**Detention and its discontents**

***Punishment and compliance within the UK detention estate through the lens of the withdrawal of Assisted Voluntary Return (AVR)***

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**Abstract**

Detention centres and return programmes are increasingly important instruments of border control across Europe. In 2014, the UK Home Office removed Assisted Voluntary Return (AVR) from detention, meaning it is no longer available to detainees. Drawing on both secondary data analysis of interviews with welfare staff in an Immigration Removal Centre (IRC) and Home Office senior managers and primary data from follow-on interviews with welfare staff and NGO workers, the paper analyses the Home Office rationale behind this withdrawal. Using this policy change as a lens reveals how through a responsibilization discourse inherent in Home Office policy the subject of the ‘detainee’ is criminalised and framed as non-compliant and thus undeserving of ‘privileges’, such as AVR, in an increasingly punitive space. In contrast, both welfare officers and NGO workers frame detainees in a more nuanced, sometimes contradictory, manner; recognising the role of the state in creating vulnerabilities. By examining how dominant forms of discrimination are held in place by the banal ways categories are repeated in everyday discourse, this paper highlights the increasing pathologization of deviance and framing of detainees as criminal ‘other’. As such it contributes to debates on the contradictory world of detention and the sociology of punishment.

**Keywords**: detention, immigration control, voluntary return, punishment, secondary data analysis

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1. **Introduction**

Detention centres and return programmes have become increasingly important instruments of border control across Europe.[[2]](#endnote-2) Both can be understood as part of the process of reordering within the ‘sedentarist’ (Malkki 1995) perspective that underpins migration policy. Under such a perspective, return encompasses going back ‘home’ to one’s rightful place (Walters 2004) and detention is a means of facilitating this. Voluntary return programmes are primarily for those who have not been recognised as being in need of protection, or those who do not have the legal right to be in the host state who are able to return ‘voluntarily’ with support via these programmes. Many scholars have questioned the voluntariness of such schemes (see e.g. Andrijasevic and Walters 2010; Koch 2014; Webber 2006), but for the purposes of this article, this debate will not be entered into as AVR is being utilised as an analytical lens, rather than an object of study.[[3]](#endnote-3)

Assisted Voluntary Return (AVR) programmes are a specific set of return programmes which enable certain groups of people in the UK to voluntarily return to their countries with assistance to help them reintegrate.[[4]](#endnote-4) Under UK and EU policy discourse, voluntary returns should be preferred over forced returns, for financial and humanitarian reasons (Richard Black et al. 2004). In the UK, AVR has been available in detention since a 2003 report by the House of Commons Select Committee on Home Affairs recommended that the programme be opened up to detainees. If detention is to facilitate removal and AVR considered a humane, efficient and effective means of removing people (EMN 2011), then the two can work in tandem to remove those who are considered ‘out of place’ (Sayad 2004).

However, on 1st April 2014, with very little forewarning, the Home Office removed AVR from detention, meaning it is no longer available to detainees. This paper seeks to unpick the rationale behind this policy change and to explore what this tells us about the framing of detainees and wider understandings of punishment within immigration control. The paper draws on both secondary data analysis from a previous project *Tried and Trusted?? the Role of NGOs in the Assisted Voluntary Return of Refused Asylum Seekers and Irregular Migrants’ (hereafter, Tried and Trusted?)* and primary interview material from follow-on interviews. Using policy change around the removal of AVR from detention as a lens, this paper explores discourses of compliance and punishment within detention and how the subjects of detention are constituted by different actors in the field. Focusing on AVR also provided a means of access to the detention space.

As Bosworth and Kellezi (2016) note, little academic research has been done inside Immigration Removal Centres (IRCs) in the UK, partly because access is so difficult. In particular, aside from recent ongoing research by Mary Bosworth on detention centre staff (2014, 2016) and work done previously by Alexandra Hall (2010, 2012), little has been written about detention centre staff perspectives in the UK. The perspectives of those working within such a controversial and difficult arena can be highly informative for sociological understandings of punishment. The sample for this paper is small, however it provides a useful insight into the detention space and those working within it. Shedding a light on a controversial and difficult topic, this paper makes a valuable contribution to the literature exploring detention in the UK such as that by Bosworth (2012, 2013, 2014, 2016), Bosworth and Vannier (2016), Bosworth and Kellezi (2016, 2017), Hall (2010, 2012) and Griffiths (2013, 2014).

The paper first outlines detention and AVR and the interaction between the two as tools of border control. It then discusses the methodology adopted, with a particular focus on secondary data analysis. The Home Office rationale for withdrawing AVR from detention is then examined. Finally, it explores how the interpretive repertoires of the ‘judges of normality’ (Foucault 1995 [1975]) frame and construct detainees and detention and what this tells us about the sociology of punishment.

