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DOCTORAL THESIS

An Ethnography of Deportation from Britain

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Summary

In the past decades, immigration policies have been refined to broaden eligibility to deportation and allow easier removal of unwanted foreign nationals. Yet how people respond to a given set of policies cannot be fully anticipated. Studying the ways people interpret, understand and experience policies allows for a better understanding of how they work in practice. Drawing on ethnographic fieldwork conducted in London, this thesis examines experiences of deportation and deportability of migrants convicted of a criminal offence in the UK. It finds that migrants' deportability is experienced in relation to official bodies, such as the Home Office, the Asylum and Immigration Tribunal, Immigration Removal Centres and Reporting Centres, and becomes embedded in their daily lives, social relations and sense of self. The lived experience of deportation policies emphasizes the material and human costs associated with deportation and highlights its punitive and coercive effects. Deportability marks migrants' lives with chronic waiting and anxiety. As a result, migrants awaiting deportation make use of four coping strategies: enduring uncertainty, absencing and forming personal cues (Ågård & Harder 2007), and also re-imagining their futures. In turn, migrants' understandings of their own removal appear incompatible with open political action and with the broader work of Anti-Deportation Campaign support groups. Resistance is thus enacted as compliance with state controls (such as surveillance and immobility), which are perceived as designed to make them fail, rendering them ever more deportable. By enduring this power over them, migrants are resisting their removal and fighting to stay. The thesis concludes that the interruption of migrants' existence in the UK is effected long before their actual removal from the territory. It is a process developing from the embodiment of their deportability as their present and future lives become suspended by the threat of expulsion from their residence of choice.

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Table of Contents

PREFACE.....	VIII
1. INTRODUCTION.....	1
AIMS AND SCOPE.....	1
LIABILITY TO DEPORTATION.....	8
CHAPTER OVERVIEW.....	10
2. DEPORTATION AND DEPORTABILITY.....	13
A FEW CONCEPTUAL NOTES.....	13
OVERVIEW OF EXISTING SCHOLARSHIP.....	17
DEPORTATION OF FOREIGN-NATIONAL OFFENDERS FROM THE UK.....	27
POLICY IMPERATIVES IN DEPORTATION.....	33
3. NOT A COMMUNITY, NOT A GROUP. CHALLENGES OF THE FIELD.....	37
LOCATING THE FIELD: AN EPISTEMOLOGICAL CONCERN.....	37
IDENTIFYING AND ACCESSING RESEARCH PARTICIPANTS.....	38
ETHICAL CONSIDERATIONS.....	46
FIELDWORK DETAILS.....	50
4. APPEALING AGAINST DEPORTATION. MIGRANTS' EXPERIENCES AT THE ASYLUM AND IMMIGRATION TRIBUNAL.....	53
THE RIGHT TO APPEAL.....	54
THE IMMIGRATION APPEALS SYSTEM.....	56
THE MAKING OF A CASE.....	60
APPEAL HEARINGS AT TAYLOR HOUSE.....	68
LEARNING THE RIGHT TO STAY.....	82
5. TO PUNISH AND COMPEL. ON STATE SURVEILLANCE OVER DEPORTABLE MIGRANTS.....	86
MIGRANT SURVEILLANCE IN THE UK.....	86
SURVEILLANCE AND CONTROL.....	88
NARRATIVES OF SURVEILLANCE.....	93
TO PUNISH AND COMPEL.....	103
6. UNDECIDED PRESENT, UNCERTAIN FUTURES.....	106
EMBODIMENT OF CHRONIC CONCERN.....	107
ENDURING UNCERTAINTY.....	112
PUTTING SELF APART.....	117
FORMING PERSONAL CUES.....	121
RE-IMAGINING POSSIBLE FUTURES.....	126
7. ON COMPLIANCE AND RESISTANCE.....	136
MIGRANTS AND POLITICAL AGENCY.....	137
LACK OF PROTEST AND PARTICIPATION IN CAMPAIGNS.....	138
COMPLIANCE AND RESISTANCE.....	147
8. CONCLUSION.....	155
SUMMARY OF FINDINGS.....	155
IMPLICATIONS FOR EXTERNAL AUDIENCES.....	161
AVENUES FOR FUTURE RESEARCH.....	163
AN ANTHROPOLOGICAL STUDY OF REMOVAL.....	164
REFERENCE LIST.....	167

Acronyms

ADC	Anti-Deportation Campaign
AIT	Asylum and Immigration Tribunal
ECHR	European Convention on Human Rights
EEA	European Economic Area
ERS	Early Removal Scheme
FNP	Foreign-National Prisoner
FRS	Facilitated Removal Scheme
HMPS	Her Majesty's Prison Service
HOPO	Home Office Presenting Officer
ICIBI	Independent Chief Inspector of Borders and Immigration
ICU	Intensive Care Unit
IRC	Immigration Removal Centre
NCADC	National Coalition of Anti-Deportation Campaigns
NGO	Non-Governmental Organisation
NLM	Non-Legal Member
NOII	No One Is Illegal
PTA	Parent Teacher Association
SBS	Southall Black Sisters
SIAC	Special Immigration Appeals Commission
UKBA	UK Border Agency
WAST	Women Asylum Seekers Together

