

A Story of Compliance with International Standards: The United Kingdom and Immigration Detention of Children

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Abstract

In 2010, the UK banned detention of minors for immigration purposes. However, till this point immigration detention has been a significant part of the UK's immigration law since 1971. Using this practice towards families and children led a wide scale of criticism by international and national monitoring bodies and civil society. While applying the acculturation approach to find out what type of relationship played an important role in the compliance decision, it was clear that national monitoring bodies and civil society managed to activate a socialisation mechanism and pushed the government to act towards compliance with international human rights standards.

Keywords: *Immigration detention of children, Immigration Law, International Human Rights Standards, Acculturation Theory.*

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Uluslararası Standartlara Uyum: Birleşik Krallık ve Çocukların İdari Gözetimi

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Öz

2010 yılı itibariyle İngiltere hükümeti çocukların göç hukuku düzenlemesi altında idari gözetim altına alınmasına yasak getirdi. Ancak, bu uygulama, 1971 yılından beri İngiltere göç sisteminin ayrılmaz bir parçası olarak yer almaktaydı. 1990'lardan itibaren uluslararası ve ulusal izleme kuruluşları ve sivil toplum örgütleri tarafından idari gözetime yönelik getirilen eleştiriler özellikle çocukların ve ailelerin de bu uygulama adı altında idari gözetim altına alınmasına odaklanmaktadır. Akkültürasyon teorisini bu vaka çalışmasına uygularken alınan sonuçlar göstermektedir ki ulusal izleme kuruluşları ve sivil toplum örgütleri karar vericiler ile sosyalleşmeyi sağlamış ve hükümeti çocukların idari gözetime alınması konusunda uluslararası insan hakları standartları ile uyumlu hareket etmeye itmiştir.

Anahtar Kelimeler: Çocuk idari gözetimi, Göç Hukuku, Uluslararası İnsan Hakları Standartları, Akkültürasyon Teorisi.

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INTRODUCTION

The approach towards immigration detention of children by the UK government presents an opportunity to pose questions within human rights doctrine in relation to immigration law. Immigration detention has been a practice used by the immigration authorities in the UK since 1971. This article traces the historical record of the UK's immigration law in relation to detention of minors. It follows this historical record till the decision to comply with international human rights standards with the introduction of new legislation in 2014 following new policy in 2010. It touches upon to what extent international and domestic actors got involved in this issue since the 1990s. By this, it also looks into what kind of impact these actors could create on the UK government's decisions through the lenses of a selected compliance theory.

There are specific standards introduced in 1989 by the Convention on the Rights of the Child (CRC) regarding detention of minors for immigration purposes. Although CRC does not ban detention of minors, it points out three important principles to follow during detention of minors. The first principle is that the best interests of the child that should be applied by decision makers in the policies and legislation regarding children. The second one is, particularly on detention practice, that detention should be used only as a measure of last resort. The last one is that detention shall be only used for the shortest appropriate of time. Hence, the member states of this Convention are expected to respect these principles in order to secure children's rights.

Compliance decisions to these international standards can be explained in many different ways as there are several different compliance theories. Yet, this article applies the socialisation mechanism recognised and described by Derek Jinks and Ryan Goodman: acculturation. Acculturation relies on the relationship of target actor to a reference group or a wider cultural environment (Goodman & Jinks, 2013: 27). Reference group's views play a very important role in the

way the target actor would act. Through social and cognitive pressures, reference group can push target actor towards compliance. By applying this theory, this article argues that the UK followed a unique path of being influenced by different actors at the same time.

This article will follow a timeline of the evolution of immigration detention since 1971 with reference to detention centres and detention statistics. This timeline will also include criticisms from international and domestic actors towards detention of minors in the UK. Applying the acculturation approach, this article reveals whether there has been any socialisation mechanism between the UK and the sources of these criticisms that led the government to comply with international human rights standards in relation to detention of minors.

METHODOLOGY

This article is an important analytical case study of the UK's approach to detention of minors since 1971.¹ Case study research has been defined by many different theorists in distinct ways (Gerring, 2004: 342). A case study can be used for qualitative studies or if it is an ethnographic, clinical or participant-observation field research. Furthermore, it might refer to a work that analyses the features of a single case. Last but not least, case study can be a type of research that explores a single phenomenon or sample. For our purposes here, a case study can be defined as a study that investigates the research questions while bringing different kinds of evidence (Gilham, 2000: 1). It is an empirical study that investigates a phenomenon in its real setting (Yin, 2014: 16). Here, this article will seek to explain why compliance to international human rights standards on detention of minors for immigration purposes has happened in the UK.

