trauma

In 2014, the *Helen Bamber Foundation* found that there is an extremely high propensity towards individuals within detention centres suffering from Post-Traumatic Stress Disorder. Detainees experienced a total of 2,523 human rights violations from 790 referrals, including, for example, "beatings, cuttings, burns"³. Detention centres are ill-equipped to treat the subsequent symptoms of associated trauma from these historical experiences, exacerbating the effects on these individuals.

Despite this, the First Shaw Review (2016) found a culture of disbelief among detention centres' staff, who viewed detainees' symptoms or health complaints with suspicion.⁴ In several cases, detainees in urgent need of assessment were not seen by a specialist for months on end.⁵ Despite the introduction of an Adult at Risk policy considering these reports, the Second Shaw Review has yet to find a reduction in numbers of vulnerable people still detained.⁶

An investigation using a sample of 188 people held in immigration detention in the UK on August 31st, 2018, found that "more than half of the sample were either suicidal, seriously ill or victims of torture"⁷. According to the Equality and Human Rights Commission, the number of self-harm incidents requiring medical treatment in immigration detention settings almost trebled between 2011 and 2017.⁸

¹ http://www.medicaljustice.org.uk/wp-content/uploads/2016/09/MJ_death_in_immigration_detention_FINAL_WEB-1.pdf

² <https://migrationobservatory.ox.ac.uk/resources/briefings/immigration-detention-in-the-uk/>

³ page 89 of the Shaw Report 2016

⁴ page 167, 7.53 of the Shaw Report 2016

⁵ page 168, 7.54, Ibid

⁶ The Shaw Report, 2018

⁷ https://www.theguardian.com/uk-news/2018/oct/10/revealed-sick-tortured-immigrants-locked-up-for-months-in-britain?CMP=share_btn_tw

⁸ <https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018>

Current practice challenges the UK's assertion that "the dignity and welfare of those detained is of the utmost importance"⁹.

Mental ill health: Napier and Penally Barracks

First responders working with asylum seekers housed at Napier and Penally Army Barracks report cramped, inhumane, and re-traumatizing conditions for those housed there. This is exacerbated by the additional lack of effective COVID-19 measures for safe distancing¹⁰.

The UK Jesuit Refugee Service (JRS) supports people accommodated at Napier Barracks in Folkestone, where there was recently a major outbreak of COVID-19. They cite the experience of a refugee friend there.

"The camp is like being in a psychiatric hospital, or like being in prison, there are people rapidly becoming more and more mentally unwell around you, one has just tried to kill himself, another is in pain, another is very stressed and cannot cope."¹¹

JRS reports that a life in these conditions, unable able to work and with allowance of just £5 a day, is demoralising, inhumane, and fundamentally unsafe for any individual, let alone those who have experienced persecution.

Spread of COVID-19: Napier and Penally Barracks

Since asylum seekers were moved to barracks, local health authorities near Penally in Wales warned of the "high risk" of a coronavirus outbreak at the facility, while immigration lawyers raised concerns that sleeping 15 people to a room at Napier Barracks breached the Home Office's own guidance on social distancing.¹²

These concerns have now been verified following a ruling on 3rd of June from the High Court, that the Home Office's decision to house migrants in a "squalid" barracks in Folkestone was unlawful. Six migrants claimed housing at Napier Barracks was "unsafe" and dormitory use caused a Covid-19 outbreak. Lawyers said the accommodation in Kent breached human rights and the ruling, which found accommodation at the barracks "fell below the minimum standard", paves the way for damages claims against Ms Patel.

Aggravation of gendered violence

The detention of migrant women is shown by first responders to entrench and aggravate gender inequality. Women for Refugee Women report most women held in detention to be survivors of trafficking, torture, or sexual violence.¹³ Detention, its solitary, prison-like conditions make it impossible for women with complex experiences of gender-based violence to access specialised support.¹⁴

⁹ Sixth periodic report submitted by the United Kingdom of Great Britain and Northern Ireland under article 19 of the Convention pursuant to the optional reporting procedure, due in 2017, P27

¹⁰ Page 19, JRS, 'Being Human in the Asylum system', 2021

¹¹ Page 18, JRS, 'Being Human in the Asylum system', 2021

¹² <http://www.aviddetention.org.uk/news-events/news/statement-conditions-exposed-napier-barracks>

¹³ <https://www.refugeewomen.co.uk/stop-the-new-detention-centre/>

¹⁴ Pg. 5, Women for Refugee Women, 'We are still here', 2017

Reports from Yarls Wood detention centre highlighted a culture of intimidation, a humiliating lack of privacy and re-traumatisation¹⁵. Staff were found following and watching detainees in intimate locations such as toilets and showers¹⁶. The same report from 2015 found that 31 allegations of sexual misconduct were investigated at Yarls Wood, and 10 staff were dismissed.