Preface

Subject: RE:

Date: Wednesday, 14 April 2010 17:05

From: [REDACTED]

To: Ines Hasselberg <I.A.Hasselberg@sussex.ac.uk>

Hi Ines,

Well my partner is currently facing deportation back to Uzbekistan after coming to the UK 19 years ago as a child with his family. The reason being for his deportation is due to him getting a criminal record in 2003 however no one has contacted him up until 2008 after he enquired about getting a replacement passport due to him loosing his so we're now left wondering if we never did enquire about the passport would he have been left alone. My partner was never aware that he was not a UK citizen he assumed that his father had completed the appropriate paper work and we never had any reason to doubt otherwise as he went to school here, and lived like any other British citizen. We have four children aged seven, four, two and the baby four months. The eldest not being my partner's biological child, and he has full contact with his father on a regular basis. We have appealed the deportation at an immigration tribunal and it was rejected so we are now in the process of waiting for a date to go to the higher courts.

The effect it has had on our family is unspeakable, i had my two year old early due to the stress of the court case coming up, we have got ourselves into £1000's of pounds worth of debt in solicitors fee's. The 'not knowing' what is awaiting in the future is really hard and the prospect of having to go to Uzbekistan is very frightening for my partner and myself. He has no family over there anymore and isnt very fluent in the language so he has no idea of what he is going to do if he is sent back he has no money and no where to go, how will he get a job with the poor language etc its all going through his mind on a daily basis and he often gets that worked up he ends up vomiting, for myself i have never been abroad so the thought of moving there scares me to death, especially the fact that the country has a completely different religion to my own and language. My youngest baby was also born early at 28 weeks and has numerous health problems and has on going treatment so to move to a country where you have to pay for health care is daunting what if we had no money and something went wrong?

Other problems we are facing is that my oldest son's father is refusing to allow me to take him abroad so there would be an on going battle with him and he has joint parental responsibilities so he is within his rights to do so, its not just that i would feel so guilty to take my son away from his dad who he is very close to and he has a life here he has friends, he loves his school, he has numerous out of school activities and it would devastate him to have to move. We are a close nit family i have a close relationship with all my family and same with my partner's family so it would have a knock on effect with them also.

Other effects it has had on me and my partner is we are both highly tensed and stressed, we dread the postman coming thinking is there a letter from the border agency or court its like living in fear. Ive lost alot of weight im constantly run down and tired i can burst into tears for nothing i actually think its made me depressed and the thought of the unthinkable happening just makes me feel phycally ill. I just wish the judges and immigration could take this kind of thing into account. Them shipping people back to there country of origin ends there for them but for the family's of these people who are UK citizens and are completely innocent the trauma of it goes on because im then left with the job of explaining to my children of whats happened to there father and they have to watch me upset and that will affect them in its own way. And the whole me and the children moving to Uzbekistan will have its own problems and stresses as i mentioned above.

I hope ive not gone on to long and i hope this information helps you out.

Many Thanks

J.

1. Introduction

The word *banish* rhymes with *vanish*. Through banishment or deportation there is the literal threat of invisibility. Not only when the event is concretized, but in the anguish and uncertainty leading to that.

Randall 1987: 471

AIMS AND SCOPE

In the last decades, immigration procedures and policies have been increasingly refined worldwide to broaden eligibility to deportation and allow easier removal of unwanted foreign nationals. Deportation today is not an exception but rather a normalised and distinct form of state power. Yet, as the email from Jen attests (see Preface), deportation is not an event but a process that begins long before a migrant is forcibly removed from one country to another. Two years after Jen first emailed to me, her circumstances have not changed. Her partner remains in the UK under immigration detention, they are fighting his case, their lives are on hold.

What effect do British policies of deportation have on those facing deportation and their families? What strategies are devised to cope with and react to deportation? In what ways does deportability influence one's sense of justice, security and self, and how does that translate into everyday life? In this thesis I address these questions through an examination of the deportation and deportability of migrants convicted of one or more criminal offences in the UK.¹ Taking London as the site of field research, I explore the way migrants' deportability is felt, understood and experienced, as well as the strategies they deploy to cope with and react to their own deportation, or that of a close relative. Facing deportation implies the establishment or reinforcement of a relationship between

¹ Whereas for ease of flow I refer to deportation and deportability in the UK, the findings here regard deportation policies and procedures as they are exercised in England and Wales, and may differ in some respects from those of Scotland and Northern Ireland.

the migrant and the host state. How that relationship develops, and the resulting consequences are addressed here from the perspective of deportable migrants and their close relatives.

I am not seeking to assess whether deportation and related practices of state surveillance, such as detention and reporting, are adequate responses to the perceived risk posed by foreign-national offenders.² To do so would mean accepting that there is a problem that needs to be addressed and that that problem can be addressed through immigration policy. Whilst I do not accept either of these points, this thesis does not seek to justify this position. Rather, it merely examines how the deportability of foreign-national offenders is lived and understood by those experiencing it, revealing the (un)intended effects that these policies have on those who are affected by them (Dow 2007). This is significant whether or not the policy itself is justified.