A case study can have three different implications in terms of theories (George & Bennett, 2005: 109). Theory testing in a case study

1 The background research for this article was conducted as part of the author's PhD studies at City Law School in London between 2013 and 2017.

usually aims to reinforce or weaken a theory; limit or broaden the range of a theory; or decide whether this theory can explain a case or general phenomenon. Here, case study on the UK by using Ryan Goodman and Derek Jinks' acculturation theory seek to find out whether this theory can explain the reasons behind the UK's compliance with international human rights standards on detention of minors for immigration purposes. This should not be confused with refuting this theory as this theory might be capable of explaining different phenomenon thoroughly. On the other hand, this research is not aiming to claim this theory's success over all similar cases or phenomenon since overgeneralisation will be risky. Having a claim like this can cause problems as it is a claim on cases that are not studied yet. Therefore, this research focuses its aim on deciding whether this theory can explain this phenomenon in the particular case study.

There are different types of evidence for a case study: documents, records, interviews, detached observation, participant observation and physical artefacts (Gilham, 2000: 20). Documents, as stated above, will be policy papers, legislation, international and domestic monitoring reports and archival records such as parliamentary or committee discussions. This will provide very detailed background information for what happened in the context of policy and law making for detention of minors in the UK. This can be defined as a silent witness to show concerns and priorities of this process in the UK. In particular, archival records will be seen as a sort of purposeful communication. The meaning and the evidential value of a speech or a discussion will be assessed through archival record (George & Bennett, 2005: 99). Secondly, records that will be used in the research will be statistics of asylum, new detention centres and minors detained for immigration purposes. This data will be the quantitative side of the case study. This will show the scale of this practice in terms level of migration and detention in these countries. This contribution will be an important source to prove the importance of this issue in terms of human rights.

I. EVOLUTION OF IMMIGRATION DETENTION IN THE UK

A. Beginning of Detention for Immigration Purposes

The UK has always been a country that receives significant number of migrants from different countries due to its colonialist history. To summarise the immigration flows to Britain, it can be stated that 600,000 people were added to the UK's population through immigration between 1961 and 1971 (focus-migration.hwwi.de, 2017). Another largest influx happened between 1991 and 2001 by 1.1 million people. Overall, the non-UK born residents in England and Wales has quadrupled between 1951 and 2011 (ons.gov.uk, 2017). Being a reception country resulted in having very detailed immigration management system that includes thorough legislation and policies.

Immigration detention found its place in this thorough immigration management system in 1971. The 1971 Immigration Act (Schedule 2 para. 9 & 16 (2)) can be characterised as the start of modern detention in the UK immigration history (Bevan, 1986: 83). In terms of the Act's content, immigration officers in the Home Office have the authority to detain or grant temporary admission to migrants subject to immigration control (Schedule 2 & 3). This Act made detention legal during deportation procedures and completion of legal examination (Silverman, 2012: 1138). These circumstances can be grouped under two main forms: people who are detained on entry and after entry (Cohen, 1994: 106). On entry detention occurs when there is a pending decision to admit, to change the conditions of admission, to allow 'exceptional leave to remain', to remove or to deport. Detention happens after entry when there is a violation of permitted entry or overstay.

B. The 1990s: Immigration Detention and the International Reaction to this Practice

The UK's position as a reception country did not show that much change in time. The asylum applications and the immigration num-

bers were still in rise in the 1990s. During the 1990s, the UK has faced high and constant levels of immigration to the country (Somerville & Cooper, 2009: 125). The sharp increase in asylum applications has started in the very end of the 1980s. Between 1988 and 1991, the number of asylum applications rose to 44,840 from 3,998 in 1988 (Home Office, 1996). While the number of detained people under 1971 Act powers were just 1,086 in 1985, this number reached to 5,778 in 1993 and 10,240 in 1995 (Malmberg, 2004: 8).

Till the 1990s, the UK did not have many permanent detention centres (Welch & Schuster, 2005: 337). Increase in the numbers of detained people resulted in expansion of detention facilities throughout the country. The Home Office announced that another 300 immigration detention places were under way especially for detention of asylum seekers in November 1991 (Shutter, 1992: 197). In November 1993, Campsfield, Oxford detention centre was opened as the first purpose built camp for immigration detainees with the capacity of 186 places (Welch & Schuster, 2005: 338).