## **Othering and criminality**

## *The productive forces of border control instruments*

States are re-emphasizing the role of the border as the traditional and tangible symbol of their power, as a means of distinguishing between “them” and “us” (Dench and Crépeau 2003), enhancing processes of othering. Border controls have increased and legal routes into the UK have been increasingly curtailed; the very act of leaving one’s home and seeking asylum has effectively been criminalised (Duffield 2006; Webber 2006; Fekete 2003). Indeed, nowadays, almost any breach of immigration rules is a crime (Aliverti 2012). As such, immigrants who violate immigration rules are not only represented as criminal and dangerous, but have now become—in legal and institutional terms—criminal offenders (Ibid., 11). Detention, then, can be understood as a technique of government through which “unruly populations are managed as illegal, undesirable, or threatening” (Hall 2012, 7) and thus a *productive* strategy (Hall 2010, 894, emphasis in original) which constructs certain categories of ‘other’ non-citizens as deportable subjects (de Genova 2002).

## *2.2 Detention: the punitive waiting room*

Detention, as Wacquant (1999, 218) contends is a confinement of differentiations or segregation, aiming to keep a group separate and to facilitate its subtraction from the societal body. It is both enclosure and exclusion from the receiving state (Bloch and Schuster 2005). The UK immigration detention estate is one of the largest in Europe. The power to detain immigrants was first provided by the Immigration Act 1971. People may be detained to effect removal; to establish their identity or basis of claim; or if they are considered likely to abscond. Detention may occur immediately on arrival or at a later date. In practice, people are detained for a variety of (subjective) reasons, including deterrence and punishment (Weber and Gelsthorpe 2000 in Hall 2010, 882). The single most common category of immigration detainees is people who have sought asylum in the UK at some point (Silverman and Ruchi 2015).

Since its inception, the detention estate has increased dramatically (Bosworth 2013). From an exceptional measure, detention has become normalised, an essential tool of immigration control (Bloch and Schuster 2005). There is no statutorily defined goal of detention; the 2001 Detention Centre Rules state only that the purpose is ‘to provide for the secure but humane accommodation of detained persons’ (in Bosworth 2013, 153). As such scholars argue that the purpose of detention is ill defined (Bosworth 2013), ‘irrational’ (Leerkes and Broeders 2010) and indeed more symbolic than functional (Leerkes and Broeders 2010; Gibney and Hansen 2003; Tyler 2013).

Unlike prison, detention is not formally a punishment, but there are strong indications that detainees may experience it as a punishment nonetheless (Bosworth 2013; Leerkes and Broeders 2010). Indeed, Bosworth argues that immigration detention has evolved into a de-facto punishment (2013). Other scholars have hypothesised that it is meant to be experienced as a punishment, even if this intention is rarely made explicit (Leerkers and Broeders 2010) or that the process itself becomes a punishment (Stumpf 2013). Detention may further be understood as punitive not only because of its consequences for those subject to it, but also in view of its main objective which is to, first, segregate and, second, expel (Wacquant 1999; Aliverti 2012). The spatial and temporal features of detention may thus operate as punishment; it operates as a spatializing device, separating the deserving and the undeserving (Tyler 2013). The indefinite nature of detention also feeds into the punitive frame: Temporal domination, as a feature of neoliberal policy, has the consequence of punishing the ‘undeserving’ (Reid 2013).

The UK is the only European country that does not have an upper time limit on immigration detention, meaning people may be held indefinitely. Which leads to a situation in which: ‘[p]eople wait’ (Turnbull 2015 in Bosworth and Kellezi 2017, 4). Waiting can be understood as a form of temporal control and thus a punitive operation of the state ( Griffiths 2013; Andersson 2014; Reid 2013). Lucht, drawing on Bourdieu notes that time exposure, ‘when time is either arbitrarily wasted or simply negated, is a form of nontime, a testimony to one’s social insignificance...’ (2011, 73). As Bourdieu (2000, 228) argues, tactics of ‘making people wait, of delaying without destroying hope [...] is an integral part of the exercise of power’. Detainees, socially insignificant ‘deportable subjects’ (de Genova 2002), then inhabit ‘nontime’. If detention is construed as increasingly punitive, AVR is portrayed as humane and efficient but only for those who ‘deserve’ such humanity. This derives from a dichotomizing moral economy of legitimacy that distinguishes between ‘worthy’ and ‘unworthy,’ ‘legitimate’ and ‘illegitimate’ migrants (Watters and Fassin 2001; Watters 2007).

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## *2.3 The win-win discourse of voluntary return: cost effective and humane?*

Return programmes are varied and numerous in type and administration across Europe (McGhee, Bennett, and Walker 2016). Voluntary return programmes began to re-emerge as the desired way to ‘manage’ migration in the mid-90s, when European and Western states moved increasingly to more restrictive asylum policies and stronger immigration controls; arriving at the era of the ‘deportation turn’, (Gibney 2008). State motivations for AVR have been identified as: cost-effectiveness, humane and dignified return, and sustainability (EMN 2011, 54). Voluntary return programmes are economically, morally and politically more palatable than forced returns; indeed they are far cheaper (Robert Black, Collyer, and Somerville 2011).

In the UK, the voluntary return of refused asylum seekers and irregular migrants has been an important element of the policy agenda on immigration and asylum since the 2002 White Paper *Secure Borders, Safe Haven: Integration with Diversity in Modern Britain* (Richard Black et al. 2004).  While AVR is preferable to deportation, it has been criticised for lacking genuine voluntariness.[[5]](#endnote-5) In the UK, the AVR programme was run by Refugee Action, a UK-based NGO from April 2011 to 31 December 2015. Since then, the Home Office have taken the programme back in-house.[[6]](#endnote-6) The representation of AVR within UK policy discourse makes explicit the economic rationale driving the policy, however, it is coupled with the concept of a ‘humane’ and ‘dignified’ return. Thus, AVR is often positively contrasted to alternative forms of return, particularly forced return (deportation). The paper examines the rationale for the removal of AVR from detention bearing in mind this ‘humane, cost effective and efficient’ repertoire which has been so dominant in AVR policy across the past few decades.