The mental health implications of these conditions are clear in the statistics. More than half of women that Women for Refugee Women interviewed reported being on suicide watch.¹⁷ Half of 14 women interviewed in 2019 reported suicidal thoughts in detention. Six women had self-harmed in detention, and one woman had developed psychotic symptoms.¹⁸

Women's detention is both immoral and ineffective. Statistics obtained from the Home Office show that in 2018, just 14% of asylum-seeking women who were released from detention were removed from the UK. The vast majority, 86%, were released into the community to continue with their asylum claims.¹⁹ René Cassin is urging against the planned opening of a new immigration detention centre in Hassockfield, Durham on the site of the disused and infamous Medomsley Prison²⁰.

It is also clear from first responders such as After Exploitation, that the women who could end up at Hassockfield on the basis of being 'foreign offenders' could well be victims of trafficking prosecuted for offences related to their exploitation.²¹ It is also likely, despite Home Office claims that these women are 'failed asylum seekers', that many have a valid claim to remain in the UK but lack the legal provisions to assert as such in the UK's hostile immigration environment. This problem is exacerbated for women because sexual violence cases are notoriously hard to evidence in court.

Short-term holding facilities

We are concerned by the lack of judicial oversight at the UK's Short-Term Holding Facilities (STHFs) in France, established to prevent the irregular arrival of those travelling to the UK to seek asylum. The UK has immigration powers of detention and arrest in France and Belgium, and vice versa. STHFs hold up to 600 individuals a month across four facilities. On average 80 of these are children,²² and many are detained trying to cross from Calais or Dunkirk to Dover, suspected of incorrect paperwork, or found hidden in commercial vehicles.

These facilities have little visibility compared to other detention sites. No inspection visits were made for a period of almost ten years due to 'lack of jurisdictional clarity', and only one of the four is currently subject to the 2018 Short-Term Holding Facility Rules²³. This points to a worrying lack of accountability, judicial oversight, access to information and legal advice. It also raises multiple serious safeguarding concerns likely pronounced during this global health

¹⁵ pg. 2, Women for Refugee Women, 'I am human', 2015

¹⁶ pg. 2, Ibid

¹⁷ pg. 3, Ibid

¹⁸ <https://www.refugeewomen.co.uk/stop-the-new-detention-centre/>

¹⁹ <https://www.refugeewomen.co.uk/stop-the-new-detention-centre/>

²⁰ <https://www.renecassin.org/call-to-action-sign-our-interfaith-letter-against-womens-detention-centre-in-hassockfield-durham/>

²¹ <https://afterexploitation.com/2021/02/03/survivors-behind-bars-nearly-3000-potential-trafficking-victims-detained-since-2019/>

²² <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2020/03/France-web-2019.pdf>

²³ <https://www.justiceinspectors.gov.uk/prison/wp-content/uploads/sites/4/2014/03/calais-coquelles-2012.pdf>

pandemic²⁴, particularly for displaced individuals subject to insalubrious living conditions²⁵ in informal settlements in northern France without proper healthcare and shelter. While these facilities extend UK jurisdiction into France, the corresponding human rights responsibilities are not accounted for.

Given the lack of oversight regarding the physical conditions and access to proper legal advice, René Cassin have urged against the government's decision in the New Immigration Plan to reserve the possibility of offshoring detention²⁶. René Cassin will continue to do so for the reasons outlined here.