De Genova (2002) makes a good point when arguing that it is crucial to examine also the socio-political processes that historically produce migrant illegality and deportability. Concurring with De Genova, I recognise that such an examination is of importance, especially when considering that up until to 2006 foreign-national offenders were not systematically considered for deportation. However, while in Chapter 2 I do review the major political and legal developments that brought the deportation of foreign-national offenders on to the public and political agenda and culminated in automatic deportations in the UK, a thorough examination of the processes that led to this particular population being regarded as a threat to public security is beyond the scope of this project.

Categorising a researcher's targeted population is both a necessary and an indispensable component of research design. It is a practical issue, as one needs to establish and delimit a unit of analysis, but it is also a conceptual one as the development of analytical categories labelling people - in this case migrants - is not neutral, on the contrary, it is fraught with assumptions whatever the chosen criteria of inclusion and exclusion.

² I choose here to use the term *Foreign-National Offender*, as it is the official designation used at policy level for migrants convicted of criminal offences. Yet I do recognise that the term is not unproblematic: it places emphasis on one's actions as permanent and continuous: one who *is an offender* as opposed to one who *has offended*, and downplays the legal process that migrants facing deportation from the UK have already gone through, that of criminal conviction and incarceration, which is of importance in how their deportability is experienced.

Initially I intended to focus on what I termed in my research outline as *long-term migrants*, a category I defined much in the same line as Coutin's *resident non-citizens* (2011). The advantage of Coutin's approach - *resident non-citizens* – over other sociological and political definitions like *denizens* (Hammar 1990; Bauböck et al 2006) or *quasi-nationals* (Dembour 2003) is that it includes all foreign nationals residing in the country independently of their legal status. For even undocumented migrants, failed asylum seekers, and other unauthorized migrants enjoy certain rights by the very fact that they are within a given territory (Coutin 2010).³ Underlying this choice was the assumption that the impact and experience of deportation (and administrative removal⁴) of such individuals, no matter their legal status, would be tantamount to an interruption of their lives in the UK and their absence would be felt. Yet, fieldwork quickly revealed that migrants in deportation proceedings faced a different reality from those in administrative removal, which impacted on both their coping strategies and reactions to expulsion from the UK. Deportation entails a ban on returning, which means that migrants with a deportation order cannot apply to re-enter the country for a determined period of time, ranging between three to ten years. This was particularly distressing for research participants, as it turned their exit of the country into a somewhat permanent, and not temporary, event.⁵ Second, migrants face deportation because they have been convicted of one or more criminal offences. This, as will be made clear throughout this thesis, contributed to their isolation, as foreign-national offenders have little or no public support, and limited their scope for political action. Further, unlike many asylum seekers, foreign-national offenders participating in this study seldom feared for their personal safety if returned. As such, from the very early stages of fieldwork, this research project solidified on the experiences of foreign-national offenders and, unless stated otherwise, does not concern the experiences of administrative removal.

³ In the UK, for example, unauthorised migrants are entitled to legal aid.

⁴ The next section "Liability to deportation" details the differences between deportation and administrative removal under British immigration legislation.

⁵ For instance, I once observed at the AIT, a self-represented appellant pleading to the Tribunal not that he is not deported, but that he is allowed to return to the UK for family visits while his deportation order is active. He made the case that he was ready to move to his country of origin – he had indeed provided the Tribunal with evidence that he had already obtained a job and made lodging arrangements. He stated that he understood that his criminal conviction made him unworthy of residing in the UK. His only contestation was his right to return to visit his children, whose mother (the appellant's ex-wife) would not allow them to visit him for safety reasons. Whereas this was not a common approach, the ban to return was a particularly troublesome element of deportation, one that made it permanent.

Labels such as refugees, second-generation migrants, internally displaced people, etc. have become commonly accepted in academic and policy jargon. Yet many have questioned their development and use (Malkki 1995; Couper & Santamaria 1984; Kunz 1981; Richmond 1988; Shacknove 1985; Zetter 1991). Of particular relevance here is Malkki's (1995) questioning of the deployment of "the refugee" as a self-limiting field of anthropological knowledge: the refugee as a legal status encompasses a variety of people with different ethnic, social, political backgrounds and different personal histories. Her argument points to numerous pitfalls of delimiting fields of knowledge, that are relevant not only to the study of refugees, but to other fields of research too, as De Genova (2002) has pointed out regarding the 'undocumented'.