## **Methodology: Secondary data analysis as ‘re-contextualising the data’**

The paper draws on both secondary data analysis and primary sources of interview material. Whilst the re-use of data in qualitative research has been much debated (e.g. Mason 2007; Moore 2007; Hammersley 2010; Fielding and Fielding 2000; Parry and Mauthner 2004), these debates have been criticised for their polarisation (Parry and Mauthner 2004; Moore, 2007). With one side taking the position that qualitative data should not be re-used by others on epistemological or ethical grounds, and the other a pragmatic stance that qualitative data should be open for re-use by others, not least because they are expensive to produce (for a review see Mason [2007]).

I concur with the contention that data re-used are not simply past data but are appropriated in the contemporary context; therefore, secondary analysis re-contextualises the data (Silva 2007; Hammersley 2010; Haynes and Jones 2011). Indeed, Hammersley (2010) argues that criticisms about the re-use of qualitative data involving a lack of fit and lack of contextual knowledge are only a ‘matter of degree’ – and may be applicable to primary research in any event: “what is produced and experienced in the course of data collection is always, necessarily, *made sense of*; it is not a matter of the reproduction of reality” (Ibid., 2010, 3.6). Secondary data analysis for this paper was conducted using Mason’s (2007) notion of an ‘investigative epistemology’ which disputes the idea that unique epistemological privilege be accorded to the original researchers’ reflexive practices, and instead champions the idea of creatively engaging with different sources of data, including data we did not generate ourselves. We can still ‘make sense of’ data through an analytically distant gaze (Hammersley 2010).

For the purposes of this research project, I am re-using my own data from a previous project, *Tried and Trusted?.* Interview questions for this paper were derived iteratively from the secondary data analysis and interviews lasted approximately one hour. *XXX* interviews were conducted in July – September 2013. Six welfare officers working in three different IRCs were interviewed. Four of these interviews were conducted by myself. Two senior members of the Home Office AVR team were interviewed by my colleague (for a discussion of some of the findings from *Tried and Trusted?* see McGhee, Bennett, and Walker 2016). Secondary data analysis was carried out on transcripts of these interviews only and focused only on issues pertaining to detention.

For the primary research for this paper, I conducted follow-on interviews with three welfare officers in one IRC, two NGO workers working on detention, as well as Hindpal Singh Bhui*,* InspectionTeam Leader at HM Inspectorate of Prisons (HMIP) where he heads inspectionof the immigration detention estate in the UK.[[7]](#endnote-7) Participants were selected via a gatekeeper from *Tried and Trusted?*. These interviews were conducted in June 2016. I had hoped to speak to some Refugee Action staff but, unfortunately, there were no staff who worked on AVR in the organisation any longer. I was also unsuccessful in securing further Home Office interviews, despite numerous attempts.

In *Tried and Trusted?* interviews were analysed and coded using a thematic approach and utilizing the software programme NVivo. Sub-themes were identified using a grounded theory approach (Corbin and Strauss 2008; Glaser and Strauss 2009). The same theoretical approach was used for this analysis so as to ‘thematise’ meaning (Holloway and Todres 2003). In total, fourteen transcripts were analysed. Drawing on Foucault, discourses were understood as creating specific versions of the phenomena and processes they set out to describe via ‘interpretative repertoires’ (Potter and Wetherell 1987; Parker 2005). Interviews were then coded for these interpretative repertoires. As Billig (1995) argues, dominant forms of cultural identity are kept in place precisely by the banal ways categories are repeated in everyday discourse. Thus, following Bourdieu (1992, 111) we need to explore ‘the relationship between the properties of discourses, the properties of the person who pronounces them and the properties of the institution which authorises him to pronounce them’.

## **Querying the rationale for the withdrawal of AVR from detention: A compliance repertoire**

On 1st April 2014, the Home Office removed AVR from detention. The rationale given was as follows:

“*The UK’s Assisted Voluntary Return (AVR) scheme was established in 1999 as means to incentivise a return for failed asylum seekers and illegal migrants from within the community, through supporting the individual’s reintegration in the country of return.*

*In recent years AVR has been used increasingly by those detained for removal in Immigration Removal Centres. This has reduced the incentive to apply for AVR in the community and has undermined one of the main reasons for operating the programme. AVR is not a last minute alternative to removal, and should be a considered decision.*

*At the point an individual is detained the Home Office will have incurred significant costs to locate, arrest and detain. It is therefore not appropriate that they should receive the same level of assistance as an individual who has complied with the Home Office earlier in the process.*

*There are currently no plans to replace AVR in detention with any alternative voluntary return programmes, although the impact of this will be monitored and assessed*.” (personal communication, April 14, 2014).