Whilst there was this clear intention to expand the use of this practice with rising capacity of detention centres, the international community started becoming critical of this practice in the UK. As previously mentioned, the reactions from international or national actors can push target states to compliance according to Goodman and Jinks' compliance. Acculturation suggests that states change their behaviour in order to achieve cognitive/social comfort or terminate cognitive/social discomfort caused by the reference group. Target actors can use mimicry to comply with international standards and have a closer relationship with the reference group at the same time. For this reason, international institutions' critiques along with domestic actors such as non-governmental organisations can be meaningful to understand the factors affected the historical developments regarding compliance.

Hereby, the UK, as a member of the international community through ratification of international conventions, is in a position to

receive reports from monitoring bodies regarding its implementation of the Convention rights. During this period, the UK received concluding observations from Human Rights Committee (HRC) under the mandate of International Covenant on Civil and Political Rights.² For instance, in 1995, the HRC submitted its concluding observations on the UK (Human Rights Committee, 1995). In this report, the HRC stated its concerns over the treatment of irregular migrants, asylum seekers and people with a view to deportation. The Committee held that the duration of the detention might not be necessary in every case.

During the 1990s, domestic law did not show any changes in relation to immigration detention on the way to compliance with international human rights standards despite the criticism. The low, if any, impact of the criticism can be seen in the lack of references to the monitoring bodies' criticism in the parliamentary debate. The extensive search in the parliamentary debate archives showed that there was a lack of interest towards this criticism while discussing immigration issues (Hansard Archives, 1990-1999). The lack of attention to these reports demonstrated that these monitoring bodies did not form a meaningful reference group for the UK government in order for acculturation to exist during this period.

C. The 2000s: Detention of Minors and International and National Criticism to this Practice

This period can be defined as managed migration period. The general element was to link the economy to migration policy due to the labour shortages in the UK, but also combat irregular migration at

2 ICCPR signed in 1968, ratified in 1976. Through this ratification, the UK has to submit reports to the Human Rights Committee on a regular basis and receive concluding observations or reports in return. 'The Human Rights Committee is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties.' last accessed 10 April 2014, <http://www.ohchr.org/en/hrbodies/ccpr/pages/ccprindex.aspx>.

the same time (Samuels, 1997: 628). With the introduction of the 1999 Immigration and Asylum Act, the number of places of detention had immensely increased (Welch & Shuster, 2005: 338). Right after the 1999 Act, three detention centres were opened at Oakington, Harmondsworth and Yar's Wood. Oakington and Harmondsworth detention centres had a large capacity for families. In addition to this, Lindholme RAF base was redesigned as a removal centre, Dungavel prison was turned into a detention centre and a closed induction centre was established at Dover. Thereby, the government followed its plans to expand its immigration detention estate in order to meet its commitment of 30,000 removals in a year (Schuster, 2003: 166). While there were 10,240 people detained under immigration act powers in 1995, there were estimated 23,940 people detained in the UK for immigration purposes in 2003 (Malmberg, 2004: 8). The approach to newcomers was becoming less and less welcoming.

This expansion of detention centres led into wide usage of detention of minors as an immigration practice. Children became part of this system as they were detained or deported with or without their parents (Burnett et al, 2010: 11). The legal foundation that allowed detention of minors was based on the right to detain under Immigration Act 1971. This primary legislation provides unrestricted immigration powers to the authorities. Yet, these powers have been guided by administrative policy papers. These enforcement instructions for the immigration authorities provided guidance in relation to duration and conditions of detaining children. There was no particular time limit for detention of families with children even though unaccompanied minors could only be detained for overnight (UK Border Agency, 2000). With the opening of new detention centres to hold families, these enforcement instructions reflected the conditions of these detention centres such as having family units and play areas (UK Border Agency, 2000). In terms of appeal rights, as decision to detain families with children is based on pending their removal, there was a right to

appeal to this removal decision same as adult detainees' right to appeal (UK Border Agency, 2000).

Detention of minors became a routine part of the UK's immigration law system with the start of the 21st century. In the 2000s, new detention centres (Yarl's Wood, Dungavel and Tinsley removal centres) were built with the allocated spaces for families and children. Instead of detaining families only before removal, families were detained indefinitely and for administrative purposes (Burnett et al, 2010: 11).

Limited but available statistics revealed that detention of minors became a more frequent practice in time. While there were only 819 children detained in Harmondsworth between 1978 and 1982 (d'Orey, 1984: 1), there were 585 minors kept at Oakington only between September 2003 and September 2004 (Crawley & Lester, 2005: 7). In 2007, the Children's Champion's Office within the UK-BA stated that 874 children were detained between May 2007 and May 2008, and 991 children for the calendar year in 2008 (The Children's Commissioner, 2009).