Malkki argues that there has been a tendency in anthropological studies of refugees to take a functionalist approach, with a strong sedentarist bias. This is particularly clear in many authors' assumption that being uprooted is tantamount to a loss of culture and identity (Malkki 1995). Underlying this is the assumption of home as a territorialized place, "the ideal habitat for any person" (1995: 509). Such assumptions often lead to essentialised notions of "the refugee" and "the refugee experience":

Almost like an essentialized anthropological "tribe", refugees thus become not just a mixed category of people sharing a certain legal status: they become "a culture", "an identity" ... "a social world" ... or "a community". (1995: 515)

While this thesis focuses not on asylum but on another label of forced migration – deportation – these issues still apply. Under the rubric of *foreign-national offender* one finds a variety of situations, and people of very different backgrounds. What connects them all is that they faced, or are facing, the possibility of deportation. The people participating on this research project were all settled migrants, even if some did not possess leave to remain. Yet, this does not necessarily mean that they will form a group or a community or that they will identify with each other on the basis of their deportability. This raises quite a few challenges where methodology is concerned – an issue that is further explored in Chapter 3.

When I say research participants were 'settled' migrants I mean that they had all lived in the UK, with or without legal status, for at least five (or three) years prior to receiving the notice of deportation. Over the past decades there have been several European and International conventions on citizenship legislation, reflecting various

principles, among them "... the principle that the attribution of nationality to a person should be based on a genuine link with the state whose nationality is acquired" (Bauböck et al 2006: 6). Different countries measure this link according to different principles and scales and, although the tendency is to establish a minimum time period of regular residency, the assumption is that this is the time considered necessary for foreign nationals to establish roots and social ties that link them to the country of residence. In order to be eligible to become a British citizen, foreign nationals must have resided legally in the country for at least five years, or three years if married to a British citizen, be of good character and have a basic understanding of the English language and the British way of life.

This project's research participants all felt their lives were, at the time of conviction, grounded in the UK, independently of any plans to return in the long-term. I am not here equating long-term residence with the arguably feeble concepts of "integration" or even "belonging." Rather I am taking the period of time the British Government considers necessary for a foreign national to have established an existence in the country. This approach has allowed me to define my research population in a way that was relatively fixed, tangible and used at the policy level. To be clear, I am not seeking here to present "the experience of deportation," but rather to examine the different ways people cope with, and react to their own deportability, or that of a close relative.

The importance of long-term (legal) residence is in fact increasingly acknowledged through ever more protection and expansion of rights under EU law for long-term residents. In the UK, while it does grant settled status, it will no longer protect foreign nationals from deportation (Clayton 2008:570). Yet, the recognition of long-term residents is countered by rising restricted immigration policies. Coutin (2011) argues that the distinction between citizens and resident non-citizens in the US is being made more pertinent by increasing enforcement of immigration policies. This is the case through the convergence of immigration and criminal law – "crimmigration" (Stumpf 2006), the securitisation of immigration, where migrants are increasingly perceived as a risk and, perhaps more specific to the US, a rescaling of immigration policy from national to local level (Coutin 2011). This thesis is located precisely in the intersection

between the rights enjoyed by long-term residents and the restricted immigration policies that remove them after criminal conviction.

Statistics on deportations (i.e. excluding administrative removals) from the UK are not readily available. The Home Office quarterly and annual statistics distinguish only between *asylum* and *non-asylum* cases, reflecting the prevalence of asylum in the political agenda. Similarly, there is no readily available data on the number of deportation orders issued or deportation appeals filed. The most reliable, yet rather limited, source of data regarding deportation is the ICIBI report from 2011. A Freedom of Information request⁶ for such statistics revealed that between 2007 and 2010 the UKBA deported over 20,000 people, averaging 5,000 a year. Of these, a considerable percentage (49% in 2010 and 30% in 2009) has been deported under the Facilitated Returns Scheme (FRS) and Early Removal Scheme (ERS).⁷ Appeals against deportation have decreased in the same period, from 2,253 in 2007, to 1,727 in 2010, while the percentage of appeals allowed has increased significantly, from 15% in 2007 to 38% in 2010. Whereas there is not enough data to adequately analyse these numbers, it is likely that the decrease in appeals and related increase in the proportion of allowed appeals is due partly to 1) the success of ERS and FRS in encouraging departure and 2) increasing limitations in legal aid available to migrants which has forced legal aid case-workers to only take on cases that have a good chance to be allowed (see James & Killick 2010).

In a scenario where foreign-national offenders are increasingly subjected to deportation and related practices of state surveillance upon the end of their sentence, it becomes relevant to examine the impact that these policies are having on the ground. How people respond to a given set of policies cannot be fully anticipated and looking at the ways people interpret, understand and experience policies allows for a better understanding of how they work in practice (Wight 2004).

Migrants convicted of criminal offences draw little sympathy from the public at large and are seldom the focus of scholarly attention in the UK⁸, which is surprising

⁶ The Freedom of Information request I put in, and its answer, are available at http://www.whatdotheyknow.com/request/deportation_of_fnp_since_2005#incoming-297565.

⁷ Under the ERS, FNPs may be deported up to 270 days before the end of their sentence. The FRS provides financial support to FNPs (accessible only after they left the country) to aid their reintegration upon return. Both schemes are intended to reduce the cost of imprisonment and encourage the FNPs to leave the UK as soon as possible.