Adopting Carol Bacchi’s ‘What is the problem’ approach (2009) as a theoretical framework,[[8]](#endnote-8) problems are understood as social constructions which governments are active in creating or producing. Policy, it is held, can be seen as ‘merely an instance of discursive practice’ (Fulcher 1989 in Bacchi 2009, 58). The theme of responsibilization emerges strongly: ‘*At the point an individual is detained the Home Office will have incurred significant costs to locate, arrest and detain’*. The detainee is constructed as responsible for the costs incurred to the Home Office and for ‘undermining’ the programme: “…*This has reduced the incentive to apply for AVR in the community and has undermined one of the main reasons for operating the programme.”* Again, the language of choice is clear: within this ‘compliance’ repertoire, the migrant has the option to comply and apply for return prior to detention. They have the ‘incentive’ to apply and as this is what should be done. By mere virtue of their being ‘out of place’ (Sayad 2004) in the country, the migrant is construed as deviant, not complying with the rules.

Such discourses are also reflected in wider government policy in relation to welfare, in which the individual is responsible for their plight and must comply with the behavioural regime or face sanctions (Dwyer 2004; Flint 2009); what Wacquant (2010) refers to as moral behaviourism, indicative of the neoliberal state’s mechanisms of control. Garland (1996, 452) contends that the ‘responsibilization strategy’ became a new way of governing crime, in which individual responsibility is held to be accountable for actions. This same strategy is applied in the case of detainees. This despite their official lack of any criminal conduct, save for their suspect and unwanted mobility, which in increasingly criminalised discourses around immigration (Aliverti, 2012) means detainees may have, by breeching immigration rules, now conducted a crime. In line with Imogen Tyler’s (2013) findings of the pathologization of ‘deviance’, those who do not comply, such as the irregular immigrant or the welfare claimant are unworthy of support and thus may be subject to punishment for their deviance.

The ‘problem’ is the out of place migrant as Sayad (2004) has elaborated. The productive effects (Bacchi 2009) of such a discourse in constituting irregular migrants as unworthy subjects deserving punishment for misdemeanours is evident. What is absent from this framing of the problem as ‘individual responsibility’ is that many migrants are detained immediately and therefore the notion of ‘compliance’ is redundant. Indeed, most detainees will have sought asylum in the UK at some point (Silverman and Ruchi 2015), therefore this rationale is clearly flawed as not all will have had the opportunity to apply ‘whilst in the community’ as they may have been detained upon arrival. The rationale is underpinned by what Wacquant (2010) refers to as the cultural trope of ‘individual responsibility’, the counterpart of which is the evasion of corporate liability and the proclamation of state irresponsibility.

As Refugee Action (2014) point out in their response there are a number of structural reasons that may prevent people from ‘complying’:

‘*The rationale implies that people are being intentionally non-compliant with the Home Office by applying for asylum and appealing refusal decisions. This is not non-compliancy. People in this position are exercising their right to seek asylum. Additionally, it does not account for those who would have had no chance to apply for AVR prior to being detained, such as those in Detention Fast Track, or those detained at port of entry. It is therefore an incoherent rationale*.’

Contrary to its statement on the rationale for removing AVR, little analysis of any Home Office assessment of the impact of the removal of AVR is publicly available. In a letter dated 15th January 2015, written in response to a written request from Sarah Teather MP querying the impact of the removal of AVR on detainees, James Brokenshire, the then Immigration and Security Minister, repeats the same arguments used in the original rationale. Namely, that it was ‘*designed for those in the community to take an early, fully supported decision to leave the UK’* and that by increasing numbers of people accessing it in detention this ‘*removed the incentive for applying for AVR whilst in the community’.* The same compliance interpretative repertoire is repeated. The fact that detainees’ access to AVR can be so summarily removed with such little debate or consideration is clear evidence of their social insignificance. Detainees are construed as disposable, deportable subjects (de Genova 2002). What is constructed as ‘deviance’ in the form of non-compliance places them outside the moral grounds of personhood.

The language is punitive, yet constructs the policy change as one of simple fairness and efficiency. An examination of Home Office senior manager transcripts from 2013 also revealed the compliance discourse:

“*Voluntary removal is a form of removal. … this is something people should do, they’re not here lawfully, they have been asked to leave the country, they should do so. It’s compliance, that’s all*.” Home Office 1

The compliance repertoire in the Home Office discourse is strong, and consistent over the two time periods analysed in this study. In this social construction of reality, the Home Office is portrayed as operating on the basis of fairness and efficiency. The category of the underserving migrant is then repeated in the everyday discourse of the ‘judges of normality’ (Foucault 1995 [1975]). These migrants have broken the rules, by virtue of which they have been detained and the language of criminality is apparent in the discourse ‘*not here lawfully*’, which feeds into the criminalisation of migration and does not acknowledge the complexities of shifting immigration statuses (Ngai 2005). The productive aspect of Home Office discursive practice is evident in the construction of detainees as ‘non-compliant’ ‘illegal’ and thus ‘undeserving’ of any privileges. It also replicates the construction of migrants as being responsible for their own fate, having had the option to comply earlier in the process. What is absent from this is any acknowledgement of the state’s own role in constructing illegality/ vulnerability (Anderson 2008).