Restricted access to legal advice at Napier and Penally barracks

Recent reports found that lawyers were denied access to both Napier Barracks in Kent, and Penally Barracks in Pembrokeshire. While the Home Office has said the sites are contingency accommodation and asylum seekers will be moved to houses or flats while their claims are considered, residents of the sites have also reportedly been transferred directly to immigration removal centres with a view to removing them from the country.²⁷

Lawyers at TNA Solicitors in Folkestone, the only legal aid firm near the Kent site, have been denied entry to the barracks, where they have more than 30 clients. David Ashogbon, a solicitor at TNA, said the men were supposed to be able to leave the site but many struggled with the English language and were not familiar with the concept of legal advice, so it would be beneficial for the solicitors to go to them. However, when legal surgeries were suggested, solicitors were told no one was allowed in. Various sources told the Guardian newspaper that at least one other law firm has been prevented from entering the Kent site, and that a senior asylum law caseworker helping at the Penally Barracks in south-west Wales, had to sign a confidentiality agreement before entering the site and was escorted by security guards throughout his visit.²⁸

Detention centres are ill equipped to identify trafficking and modern slavery

Detention Action found that modern slavery and trafficking survivors with irregular immigration status are likely to be prosecuted, and subsequently detained, if discovered in a criminal setting.²⁹ This is contrary to the Modern Slavery Act's guidance on protection of victims, that "a person is not guilty of an offence if[...]it is a direct consequence of a person being, or having been, a victim of slavery or a victim of relevant exploitation."³⁰

Once in detention, there is a lack of available translated advice about the National Referral Mechanism (NRM), so many remain in immigration detention despite an eventual positive decision³¹. According to the *Poppy Project*, reasonable grounds have been disclosed during

²⁴ [https://borderlandscapes.law.ox.ac.uk/sites/default/files/2020-07/uk-sthfs-in-northern-france---briefing %281%29.pdf](https://borderlandscapes.law.ox.ac.uk/sites/default/files/2020-07/uk-sthfs-in-northern-france---briefing%281%29.pdf)

²⁵ https://www.gisti.org/IMG/pdf/urgent_communication_un_special_rapporteurs.pdf

²⁶ <https://www.renecassin.org/rene-cassins-response-to-the-governments-consultation-on-the-new-plan-for-immigration/>

²⁷ <https://www.theguardian.com/uk-news/2020/dec/07/lawyers-denied-access-to-asylum-seekers-in-kent-barracks>

²⁸ <https://www.theguardian.com/uk-news/2020/dec/07/lawyers-denied-access-to-asylum-seekers-in-kent-barracks>

²⁹ Detention Action, Trafficked into Detention; how victims of trafficking are missed in detention, <http://detentionaction.org.uk/wordpress/wp-content/uploads/2018/02/Trafficked-into-detention-How-victims-of-trafficking-are-missed-in-detention.pdf> [accessed 02 February 2018]

³⁰ Modern Slavery Act 2015, Part 5: Protection of Victims, Article 45.

³¹ Detention Action, Trafficked into Detention; how victims of trafficking are missed in detention

screening interviews in several cases at Yarl's Wood, but no referral was made to the NRM by staff. Moreover, without the space to talk openly and receive impartial advice, survivors are often unable to disclose their experiences, partly due to the environment and partly due to the lack of specific expertise of staff inside.³² This is exacerbated by the effects of indefinite detention on mental and physical health, and growing distrust in national authorities. This will undermine any existing support offered by the NRM.

Further evidence from first responders suggests that the 'one stop shop' reception centres proposed by the New Immigration Plan will fail to recognise and safeguard survivors of modern slavery and trafficking, working against the stated aim of long-term prevention³³.

This is because victims are often disbelieved or misunderstood. Trauma impacts how victims may verbalise their experience, and the effects of common trafficking experiences, such as sleep deprivation and aggression, mean that many will fear coming forward. This can delay the necessary safeguarding measures, increasing the chances of re-trafficking and exploitation.

For these reasons, René Cassin has urged the government to reconsider these new reception centres.³⁴

Question 7) What recommendations (both short-term and long-term) do you have for the government regarding the site(s) and others like them?

A 28-day time limit and alternatives to detention

Drawing on Jewish experience of internment in the UK in the 1940s, René Cassin is deeply concerned both by existing conditions in immigration detention centres, and by the prospect of new asylum reception centres and offshore facilities. Post-Brexit, the UK has a unique opportunity to set the tone when progressing human rights and becoming a leader in refugee rights, at the minimum by aligning itself with the Council of Europe of time limited detention

In addition to the human rights imperative, there is an important economic argument to be made for an effective 28 days' time limit. The expense of current policy is overwhelming - £523.5 million of public funds was spent on detaining people for immigration reasons between April 2013 and March 2017.³⁵ Over the past five years the Home Office has paid more than £21 million in compensation to migrants that have been unlawfully detained³⁶. René Cassin therefore encourages the government both to re-commit to alternatives to detention, and immediately introduce a 28-day time limit.