⁸ The work of Bhui (2007) and Bosworth (2008 and 2011) are notable exceptions (see Chapter 2).

given the amount of research conducted among refugees, asylum seekers and undocumented migrants in the country. Their situation differs however from other populations of removable migrants in that most had leave to remain, do not fear for their lives if returned to their countries of origin, and have a strong sense of entitlement to remain in the UK. Further, the stigma associated with their criminal conviction, compounded by their foreignness, limits their scope for open and collective political action, as examined in Chapter 7. Their deportability is not enacted in anticipation nor translated into active invisibility and evasion strategies as emphasised in most illegality studies (Wicker 2010; Willen 2007; Talavera et al 2010; Castañeda 2010). Rather it is experienced only once deportation proceedings against them are initiated.

This study is located within the disciplinary field of Anthropology. The anthropological gaze and allied ethnographic methods are important in perceiving deportees and their relatives as active agents that are not just being deported but are reacting to their removal, developing their own strategies, (re) formulating their own aspirations and carrying their own cultural agency and identity. This thesis is intended as a contribution to an interdisciplinary field of studies that can benefit much from anthropologists' engagement. Anthropologists are well situated to bring ground-breaking perspectives into this field by following the trajectories and narrating the experiences of deportation and critically examining the socio-cultural and political implications for all involved (Peutz 2006, Moniz 2004, De Genova 2002).

De Genova (2002) argues that “ ‘illegality’ (much like citizenship) is a juridical status that entails a social relation to the state; as such, migrant ‘illegality’ is a pre-eminently political identity” hence, “[i]t is necessary to distinguish between studying undocumented people, on the one hand, and studying ‘illegality’ and deportability on the other” (2002: 422). By studying the former instead of the latter, social researchers are contributing, even if involuntarily, to the “everyday production of those migrants’ illegality” (2002: 219). When writing about the deportation of the subjects and constituting their criminal deportability as a self-limiting field of knowledge social scientists may be reinforcing the criminality and illegality that was enforced upon their subjects by a given nation-state. Social researchers have to ensure that their findings do not reinforce negative stereotypes of any group or institution and that they do not justify negative attitudes among policy-makers towards the subjects of their research (Barber

2003, SRA 2003). The BSC ethical guidelines, for example, state that the researcher has “... a moral obligation to challenge stereotypes and negative attitudes based on prejudice” (2006). Peutz (2006) agrees with the critique made by De Genova and acknowledges its importance to the study of deportation. She also argues that

It is important to note that deportees are removed physically from the social landscape, thus becoming all too invisible as people or as “objects” of study, and that the deported discussed in this article wished to have their stories circulated, mainly in the media but also in legal and academic circles. Already bereft of status, they had little to lose but perhaps something to gain from scrutiny of their cases and a public debate on deportation law. (Peutz 2006: 219-220)

As Peutz (2006) suggests, even if, for the state that deports, the removal of undesirables ends when they leave the territory, for the deportable migrants, their families and communities, deportation exerts its power long before and long after removal. As such, a study that reveals the continuum of this removal “would at the very least resist the removal of these individuals from academic spaces, if not from physical ones” (Peutz 2006: 220). As others have argued (Peutz 2006; Walters 2002; Dow 2007), it is important that the practice of deportation does not go unnoticed. It is also vital to understand how deportation practices impact on the lives of deportees, the communities they leave behind and the ones they are being returned to.

LIABILITY TO DEPORTATION

British immigration legislation distinguishes administrative removal from deportation. They both entail the expulsion – or intention to expel – foreign nationals from the UK, but the grounds for, and protections against each differ in significant ways. Administrative removal refers to migrants who have overstayed; breached a condition of leave to enter or remain; sought or obtained leave to remain by deception; had their indefinite leave revoked because they have ceased to be a refugee; or are family members of the above (UKBA *undated*). Deportations on the other hand, refer to individuals whose expulsion from the UK the Secretary of State deems to be conducive to the public good, whether or not they hold leave to remain.

Deportation thus is but one form of forced removal of a person from British soil. It cancels leave to remain and, unlike administrative removal, has an enduring legal effect, meaning that it entails a ban on return – it prohibits the deportee from re-entering the country as long as the order is in force, a period between three to ten years. As

mentioned above, this is of particular importance to migrants who are thus prevented from returning to the UK to visit family and friends after deportation takes place.

A notice to deport (or a deportation order under automatic deportation provisions) authorises the detention of the migrant. Deportation can be appealed in-country if there is a human rights claim – art.3 and art.8 ECHR and Refugee Convention. While an appeal on human rights is ongoing the migrant cannot be removed from the country. As explored in Chapter 6, this is an extended period that marks migrants' lives with chronic waiting and uncertainty over their future.