The discourse emerging from the Home Office is a tautological polarising view whereby those who are detained have, by virtue of their detention, not complied. As such they have broken the rules and do not ‘deserve’ AVR, and may be punished for their lack of compliance. As Bhui notes (2013, 9) the punitive nature of the process can also be discerned in how the Home Office sometimes deals with ‘non-compliance’. Non-compliance has become a potential crime, for example, failing to comply with the re-documentation process to obtain a travel document is punishable with up to two years in prison and/or a fine (ibid.). Yet the very concept of ‘non-compliance’ is ‘fraught with uncertainty’ (Wilsher 2011, 350). Again, emblematic of some of the vagaries of the detention system, fraught with inconsistencies and irrationalities. As an administrative system, detention enables greater levels of punishment to be inflicted than under the criminal justice system (Leerkes and Broeders 2010; Wilsher 2011; Bosworth 2013).

The ‘uncertain’ concept of ‘non-compliance’ (Wilsher 2011) as a means to justify punishment becomes the behavioural tool with which to govern detainees. Non-compliance was described by welfare officers as detainees not-behaving or taking instruction, not submitting finger prints, refusing to disclose their nationality, refusing to attend immigration interviews, even self-harm. All of which, in addition to signs of severe distress, could be seen as tactics to avoid removal; detainees exercising what little agency they have to resist (Hall 2012; Campesi 2015). However, welfare officers in both sets of interviews expressed sympathy, acknowledgement of people’s personal plight, and lengthy timescales, and even a frustration that some of the ‘guys’ need not be in detention. There was acknowledgement by welfare officers of the difficulties of the nature of detention, particularly the temporal uncertainty of the space. The Home Office caseworkers were also described as quite chaotic, and paperwork disorganised and unreliable.

NGO workers also often raised the issue of the flawed asylum system; whereby decision making is not always accurate. Research has highlighted problems in the asylum decision-making process (for example, Crawley, Hemmings, and Price [2011]). It is beyond the scope of this research to expand on this further; suffice to say there is sufficient evidence that not all asylum decisions are a correct determination of the right to protection. Something manifestly absent from the straightforward language of ‘compliance’ adopted by the Home Office. Particularly since most detainees will have claimed asylum at some point, this is an important oversight and feeds into the ‘deviance’ repertoire of the Home Office in which punishment is appropriate and state irresponsibility is proclaimed (Wacquant 2010).

**5. AVR – humanitarian and efficient: a win-win discourse?**

All three welfare officers I interviewed for this paper maintained that AVR was a good thing and should be available in detention. This was a point they raised independently of being asked a direct question about their views on its removal from detention; although it must be acknowledged that this is how I framed the research project to them. As one officer stated: “*I don’t understand why they’ve removed it”* (Welfare Officer 01, 2016). Cost and efficiency were key themes to emerge from welfare officers as to why they felt AVR was a ‘good thing’ and ‘should be reinstated’.

A wider humanitarian concern for people’s well-being on return was expressed, as well as an acknowledgement that people were trying to better their lives and it would be better for them to have something to return to, rather than ‘going back to nothing’. It was also held that this would cost the taxpayer less, and so was a better solution all round. Unlike the Home Office, welfare officers did not differentiate between detainees and those in the community: *“AVR seems to me to be incentivising people to return home. Why should somebody in the community get it and people in detention can’t?”* (Welfare Officer 02, 2016). Welfare officers expressed a pragmatic view, a combination of humanitarianism and economic efficiency.

Secondary data analysis of welfare officers’ interviews from *Tried and Trusted?* in 2013 also revealed that all felt AVR was a good thing, reinforcing the humanitarian repertoire. Their discourses of AVR were permeated with terms of efficiency, dignity and humanitarianism. In these narratives, being detained is not *per se* indicative of being ‘unworthy’ or ‘undeserving’. However, it is noticeable that such narratives nonetheless draw upon the normative assumption that people should be home, back in their ‘rightful place’ (Walters 2004), replicating and reinforcing the ‘sedentarist’ (Malkki, 1995) perspective of migration policy.

An acknowledgement of the ‘*difficult circumstances’* of people coming to the UK and ‘*all they have gone through to get here’*, were common themes running through the discourses of the welfare officers in both sets of interviews. There was a consistency to welfare officers’ discourses in relation to the humanitarian focus of ‘*starting a new life’*. So, whilst they also acknowledged an unlawfulness, welfare officers came across as more attuned to the complexity of migration through experiencing the everyday reality of detainees’ lives and hence expressed more contradictory discourses. Welfare officers acknowledged and drew attention to the fact that people could be incorrectly detained. As such, welfare officers who deal with the everyday practises and realities of the chaotic and messy world of immigration enforcement expressed a more nuanced view than those of the Home Office or NGO workers about the reality of the detainee situation. The need to punish detainees was noticeably absent from their discourses in relation to AVR.