This wide practice of detention had received criticism from international and national monitoring bodies. The UK, as a party of the CRC³, received reports from the Committee of the Rights of the Child's reports during the 2000s. In 2002, the Committee raised its concerns over the increasing numbers of child detainees for immigration law enforcement in the UK. It was noted that their detention for a lengthy period of time might breach children's basic rights such as access to health and education. In the 2008's concluding observations, the Committee was still concerned about the numbers of minor detainees in the UK and recommended the UK to use the detention of minors as a measure of last resort and for a shortest appropriate amount of time as suggested by the Convention.

3 CRC, signed in 1990, ratified in 1991.

The Commissioner for Human Rights is under the mandate of Council of Europe⁴ that could visit member countries and submit reports upon her observations. In 2004, after a visit to the UK, the Commissioner expressed his concerns over the extent of use of detention in the UK (Gil-Robles, 2005: 20). He urged the government to consider the alternatives to detention in the cases of children and families. He was also concerned over the conditions of the detention centres that could increase the level of stress for detainees. The Commissioner for Human Rights submitted another report in 2008 following a visit to the UK's immigration removal centre. He was concerned over the use of detention for accompanied children for a period over three months (Hammarberg, 2008: 13). He urged the authorities to follow the standards of the CRC and European Convention on Human Rights and take a decision to detain children at only exceptional circumstances.

National monitoring bodies also pointed out the wrongdoings regarding detention of minors. Firstly, the HM Chief Inspector of Prisons⁵ reported on the conditions at the immigration removal centres. Dungavel Immigration Removal Centre, for instance, has been inspected several times. The first report voiced the concerns regarding the time limit of detention and the facilities provided to children detainees such as access to education. In 2004, as a result of an unannounced inspection of the centre, since the problems persisted, the

4 Council of Europe (COE) is one of the institutions that the UK is a member of since 1949. Commissioner for Human Rights, as a non-judicial institution under COE's mandate, does regular visits to member countries and submits country reports on human rights issues such as protection of vulnerable groups or cultural rights. The Commissioner for Human Rights is an independent institution within the Council of Europe. Its mandate is to raise the awareness of and respect for human rights in the member states, < <http://www.coe.int/tr/web/commissioner/mandate>>.

5 Her Majesty's Inspectorate of Prisons for England and Wales (HM Inspectorate of Prisons) is an independent inspectorate that gives reports on treatment of people in prison, young offender institutions, secure training centres, immigration detention facilities, police and court custody suites, customs custody facilities and military detention. Last accessed 17 October 2016, <http://www.justiceinspectorates.gov.uk/hmiprison/about-hmi-prison/#.VFogtVOsUWc>.

Inspectorate recommended that detention of children should only be exceptional and for the shortest possible time. In 2006, another inspection led a report that voiced concerns over the child's best interest principle as mentioned by international human rights standards. The HM Chief Inspector repeated the same criticisms and recommendations for other detention centres as well such as Harmondsworth, Oakington, Tinsley House, and Yarl's Wood since 2002.

The Joint Committee on Human Rights⁶ as another national monitoring body opened an inquiry on the treatment of asylum seekers in 2006 where there was an investigation in detention of children. The Committee expressed that detention procedures in the UK does not take the welfare of the child into consideration. Hence, detention of minors are against the UK's international human right's obligations.

Non-governmental organisations (NGOs) and civil society were also part of the picture in a sense that they also produced reports and initiated advocacy campaigns against this steadily increasing practice across the UK followed by the increase in the number of detention centres. There had been different campaigns by different civil society organisations and NGOs such as Bail for Immigration Detainees (BID), Save the Children, the Children's Society and Citizens UK. The common theme in these campaigns and reports, will be explained below, was providing counter argument and evidence to the Government's justifications to decision to detain families with children. To start with, the Government claimed that detention with families was only for removals and so only for a short period of time. Hence, the Government suggested that the practice followed the compliance norm of detention for a shortest period of time. Research by BID in 2003 has suggested that this was not the case. A small sample research with detained families revealed that families were detained for lengthy

6 The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider human rights issues in the United Kingdom. Last accessed 15 October 2014, <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/>.

periods of times like 161 days or 111 days (Cole, 2003: 4). Another finding of the research demonstrated that detention occurred where removal was not immediate.

In 2005, Save the Children published a report based on case studies of 32 children who were detained with or without their families (Crawley & Lester, 2005). Some case studies in the research also showed that children with families were detained for more than 100 days (Crawley and Lester, 2005: 27). This study also demonstrated that some families were taken into detention while their asylum application still had outstanding aspects. In 2008, same problem of lengthy period of detention still showed itself in BID's briefing (Bail for Immigration Detainees, 2009: 3). This briefing stated that families that received support by BID were detained for six and a half weeks on average between October 2008 and January 2009 and criticised this practice.