Legally speaking, deportation is not a sentence, although it can be recommended by the sentencing Judge. Ultimately the decision lies with the Secretary of State. Anyone who is not a British Citizen is liable to deportation. Exceptions are made with regards to diplomats and their families, and some groups such as EEA nationals exercising Treaty Rights are afforded more protection. A foreign national may be served with a deportation order on the following grounds:

- The Secretary of State considers deportation conducive to the public good. This happens mostly following a criminal conviction. Before the UK Borders Act 2007 this demanded a consideration of the seriousness of the offence, the likelihood of re-offending, and the extent of any deterrent effect. Under the UK Borders Act 2007, provisions for automatic deportations mean that sentencing time is currently the only criteria: any foreign national sentenced to 12 months or more of imprisonment is automatically served with a deportation order. For EEA citizens exercising Treaty Rights automatic deportation ensues only from either a custodial sentence of 12 months or more for drug, violent or sex crimes, or 24 months for other offences. It is assumed that the length of custodial sentence reflects the seriousness of the crime, as well as the likelihood of re-offending. National security grounds are also in this category, but these cases are treated differently.⁹

⁹ Appeals against decisions to deport on national security grounds are heard at the Special Immigration Appeals Commission (SIAC), which also hears appeals against decisions to deprive Britons of their citizenship. The operational procedures of SIAC, where evidence put forward by the Secretary of State can be heard in closed sessions, and thus be undisclosed to appellants and their representatives, have been highly contested. See for instance Crowther 2010, Liberty 2011 and JUSTICE 2009.

- A family member is being deported: in these circumstances the spouse and children will also be subject to deportation, unless they are divorced or their residency is not dependent on the deported relative.
- The sentencing Judge recommends deportation upon criminal conviction.
- Exception is made when deportation is contrary to the Human Rights or Refugee Convention or if the person was a minor at the time of conviction.

The automatic deportation provisions came into force in August 2008, just a few months prior to my fieldwork in 2009. Therefore, this project includes both ‘older’ cases where either the Sentencing Judge recommended deportation or the Secretary of State considered it conducive to the public good, and ‘newer’ cases of automatic deportations.

CHAPTER OVERVIEW

This thesis centres on the experience of deportation and deportability in the UK from the perspective of deportable migrants and their close relatives. It is divided into eight chapters. Chapter 2 is concerned with providing the socio-political, theoretical and conceptual background to the issues explored. Following a review of recent scholarship on deportation studies, I provide a sketch of the major political and legal developments that brought the deportation of foreign-national offenders to the public and political agenda, and culminated in the introduction of automatic deportations in the UK.

Chapter 3 addresses the methodological and ethical concerns inherent to this research project. I show that researching hard-to-reach populations, especially in a setting where there can be no reliance on gatekeepers and snowballing, demands creativity in devising alternative strategies to access informants and to delimit the field. These strategies bring new ethical challenges that have to be addressed and that impact the choice of field locations. I show how this is the case by first approaching some epistemological concerns of locating the field, before detailing the strategies I developed to access the research population. I then explore the ethical challenges of adopting different positionalities, how these were addressed and how my field emerged from them.

How migrant deportability stands in relation to official bodies, social relations and political action is addressed in the four empirical chapters of the thesis. The first two empirical chapters look at the encounter of migrants with official institutions. In Chapter 4 I examine the experiences of migrants, as lay people, when appealing deportation at the Asylum and Immigration Tribunal in London. Appealing a deportation order is one of the few options available to one who is attempting to remain in the UK. In this particular setting the host state takes the form of the Home Office, as the respondent, and the Tribunal as the adjudicator of the dispute. The courtroom is also a site of negotiation whose procedure, setting and language are not familiar to most lay people. Appellants are thus not fighting on their own terms – their lives are shaped to fit the parameters of a good legal case and discussed in a legal language that is not readily accessible to them. I review first the appeals process and what Achermann (forthcoming) has termed the ‘struggle over exclusion’, i.e. the decision-making process during which foreign-national offenders and their host state dispute whether the former ought to be excluded or not from the territory. I then examine appellants’ efforts to make their case and their experiences of being in court.

Immigration Tribunals are but one theatre of state power over migrant bodies (Bhartia 2010). When migrants are subject to deportation or removal, they become subjects to be kept under surveillance, controlled and detained. Immigration Removal Centres (IRCs) and reporting centres thus become arenas of state control. In Chapter 5, I explore the ways these institutions become part of migrants’ daily lives and how these encounters take shape, revealing how the experiences of such forms of surveillance highlight the punitive and coercive effect of detention and deportation.

In Chapter 6, I move the focus away from state institutions, to examine how deportability is embedded in migrants’ daily lives, social relations and sense of self. First I address the embodiment of long-term uncertainty and chronic anxiety. I then turn to examining the coping strategies that migrants deploy to deal with their own deportability or that of a close relative: these include enduring uncertainty, putting self apart, and forming personal cues, all observed in another example of chronic anxiety, the intensive care unit (Ågård & Harder 2007); but also re-imagining possible futures.