Similar narratives are evident in NGO discourses. As Stephen Hale, Chief Executive of Refugee Action, the NGO that previously ran the UK’s AVR programme, stated in his response to the removal of AVR from detention:

"*Had AVR remained an option for people in detention, it would have prevented unnecessary stays in detention and saved the taxpayer a lot of money. Crucially it would also have given these people an opportunity to leave detention and rebuild their lives with respect and dignity*.”[[9]](#endnote-9)

This reflects the ‘win-win’ discourse of AVR noted in the literature (e.g. Robert Black, Collyer and Somerville 2011; Ashutosh and Mountz 2011). The narrative of AVR in NGO workers and welfare officers here focuses on its humanitarian nature, efficiency and providing return with ‘dignity’, which it is held should also be open to detainees. It is interesting that such ‘win-win’ discourse is completely absent from the discourse of the Home Office, which instead is infused with the increased criminalisation and pathologization of the detainee as ‘deviant’, out of place, thus undeserving of privileges. This reflects the underpinning trope of punishment in the decision to remove AVR from detainees.

It is possible that for welfare officers, the humanitarian interpretative repertoire may also facilitate their role, as they have the dual and somewhat contradictory purpose of safeguarding the detainee and effecting their removal. AVR may alleviate some of such tensions for welfare officers. As Bosworth and Kellezi (2017) note in their long-term ethnography in IRCs, there is great difficulty embedded in this dual position of carer and custodian and it may embody a violence to the person. The tragicomedy of such a position is artfully reflected in ‘Removal Men’ a play by M. J. Harding and Jay Miller which focuses on the people working in an IRC, who operate a cultural ‘removal’, daily negotiating the absurdity of the tensions between compassion and control (Gardner 2016).

Indeed, whilst welfare officers referred to detainees as ‘*not prisoners*’ and how they (the welfare officers) were there to ‘*look after the guys’* and ‘*keep them safe*’ contradictions were apparent their discourses. For example, at same time stressing: *“People have broken the laws of the land”*. Somewhat contradicting the assertion that detainees are not serving crimes. These contradictions were inherent in their narratives which both legitimise their role and evoke some concern around the practice of detention. A struggle that has been found with many front-line staff working in contentious areas, such as detention: (Hall, 2010; 2012; Ugelvik 2016), return (Koch 2014; McGhee, Bennett and Walker 2016) and in immigration enforcement generally where Back (2007) has evidenced the de-humanising effects of the role. This was reflected in the narrative of one officer:

“*...it becomes a job. You can forget they are human beings, and then get annoyed, but they are stuck.”* Welfare officer 02, 2016

As Imogen Tyler points out, ‘the relentless dehumanization of others is central to neoliberal governmentality’ (2013, 76). David Garland (2001) talks of a criminology of the ‘alien other’, politically benefiting from demonizing certain types of criminals and from a demand for populist measures involving punishment or detention. The daily practice of work within an IRC serves as a repetition of the banal categories of criminalisation and threat (Billig 1995), maintaining dominant forms of cultural identity and can produce a dehumanizing effect. Yet, in the intimate space of detention the officer still recognises the ‘stuckness’ of detainees in the limbo of ‘nontime’ (Bourdieu 2000). As such, it is representative of the contradictory world of detention the welfare officers operate in. Contradictions which are completely erased from Home Office discourses.

***6. Privileges and compliance in the detention regime: mirroring the prison service***

Increasingly, under the lens of moral behaviourism, the conditionality of detention involves compliance to earn ‘privileges’, such as AVR, mirroring the prison service language. In interviews in *Tried and Trusted?*, AVR was indeed already described as *“a privilege*” (Home Office 2), which implies that AVR must be ‘earned’ in some way. Whilst the Home Office’s discourses are put forward as neutral, operational mechanisms of control, the language of compliance and privileges is picked up as ‘emotive’ by Hindpal Singh Bhui, Inspection Team Leader, HM Inspectorate of Prisons (HMIP), implying that detainees are: *“somehow unworthy if they don’t take up our very reasonable offer. Which may not be reasonable for everyone of course.”*

The language of privileges is central to the incentives and privileges regime in the prison service. Prisoners are awarded points for good behaviour or compliance, which may lead, for example, to early release or access to certain paid positions of employment within the prison estate. In relation to detention, the HMI Prison Inspectorate reports on IRCs find the incentives regime is largely inappropriate for the detainee population.[[10]](#endnote-10) Detainees are there to be removed under detention’s stated purpose, and as such privileges do not lead to early release or rehabilitation. The language of privilege then goes further and becomes a form of punitive control, according to one NGO worker interviewed in 2016: *“The non-compliance thing really worries me […] I think detention in terms of the regime and the day to day is increasingly punitive, and getting worse and worse actually”*

In a further comparison with the prison service, the ‘non-compliance’ caused by the spatiotemporal structure of the detention space as opposed to deliberate ‘choice’ by detainees was a feature in welfare officer narratives:

*“When a prisoner goes to prison, they know their sentence, the time limit, so they are more compliant as there is light at the end of the tunnel. In detention, the longer you are detained, the more likely you are to become more and more non-compliant. There is a frustration at not knowing when you will leave.”*

Welfare Officer 02, 2016

This reflects Melanie Griffiths work with detainees who found detention worse than prison owing to the indefinite and uncertain nature of how long they would be interred there (2013). The process itself becomes the punishment (Stumpf 2013). Deviancy then becomes an inevitable by-product of detention. The ‘waiting’ constructs non-compliance through its nature which leads to further punishments. The subject position for detainees within this narrative is very narrow, being only one of ‘deviance’. There is very little room for manoeuvre or ability for ‘compliance’ to be deemed ‘deserving’ of support/ privileges. Criminologists deem this ‘deviancy amplification’, whereby state measures/ policies produce the ‘deviancy’ they purport to be addressing (Weber 2002).