As a second justification, the Government stated that detention of children with families was only used as a last resort and at a minimum scale. This is the other principle established within international standards that the Government, again, claimed to be following. Civil society reports, however, have demonstrated that large numbers of children were detained each year. For instance, in 2005 it was stated that about 2000 children were detained for immigration purposes (Bail for Immigration Detainees, 2008: viii). This number dropped to 1000 in 2009 (Silverman & Hajela, 2013: 2), yet it showed that there was still significant number of detention cases. Another BID and the Children's Society's joint report under the campaign called OutCry! End Immigration Detention of Children, which was funded by Princess of Wales Memorial Fund, demonstrated that detention was not used as a last resort (Campbell et al, 2011). The findings revealed that families were under detention when there was little risk of absconding, no imminent removal or no meaningful chance given for voluntary return (Campbell et al, 2011: 1).

Meanwhile, the Independent Asylum Commission (IAC) under Citizens UK⁷ also launched a nationwide citizens' review of the UK asylum system in 2008. This Commission produced three reports on more general aspects of the asylum system and this was evolved to Sanctuary Pledge Campaign. However, the reports also referred to detention of children. Their second report stated the findings regarding detention of children (Independent Asylum Commission, 2008: 35). The reports included the UKBA's responses to these findings and the IAC's assessment based on the UKBA's responses. Regarding detention practice, the UKBA responded that only two very limited circumstances where children were detained: as a family for a few days for removal or as unaccompanied minors while care arrangements were made. However, the IAC assessed this response and expressed their concerns on the non-including of the best interests of the child principle by the UKBA in their policies (Independent Asylum Commission, 2008: 36). The IAC also referred to a public opinion poll conducted by Citizens UK on an online system stating that 53% of participants said that children should never be detained.

In addition to the issue of when to detain, civil society also published reports regarding facilities and services provided at detention centres. For instance, BID's report in 2003 stated that children detainees received inadequate healthcare advice and treatment in detention centres (Cole, 2003: 38). The case studies in the research showed that children detainees' health problems were not taken seriously. These findings were also echoed in case studies of the Save the Children's report that was published in 2005 (Crawley & Lester, 2005: 15).

In addition to this, the end of 2009 also saw the open letter written by a famous poet, Carol Ann Duffy and seventy other writers addressing the prime minister. The letter called upon the prime minister and the Government to stop this practice as it was too harmful to be

7 Citizens UK works on building an alliance of civil society organisations in the UK.

accepted in a civilised society (Silverman, 2012: 1145). Furthermore, several groups such as Medical Justice⁸ started similar campaigns in order to raise public awareness to this detention policy in 2010. The Church of Scotland was also concerned over the conditions of the immigration removal centres in terms of children's wellbeing (McClellan, 2010: 159). Different from the monitoring bodies' reports, these campaigns used a moral and ethical argument instead of focusing on the government's international obligations. The campaigns managed to depict detention of children as an immoral practice instead of an illegal one. All of these efforts and campaigns helped to create a public disapproval in the UK (Silverman, 2012: 1145).

Hence, it is apparent that during the 2000s, there was a constant and growing pressure on the government to change the policy of detention of minors. This criticism was from international and monitoring bodies through monitoring reports and civil society organisations through campaigns and reports as cited in this subchapter. These aforementioned reports, in general, showed that the norm of detaining children as a last resort for shortest appropriate of time and not detaining them at detention centres was not fully followed by the immigration authorities in the UK.

D. The End of the Compliance Story

Previously mentioned the Sanctuary Pledge campaign run by Citizens UK and several partner organisations brought Nick Clegg, Gordon Brown and David Cameron as leaders of the UK's main political parties together at Citizens UK General Election Assembly on May 3rd 2010, only three days before the general election, where all party lead-

8 Medical Justice is a charity that seeks basic rights for detainees, it is the only UK organisation that arranges for independent volunteer doctors to visit men, women and children in immigration detention. For more information, see <http://www.medicaljustice.org.uk/index.php>.

ers expressed their commitment to end child detention for immigration purposes if they won the election.⁹