In Chapter 7, I focus on protest and resistance. First I address the lack of collective political action and engagement in protests and anti-deportation campaigns

(ADCs) on the part of foreign-national offenders facing deportation from the UK. Taking ADC guidelines from migrant support groups, I argue that the circumstances of foreign-national offenders, and in particular their own understandings of their removal, are incompatible with open political action and with the broader work of ADC support groups. I then examine what research participants perceive to be their strategies of resistance. Here compliance with state orders is discussed and conceptualised as a form of resistance to a set of policies whose application research participants do not consider legitimate. Chapter 8 concludes the thesis bringing together the arguments set forth in the previous empirical chapters and reflecting on the wider significance of this anthropological study of removal.

2. Deportation and deportability

In this chapter I provide the conceptual, theoretical and socio-political background to this study. Deportation, as a form of expulsion regulating human mobility (Walters 2002), is a practice of state power that reinforces its own sovereignty renovating concepts such as “citizens” and “aliens” that establish the boundary between those who are included and those excluded, attributing certain benefits to the former that are denied to the latter (Peutz 2006, De Genova 2002, Bosniak 1998, Allegro 2006). While an examination of practices of deportation is thus located at the intersection of several divides - such as citizen-foreigner, home-away, mobility-emplacement, inclusion-exclusion and deserving-undeserving - these are uneasy binaries constantly being challenged and reshaped by different actors. In the first sections of this chapter I discuss these issues when providing brief conceptual notes on anthropology, transnationalism and mobility, and an overview of existing scholarship relevant to the study of deportation of foreign-national offenders. I then consider the major political and legal developments that brought the deportation of foreign-national offenders into the public and political agenda, and culminated in the introduction of automatic deportations in the UK. Finally I will discuss the policy imperatives to deportation in this context.

A FEW CONCEPTUAL NOTES

Social science has come a long way since its inception, experiencing continuing shifts in its thinking and practice. It has thus been the subject of succeeding – at times overlapping – paradigms: positivism, functionalism, hermeneutics, marxism, pragmatism, phenomenology, structuralism, poststructuralism, postmodernism and so on. Independent of their differences there are, today, a few central tenets in the current philosophies of the social sciences. It is recognised that knowledge is historically embedded, whether we conceptualise it as relative to a particular discourse (Foucault 2003 and 1998) or paradigm (Kuhn 1962). Knowledge is not enlightenment. Rather, it is equated with power. The relativity of truth can be taken as result of this first idea – any claims to truth are always relative to a particular situation and can always be

revised. In contrast to Popper, who perceived social science as demarcated from society, today it is widely recognized that knowledge is socially constructed. The social contextualisation of knowledge is not merely concerned with shifts in history, it also implies that social science is socially situated itself: it has a context, a location, a situation. All these ideas are interrelated and in opposition to the positivist view of a unified social science – social reality is manifold, allowing for the possibility of multiple interpretations. Social reality is in flux, in constant change and it is multifaceted (Delanty & Strydom 2003; Delanty 2005).

Anthropology grew out of an engagement with colonial authority. Colonial studies of the Other were not without their own fallacies. Said (1978) illustrates in *Orientalism* how power relations are embedded in the production of knowledge, in the representation of the Other, revealing how our own motivations, even if unconsciously, dictate the way we perceive the Other, and the things we choose to study. Early anthropologists have been criticized for condoning the colonial system. In the 1960's anthropology came to be seen not only as a product of colonialism but as a discipline at its service (Caplan 2003). Researchers tended to ignore the power structures that organised the colonized world – they did not “see” the subjugation of the colonised peoples they studied.¹⁰

As postcolonial work came to reveal, colonial studies misrepresented the Other by stereotyping, patronising and ignoring the power structures that encompass the Others' lives and the researcher's own positionality within these power structures (Chakrabarty 2000; Gannet 2001; Kapur 2002; Mani 2002; Mohanty 2003; Scott 1989 and 1992, among others). Yet, the study of the Other is not bad research practice in itself. In fact, the distance between the researchers and their informants' social world tends to be perceived as an asset in anthropological research. Anthropology has been traditionally concerned with studying the Other, and has developed epistemological tools to avoid misrepresentation – such as awareness that the researcher is not a *tabula rasa* and brings his or her own cultural and political positions to the research process, a concern with ‘seeing’ Others through their own ‘eyes’, participatory methods, etc. Yet, as the discipline moved forward another question came to the surface: who is the Other?

¹⁰ There were of course exceptions to this, most notably by scholars of the Manchester school led by Max Gluckman, and influenced by the work of Karl Marx, that looked at issues of class conflict and wider structures of power.

In a world undergoing globalisation, we are today witnessing the rapid development and mobility of means of exchange and communication, such as goods, people, ideas, finance, etc. The “us” and “them”, the “home” and “abroad” are increasingly difficult to distinguish – the “other” is among the “us” and the difference is not grounded in geographical location (Gupta & Fergusson 1992; Eriksen 2003). Recognising that cultures are no longer territorialized has led to the development of new paradigms – transnationalism among them - that have found their place among the main theoretical approaches in Anthropology and Migration Studies. As defined by Basch, Glick Schiller and Szanton Blanc, transnationalism is

... a process by which migrants through their daily life activities and social, economic and political relations, create social fields that cross national boundaries. (2006: 22)

