

Advocacy Issue – Detention of Asylum Seekers

Currently some Asylum Seekers who claim at the border, before clearing customs, are detained under the Immigration Act. This detention starts at the Airport and usually ends up with the Asylum Seeker being detained at Mt Eden Correctional Facility.

This detention, after the original 96 hours¹, is confirmed via a warrant of commitment from a district court judge, for up to 28 days at a time².

Sometimes, after identity checks etc. are performed, Immigration may decide to release these Asylum Seekers on conditions³. These conditions are usually being released to an approved address, with a curfew of 10pm to 6am and reporting to Immigration in the central city twice a week amongst others.

Some people who claim after being served a deportation notice or being picked up by Immigration must not be released by a Judge, unless there are exceptional circumstances⁴.

Immigration can do biometric testing on claimants, which takes 10 days, identifying them where possible and any criminal charges and immigration records.

The UNHCR, in its guidelines, states that there should be a presumption against detention of asylum seekers.

In 2007, the Convention on the Elimination of Racial Discrimination (CERD) committee recommended that New Zealand put an end to the practice of detaining asylum seekers in correctional facilities. In 2009, the CAT committee noted “with concern” that asylum seekers and undocumented migrants continued to be detained in low security and correctional facilities. In 2010, the UN Human Rights Committee criticised New Zealand for permitting the detention of asylum seekers or refugees in correctional facilities, together with convicted prisoners.

In the 5 years November 2014 to November 2019 there have been 80 Asylum Seekers detained in correctional facilities, with an average stay of 188 days. At the remand cost of \$219 a day that is a cost of \$3 million, compared to the \$19 a day released on conditions cost, which would have equalled \$250,000 over the same period.

People released on conditions, who are on their first claim, currently get \$225 a week as an allowance, and no visa or work rights.

Change Needed

- No Asylum Seeker detained for longer than 28 days.
- No Asylum Seeker detained in criminal prisons with general population
- All detentions to happen at Mangere Refugee Centre for max 28 days, then released to community detention.

¹ Section 313 Immigration Act

² Section 316 Immigration Act

³ Section 320 Immigration Act

⁴ Section 317 (5) Immigration Act

Everyone has the right to go to another country and ask for protection if they are being mistreated or are in danger. Universal Declaration of Human Rights, Article 14