The immediate closure of Penally and Napier Barracks

Following the June 3rd High Court ruling that accommodation at the barracks "fell below the minimum standard" and the horrific testimonies from those housed there, René Cassin demands the immediate closure and safe rehousing of all asylum seekers in the Barracks and

³¹ Ibid

³² Ibid

³³ <https://hopeforjustice.org/news/2021/03/statement-in-response-to-home-office-announcement-on-changes-to-modern-slavery-policy/>
³⁴ [file:///Users/estherraffell/Rene Cassin/OneDrive - Rene Cassin/Documents/From Google Drive/Projects/Human Rights Areas/Asylum and Detention/Advocacy/consultation submission immigration proposals 2021/written response NPI.pdf](file:///Users/estherraffell/Rene%20Cassin/OneDrive%20-%20Rene%20Cassin/Documents/From%20Google%20Drive/Projects/Human%20Rights%20Areas/Asylum%20and%20Detention/Advocacy/consultation%20submission%20immigration%20proposals%202021/written%20response%20NPI.pdf)

³⁵ <https://www.independent.co.uk/news/uk/home-news/uk-immigration-detention-centre-cost-taxpayer-brexit-eu-migrants-a8195251.html>

³⁶ <https://www.theguardian.com/uk-news/2018/jun/28/wrongful-detention-cost-21m-as-immigration-staff-chased-bonuses>

a government commitment not to use harsh repurposed military sites to accommodate those seeking asylum.

Access to free and available legal advice for all asylum seekers

Many asylum seekers end up being refused their asylum claim and being detained because their claims are initially refused by the Home Office and then granted on appeal. This amounted to 41% of claims in 2019³⁷. Without high-quality legal advice, claimants will continue to be unfairly refused asylum. Since 2005, there has been a huge reduction in free asylum legal advice across the UK, between 2005 and 2018, 56% of legal aid providers in asylum and immigration were lost and not-for-profit providers fell by 64%.³⁸

Detention is unjust in and of itself, but evidence clearly states that conditions at the barracks and STHF conditions akin to offshoring further weaken access to legal advice. On these grounds, René Cassin would oppose any expansion of the detention estate and advocate for more readily available funding and legal advice for those seeking asylum.

Cease plans to build the Hassockfield detention centre in County Durham

Echoing Women for Refugee Women and the No To Hassockfield campaign, René Cassin is opposing the inevitable and gender-based harms that a new immigration detention centre in Hassockfield will cause.

Question 8) Any other issues generating concern not covered by the above?

It was following the Holocaust that the Universal Declaration of Human Rights (1948) was enshrined alongside the Convention relating to the Status of Refugees (1951 Refugee Convention). Immigration removal centres across the country are not compatible with a lawful, just, and humane asylum process. The Home Office must learn the lessons of the past and allow people to live in the community while their claims are decided.

The current detention conditions run counter to international human rights precedents set out in the aftermath of one of the Holocaust. The government's memory may be short and selective but, as the Jewish voice for human rights, we remember what it means to desperately search for safety and still be denied asylum. Indefinite detention is not only undignified and inhumane but also unlawful, obstructing the right to asylum in its structures and practices. The right to claim asylum and to be treated with dignity and respect regardless of immigration status must be protected, not only in name but in action and material policy change on the ground.

The New Immigration Plan, by reserving the right to offshore asylum processing and introduce 'one stop shop' reception centres, is extremely concerning. It signals a shift in British migrant and asylum policy away from international human rights standards which protect marginalised people towards a fundamentally ineffective and inhumane set of policies.

³⁷ Page 13, JRS UK, 'Being human in the asylum system', 2021

³⁸ Ibid, JRS UK, 'Being human in the asylum system', 2021

René Cassin contests the expansion of detention, its continuation in its current form, and advocates for the closing of the barracks, the ceasing of the Hassockfield plans, an immediate 28-day time limit on detention, and the re-introduction of widespread community alternatives to detention.