## **7. The power of spectacle and the contradictory framing of detention**

IRCs in the UK are increasingly being designed as category B prisons (Bosworth 2012). The Chief Inspector of Prisons contends that such conditions are “inappropriate for immigration detainees and contribute to worse outcomes for those held there.” (Cited in APPG 2015, 42). One Welfare officer (01, 2016) mentioned frequently how the ‘*fabric of the building’* was like that of a prison, and thus made it more secure. This construction of the IRC as a prison space feeds into the subjectification of detainees as ‘undeserving’ and ‘criminals’, serving time as punishment. In spite of acknowledgements from all welfare officers that they ‘*are detainees*’ and ‘*not prisoners’*, the detention architecture and policy increasingly deriving from the prison service serves to construct a space of disciplinary control and punishment.

Leerkes and Broeders (2010, 845) propose that the reason immigrant detention is not integrated in criminal law and why it remains under administrative law is that “the full incorporation in criminal law risks being at odds with the sense of justice and proportionality that underlies notions of punishment as retribution.” Further, practices of punishment are functional for the ideology that punishment decreases deviance (Ibid., 832). This includes the notion of deterrence, as can be seen in Home Office policy discourse. The removal of AVR from detention can be considered a form of deterrence, within the ‘hostile environment’ for irregular migrants. Additionally, punishment satisfies certain moral needs, regardless of its real or perceived effects on deviance levels (Leerkes and Broeders 2010). As the Algerian sociologist Abdelmalek Sayad so eloquently points out, the immigrant disturbs the order of the nation; s/he is a displaced and at-fault presence (2004, 283). Thus, s/he may be subject to punishment, as Tyler (2013) contends, in response to what is construed as ‘deviant’ behaviour.

An investigation of understandings of detention with interviewees conducted for this paper in 2016, sought to unpick a little more what the social problem detention was seen to be addressing by the people working in it, following Bacchi (2009). Detention was framed in starkly different ways by the welfare officers compared to the NGO workers and the Prison Inspectorate Team Leader. When asked what the purpose of detention was, NGO workers and the Prison Inspectorate Team Leader all hesitated and laughed (ironically). The language to construct detention did not come readily to mind, implying an unclear purpose. However, the Prison Inspectorate Team Leader mused that detention may have a symbolic function.

The work of Eamonn Carrabine (2011) highlights the “ascendant power of spectacle” in relation to punishment. Detention centres embody the power of spectacle, providing an illusion of control and symbolising separation and punishment for those who have not played by the rules. Garland draws attention to the enduring symbolic power of the death penalty and the importance of recognising symbolic measures as ‘effective actions’ that cannot be disregarded as insubstantial solely due to a lack of a clear purpose (2010, 20). Detention centres convey the effective message that those inside are ‘other’, ‘deportable subjects’ and the internment they experience merely an appropriate punishment for their ‘crime’ of migration. This was reflected clearly in welfare officers’ responses.

Indeed, in stark contrast, when asked what its purpose was, all the welfare officers responded immediately, with no hesitation whatsoever, that detention was to ensure the effective removal of persons they referred to as ‘*suspicious’*, ‘*a threat’*, ‘*a risk to the public’ ‘with no right to remain’* so as to hold them in ‘*secure*’ conditions. Detention is then portrayed as a necessary response to immigration crime and means of keeping unruly populations in secure conditions; a normalised enforcement of necessary border control (Bloch and Schuster 2005). We can see here how the category of ‘the detainee’ is constructed ‘in practice’ (Harvey 2000 in Hall 2012,8) as the institution of detention constitutes detainees as needing to be held secure and renders them deportable subjects (de Genova 2002).

The discourse produces the need for detention as a justified and necessary institution to control risky populations, and as such legitimises the role of welfare officers (Hall 2010; 2012; Khosravi 2009; Ugelvik 2016). Here, the legitimacy deficit is masked by narratives of threat and disorder, which serve to construct the detainee as a deportable risky subject and detention as an essential tool of border control. Which contradicts somewhat the humanitarian repertoire in play when officers discuss AVR. However, despite this construct of detention, the notion of punishment or AVR as a privilege was entirely absent from welfare officers’ narratives in relation to AVR; in direct contrast to the Home Office. As such, the sociology of punishment can inform the messy and contradictory ways that such vague institutions as detentions function and operate as symbolic institutions. The ‘threat’ of disorder is there, yet the welfare officers portray a more nuanced approach than the Home Office which recognises the state’s role in constructing vulnerability and reduces the need for punishment.

# 8. Conclusion

AVR and detention are two controversial and complex policy areas. The contradictions apparent in the different narratives, particularly welfare officers, highlight this fact clearly. NGO narratives are more consistent with what was expected around the need for humane returns. What emerges from Home Office policy is a straightforward, polarised view of compliance and non-compliance, which, when discussed within the language of incentives and privileges, leaves the detainee to be responsible for his/ her own fate. The representation of the social problem of the non-compliant ‘illegal migrant’ constitutes the subject of the ‘detainee’ (Bacchi 2009) who is thus undeserving of ‘privileges’ and subject to punishment.