The 2010's election's result was the Conservative Party's victory, ending up as coalition government with the Liberal Democrats. The Coalition Government's perspective on immigration was shaped around the Conservative's terms such as an introduction of an immigration cap due to their majority in the Government (Flynn et al, 2010: 110). The Conservative Party's election manifesto briefly mentioned their potential policies on immigration, mostly suggesting reducing numbers of immigrants (Conservative Party, 2010: 21). With regard to immigration detention, the only reference was made by suggesting improvement on immigration controls. However, the 2010 election manifesto of Liberal Democrats had a specific promise to ban the child immigration detention (Liberal Democrat Party, 2010: 76). Liberal Democrats, in their manifesto, stated that they were committed to provide a safe haven for fleeing persecution and incorporate CRC into UK law. In this line, they were devoted to end detention of minors for immigration purposes. The room provided for the Liberal Democrats in this coalition perspective was the promise of the Government to commit to end detention of minors for immigration purposes (Flynn et al, 2010: 100). Given the wide support for ending the practice by human rights activists, the Coalition parties might justify their commitment to their voters that the ban on detention of minors was very important as it would end this practice, but it would not damage immigration authorities' capacity to deal with immigration offenders (Flynn et al, 2010: 110).

9 Citizens UK, last accessed 2 January 2015, <http://www.citizensuk.org/2010/12/citizens-uk-response-to-nick-cleggs-announcement-ending-the-detention-of-children-for-immigration-purposes/>. The partner organisations were as listed: The Church of England, the Catholic Bishops' Conference of England and Wales, Churches Together in Britain and Ireland, the Methodist, Baptist and United Reformed Churches. The Muslim Council of Britain, the Jewish Council on Racial Equality, the Board of Deputies of British Jews and the Chief Rabbi. Church Action on Poverty, the Vincentian Millennium Partnership, the Salvation Army, the Evangelical Alliance and the Mothers' Union.

As a follow up of the commitment of the Liberal Democrats in their election manifesto and previously mentioned public disapproval, Nick Clegg announced their commitment as a coalition government to this issue on July 21st 2010 in Parliament. He promised the closure of family unit at Yarl's Wood Immigration Removal Centre (IRC), which was the main place for detaining children (Silverman, 2012: 1146). He also stated that the new system will be a fair and a more compassionate one in a way that focusing on the welfare of children and families (UK Border Agency, 2010).

After 2010, this approach to detention of minors was hastily reflected on the policy as well. UKBA detention policy guidance has made several changes regarding family with children under 18 detention policy (UK Border Agency, 2010). The policy guidance used to note that detention of families with children was not subject to a particular time limit. However, the policy recently stated that for the planned returns, the family should be kept at pre-departure accommodation centres for a maximum of 72 hours, yet in exceptional cases this time could be extended to a total of seven days with Ministerial authority. Furthermore, the policy guidance demonstrated that there are rare circumstances that family could be kept at Tinsley House rather than pre-departure accommodation.¹⁰ As a general policy, the guidance establishes that families with children under the age of 18 may be held in short-term holding facilities (holding rooms), pre-departure accommodation and the family unit at Tinsley House immigration removal centre for the planned returns.

Following this new policy, a new immigration Act was also passed by Parliament in 2014. The changes brought by the 2014 Act with regard to detention of minors for immigration purposes are as follows:

10 Where a family presents risks which make the use of pre-departure accommodation inappropriate (see 45.5.6). Such a proposal would need to be referred to the Family Returns Panel for advice and would, in addition, require Ministerial authorisation. The same time limits as for pre-departure accommodation apply.

- A ‘reflection period’, which is 28 days, must take place during which a child and one parent are protected from removal from the UK following the exhaustion of their appeal rights (Immigration Act, 2014: Section 2). The removal, previously, was arranged immediately after the exhaustion of the appeal rights.
- The Independent Family Returns Panel was created as a statutory body in order to provide advice to UKBA on the method of removal and ensure that UKBA safeguard and promote the welfare of children in its arrangements (Immigration Act, 2014: Section 3). Prior to new legislation, there was not such a body like the Independent Family Returns Panel.
- Unaccompanied children cannot be detained for more than a 24-hour period and they can only be detained at short-term holding facilities during transfer to or from a short-term facility and or a place where their presence is needed for immigration purposes (Immigration Act, 2014: Section 5). Previously, the legislation lacked any reference to unaccompanied minors. Instead, there were enforcement instructions for the border authorities regarding treatment of unaccompanied minors. These instructions stated that only in exceptional situations, an unaccompanied minor can be detained normally overnight, with appropriate care, whilst alternative arrangements for their care and safety are made (UK Border Agency, 2009).
- Pre-departure accommodation is the only place where families with children will be held for a maximum of 72 hours (Immigration Act, 2014: Section 6). The duration of detention can be extended to seven days only with an authorisation by the Minister. Despite previous rules and regulations stated that detention of families with children should only be for the shortest possible time, this type of detention was previously not subject to a particular time limit (UK Border Agency, 2008).

After 2010, the UK showed a significant level of commitment to end detention of minors for immigration purposes. The developments

were meaningful in terms of the UK's compliance to human rights standards. The Government basically limit detention of minors to detention at pre-departure accommodation centres for 72 hours with a repeated emphasis on the welfare of children.

II. ACCULTURATION - THE UNDERLYING FORCE?

The UK's compliance journey has ended with this new legislation in 2014. During the 2000s, there was a lot of pressure on the government to change this policy. One major characteristics of the acculturation approach in Goodman and Jinks' compliance theory predicts that this type of pressure can change the behaviour of a target state if the pressure is coming from a reference group that target actor wants to be associated with. When we look at the pressure and criticism on the UK so far, we can identify three different main bodies: international and national monitoring bodies and civil society organisations. To be able to identify which or any of these bodies can be seen as a reference group by the UK, parliamentary debates' references on these bodies can be a valuable sign as the approach from Parliament, especially government officials, to these bodies will show whether these criticisms are important to the decision makers.

To start with, it is very hard to see this type of desire on the UK government side to be associated with the international monitoring bodies. The UK is almost reluctant to be seen as a follower of the international treaty bodies. The lack of attention and reference to the reports by these international monitoring bodies by members of Parliament and the defensive approach by the Government officials in the case of a reference to these reports can be seen as the signs of this reluctance to be associated with these treaty bodies (Hansard Archives, 1990-2010). One Member of Parliament stated that adopting an UN-led approach on immigration legislation can be seen as weakness instead of a powerful stance in the UK's case (Browne, 2007). Hence, cognitive or social pressures as suggested by the acculturation approach, did not show any parallel ties with the UK's case in relation

to international monitoring bodies as there was no desired relationship that led to mimicry by the UK.

Secondly, as suggested by Ryan Goodman and Derek Jinks, acculturation suggests that the desired relationship to a group or an environment will pressure state actors towards compliance. This pressure aims to create psychological discomfort on the target state. If these social sanctions stay abstract such as reputational damage instead of being translated into material costs, it can be claimed that acculturation occurs. If we see national monitoring bodies as a group that the UK government body wants to be associated with or is reluctant to receive any criticisms from them, we can find parallel ties between this mechanism and this case study. In this regard, national monitoring bodies were always mentioned with high respect during the parliamentary debates. Especially the chief Inspector of prisons was always described as 'a reputable and independent institution' (Abbott, Woolas and Lord Avebury, 2007-2010).

In addition to this, since social and cognitive pressures play an important role under acculturation, the way the monitoring reports were written and quoted within the parliamentary debate could cause shaming and social approval as solely social sanctions for the Government. For instance, we have seen the reference to the Inspector's reports in positive and negative ways in the parliamentary debate. While opposition party members quoted the Inspector's reports to point out the wrongdoings of the system, the Government officials quoted same reports by only mentioning the Inspector's positive feedback (Abbott & Lord Bassam of Brighton, 2007). There is a definite difference between international and national monitoring bodies in terms of Parliament's approach. International monitoring bodies' criticisms were not taken into consideration as much as national monitoring bodies' did. While the approach towards international monitoring bodies was distant in a way that the Government was reluctant to be associated with this reference group, national monitoring bodies' output regarding the UK's detention policy became part of the discussion to

establish a strong argument. Hence, even though these international and national monitoring bodies exactly pointed out same issues regarding detention of children in their reports and recommendations, national monitoring bodies' reports weighed more than international ones within the parliamentary debate by legislative and executive branches. Furthermore, the presence of acculturation depends on how close the relationship between target actor and reference group. It can be claimed that national monitoring bodies have a close relationship with Parliament in general. For instance, while the Joint Committee is itself composed of members of Parliament, Justice Secretary appoints the Chief Inspector of Prisons. However, on the other hand international monitoring bodies do not have direct bonds with Parliament.

However, it would be too ambitious to say that national monitoring bodies were the only ones that influenced the Government's decision to act towards compliance with international human rights standards. These national monitoring bodies produced reports for many years. However, the Government decided to end detention of minors only in 2010. Hence, there was no instant impact on the Government. Yet, it would be safe to say that the constant pressure and criticism could have caused a certain level of social pressure that the UK government desired to end by complying with international human rights standards. Hence, it is clear that national monitoring bodies' critique was one of the necessary measures for the change in the UK's detention policy.