As such, detention and removal are appropriate responses. These interpretative repertoires are present both in the discourses of Home Office representatives’ transcripts, and in the text of the official rationale for the policy change to remove AVR from detention. They are underpinned with tropes of moral behaviourism (Waquant 2010) and responsibilization and the role of the state in creating vulnerabilities is notably absent. The similarities between the Home Office interviews and official policy highlight the tight relationship between the properties of discourses, the properties of the person who pronounces them and the properties of the institution which authorises him [*sic*] to pronounce them (Bourdieu 1992, 111).

However, interestingly, the narratives of welfare officers who are at the frontline with detainees and as one said, ‘*spend more time with them than their families’* are more nuanced and complex. Understandings of the difficulties of people’s lives and the structural reasons why they may now be ‘illegal’ are apparent in welfare officers’ discourses. Despite constructions of detainees as ‘suspicious’ and ‘unlawful’, this did not detract from AVR being constructed as offering people the chance to make a better, more cost-effective and humane return. Thus, as the judges of normality in this instance they exert a level of discretion as ‘street level bureaucrats’(Lipsky 2010 [1980]). Those on the frontline interpret and adopt policy in a more discretional manner. The win-win discourse of AVR was very strong here. From the pragmatic stance of the welfare officers and the Team Leader of the HM Prison Inspectorate, the removal of AVR from detention is essentially ‘cutting off your nose to spite your face’. Additionally, this does not meet the economic rationale or administrative convenience that underpins much Home Office policy discourse on AVR. The two positions are at odds with each other, evidencing the symbolic ‘power of spectacle’ (Carrabine 2011) function of detention.

Thus, this research suggests, the worrying trend of a more punitive detention system warrants further critical attention, particularly as the detention estate is expanding year on year in the UK and in light of its ill-defined purpose. Drawing on Garland (2001) and Wacquant (1999), neoliberal policies of behaviour control are clearly evident in the language adopted by the Home Office both in the policy rationale issued and in the narrative of the senior managers. The punitive tone of language is ‘emotive’ as Hindpal Singh Bhui picked up. Constructing the detainee as unworthy, an undeserving individual in a scenario in which AVR has become a ‘privilege’, despite all the policy rationale encouraging states to utilise these programmes and extolling the virtues of such efficient and humane means of removal. A more humane and understanding narrative featured strongly in welfare officers’ narratives from both time periods. Whilst the research was framed in this way to welfare officers, which may influence their responses, it was very clear that from their pragmatic stance, AVR was a humane means to return people, as well as to reduce the numbers of people in detention. That this still replicates the sedentarist perspective of migration is one thing, but their compassion and more nuanced understanding of people increasingly being (legally) constructed as criminals by the UK government is very apparent. As such we might conclude that the punishment does not fit the (non)crime.

1. Tried and Trusted?? was a collaborative research project between the Economic and Social Research Council’s (ESRC) Centre for Population Change, based at the University of Southampton, and COMPAS, based at the University of Oxford, funded by the ESRC (ESRC award number RES-625-25-0001). See: <https://www.compas.ox.ac.uk/project/tried-and-trusted-the-role-of-ngos-in-the-assisted-voluntary-returns-of-asylum-seekers-and-irregular-migrants/> [↑](#endnote-ref-1)
2. <http://www.fmreview.org/detention/koch.html>

   <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta10/eRES1742.htm> [↑](#endnote-ref-2)
3. Although I would agree with Andrijasevic & Walters (2010) that the voluntariness of voluntary return programmes is more about the organisational modality of the programmes than migrant choice. In *Tried and Trusted?* it was apparent that most, not all, NGOs in the refugee sector had shifted their position to one of grudging acceptance of AVR as a ‘lesser of two evils’ and were less antagonistic towards it as a policy than previously. A fact apparent in that Refugee Action, an NGO with thirty years’ experience supporting refugees took on the running of the programme for several years (for discussion, see McGhee, Bennett and Walker, [2016]). [↑](#endnote-ref-3)
4. There are three separate programmes, one for irregular migrants, another for people who have sought asylum and a third for families. Most European countries have some form of AVR programme to facilitate the return of refused (exhausted all legal options) asylum seekers and irregular migrants. For further information on AVR see McGhee, Bennet and Walker, [2016]) [↑](#endnote-ref-4)
5. It is beyond the scope and objectives of this study to expand on this debate. [↑](#endnote-ref-5)
6. For more information see: <http://www.refugee-action.org.uk/assets/0001/2609/The_Future_of_AVR_briefing_27_July_2015.pdf> [↑](#endnote-ref-6)
7. Permission was granted not to anonymise this participant. I sent him the transcript via email and queried whether he wished to remain anonymous or not and he was happy to be cited. [↑](#endnote-ref-7)
8. I am grateful to the PIs of *Tried and Trusted?* for the introduction to this framework. [↑](#endnote-ref-8)
9. Cited 3 March 2015

   Refugee Action press release: <http://www.refugee-action.org.uk/about/media_centre/our_news/1485_refugee_action_echoes_mps_urgent_call_for_immigration_detention_reform> [↑](#endnote-ref-9)
10. Reports available from: <http://www.aviddetention.org.uk/immigration-detention/detention-inspections/hm-inspectorate-prisons>

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