Lastly, civil society reports played an active role while criticising the Government's practice of detaining minors. Different from the other monitoring bodies, civil society organisations and NGOs followed a path that has not been attempted before by other monitoring bodies that tried to influence the Government's decision. NGOs and civil society organisations used public campaigns in order to raise public awareness of this practice and its impact on children. There is a high likelihood that public can be the UK government's reference group. The government would like to have a good relationship with public as

its reference group since public opinion would decide the following election. Since the main aim of a political party would be to stay in power or gain power in the following election, what the public thinks about that party is fairly critical. These can be seen as social costs or rewards that the target actor need to face depending on the results of elections. Hence, these campaigns successfully mobilised this reference group to have leverage over the government.

Furthermore, the techniques suggested by the acculturation approach are shaming in order to impose social-psychological costs or social approval for providing social-psychological benefits. Since public can be seen as one of the reference groups to the government, social disapproval by the reference group is something that should be avoided. For that reason, NGOs and civil society organisations played a key role by mobilising a section of this reference group and creating discomfort on the Government side. Therefore, these organisations informed the public about the UK government's practice of detaining minors for immigration purposes with the help of public campaigns.

Goodman and Jinks' theory also suggests that the impact of acculturation would be stronger if the reference group is large and the relationship between the target actor and the reference group is closer. In this case, public can be seen as a large group to the government. It is also suggested by the theory that in the cases of acculturation happening through external pressures, it is more likely to end with public compliance but not necessarily private acceptance of the induced norm. While the Government showed its compliance at a public level, the parliamentary debates after 2010 still showed that acceptance of the norm did not actually occur (search-material.parliament.uk, 2017). The members of the ruling party still showed a certain level of resistance to a total ban on detention of minors. Instead, we have seen a public compliance with the norm with the help from the civil society organisations to draft a new system. However, it is apparent that civil society reports and campaigns were other necessary measures for this change to happen in the UK.

CONCLUSION

This article has traced the development of immigration detention of minors as a policy and legislation in the UK since 1971. Throughout the years, while domestic law on detention of minors did not differ much in time, the numbers of detention centres and detained people have gradually risen. However, there were criticisms and recommendations in relation to the UK's detention policy from international monitoring bodies such as Committee on Rights of the Child since 1990s. International monitoring bodies were not the only ones that criticised this policy and practice. Additionally, national monitoring bodies such as the Chief Inspector of Prisons and Joint Committee on Human Rights also published reports that denounced detention of children for immigration purposes. These reports were part of the parliamentary debates in the discussions regarding detention policy.

Last not but least, the UK was under scrutiny by civil society and non-governmental organisations. There had been wide criticism by organisations such as BID, Save the Children and the Children's Society. These organisations submitted reports and case studies in order to show that the justifications of the Government to use this measure were wrong. They also initiated public campaigns to raise awareness regarding detention of children. Involvement of the public made their position stronger against the Government officials. Their strategy differed from the international and national monitoring bodies in a way that they used a moral and ethical argument instead of a legal one. This was significantly powerful while mobilising and raising awareness within public.

When the compliance theory was applied to this case study, it was unfortunate that there were not many parallel themes between theory and the case study. Criticisms from national monitoring bodies were taken more seriously and somehow created further discussion in Parliament. The difference in attitude towards national and international monitoring bodies by the Government officials was obvious in the

parliamentary debates. Whereas national monitoring bodies' critiques were taken into consideration, there was not much reference to international monitoring bodies' recommendations and critiques. Furthermore, there was a negative approach to a certain extent towards international monitoring bodies in parliamentary debates. Their critique was almost avoided and not taken into account. On the other hand, national monitoring bodies were mostly referred as respectable institutions. Their outputs were part of the parliamentary debates by the opposition and the government officials. Hence, it can be claimed that national monitoring bodies can be seen as an important reference group by the government. Their reports were one of the necessary measures for the compliance decision. This perception of the Government towards these bodies can bring the parallels between acculturation and this case study as seeing this group as a reference group.

Civil society reports and public campaigns somehow raised public awareness on this topic. There were some parallel themes between the case study and the theory. As public is seen as an important reference group by the government officials under the acculturation approach, raising public awareness made these campaigns successful at the end. The leaders of the political parties' timely (only three days before the 2010 election) announcement for a commitment to end detention of minors at a civil society meeting made the compliance process possible after the election.

Revealing the dynamics that led the decision of compliance in the UK is very important in a sense that it provides an insight how to push the governments to make a compliance decision. This demonstrates us that there are different sensitivities in every other country whilst making legislation regarding newcomers. Yet, if relevant actors to that particular country know how they can push the decision makers to change their policies and legislation in relation to different topics, change can happen at a larger scale.

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