The value of this approach is manifold and has been thoroughly discussed elsewhere (Basch, Glick Schiller & Szanton Blanc 2006; Brettell 2008; among others). Where this project is concerned, a transnational approach is relevant, as deportation is in itself a form of “forced transnationality” where ‘home’ and ‘away’ become unsettled locations (Zilberg 2004; Yngvesson & Coutin 2006; Peutz 2006):

if “home” is where one feels most safe and at ease, instead of some essentialised point on the map, then it is far from clear that returning to where one fled [or migrated] from is the same thing as “going home”. (Malkki 1995: 509)

The existence of transnational ties (supposedly with one’s own place of origin) may ease the experience of deportation, both for the migrant who returns and for the family left behind. It may also be vital when considering departures alternative to deportation, or following deportation.¹¹ Onward migration is in fact an option for many sustaining transnational ties elsewhere (as explored in Chapter 6), emphasising how deportation may be conceived primarily as a departure from the UK, and not as a return home. Moreover, deportation almost inevitably leads to the development of transnational households (Zilberg 2004), where it is not only the mobility of the one deported that is restrained (if not cancelled) but also the mobility of those who remain that is reshaped. This is illustrated by the words of the mother of a Salvadoran deportee from the US: “He can never come back, and now, I cannot go back to El Salvador to

¹¹ Schuster & Majidi (2012) when examining the post-deportation experiences of Afghans also found that onward migration is often the outcome of deportation, made possible by transnational social networks.

retire as I had planned, because I must work to support him there” (in Zilberg 2004: 775). As Malkki argues, postcolonial and transnational perspectives have much to offer in that they “insist on the analytical linkage between displacement and emplacement” (1995: 515-516).

Wilding (2007) and Olwig (2003) have argued that transnationalism, by emphasising the trans-national and hence taking the national as a starting point, is overlooking “the full complexity and meaning of migrants’ extra-local socio-cultural relations” (Olwig 2003: 787) and the different ways, both local and non-local, that people have at their disposal to develop their sense of belonging in the world (Wilding 2007). Wilding proposes as an alternative approach an examination of

... practice and understandings of mobility and lack of mobility, of migrancy as something that includes but it is not limited to the possibility of travel between nations. (2007: 343)

Indeed, deportation seriously hinders and reshapes the mobility of those involved. Malkki (1995) and to a certain extent Wilding (2007) are questioning the tendency of looking solely at the displaced. What of those who stay, Malkki asks? “What does it mean to be, or to remain, emplaced?” (1995: 515). Those who stay are still connected to those forced to leave, and “cultural knowledge and social interactions do not always require face-to-face contact in order to have significance or impact on everyday lives” (Wilding 2007: 3444). Deportation studies have, for the most part, concentrated on the displaced, following the trajectories of those who are deported, paying little attention to those who are not. Yet, as explored in Chapter 6, in the context examined here, deportation means family separation and not family relocation and the experiences of those deported cannot be examined in isolation – they are intrinsically connected to the experiences of their close relatives who remain in the host country.

It is not assumed here that uprooting equals a loss of identity and exclusion from one’s own national community. Transnational studies have revealed that people can be more flexible than that. Places are not only located – they are constructed. However, it is argued here that deportation, by forcibly removing people from their place of residence, may influence their perceptions of justice and entitlement (see also Burman 2006; Willen 2007; Bhui 2007).

OVERVIEW OF EXISTING SCHOLARSHIP

Though forced migration has long been studied by social scientists, the forced removal of long-term migrants constitutes an emerging field of studies. Literature on this topic has emerged mainly in the past decade, in the wake of changes in US immigration policies in 1996, which led to the deportation of thousands of legal permanent citizens to their countries of origin after being convicted on criminal charges.¹² Indeed the majority of these first ethnographies of deportation dealt with deportations of long-term residents in the United States (Peutz 2006, Moniz 2004, Zilberg 2004, Yngvesson & Coutin 2006).

The Soviet forced population movements generated an earlier literature on deportation, dating back to the 1960's. As Walters (2002) notes, deportation is but one form of expulsion. Others include, but are not restricted to, religious expulsion, transportation of criminals, political exile and population transfers. However, these are not necessarily neatly distinguished labels but rather may at times be overlapping categories. Soviet forced population transfers removed people from their place of birth and relocated them in a designated area. Their removability was grounded on *who* they were (Chechens, Polish, Ingush, etc). Deportation on the other hand, is intended to forcibly remove a person from his place of residence to his purported country of origin. Here deportability tends to be grounded on lack of legal immigration status or the undesirable actions of the individual – moral behaviour, political ideology, criminal conviction, etc. However, even such a distinction tends to blur as one looks at it more closely. For one thing, long-term migrants may perceive their country of residence as their home. This is more so for second-generation migrants, as “the more time spent in the host country, the greater the imbalance of social, linguistic, or familiar ties between the host and the home country tends to be” (Bhabha 1998: 615). In this sense, contemporary deportees, like the populations under the Soviet regime, may feel they are being forced to leave their home. On the other hand, deportability is not as rooted in one's actions as it first may seem, but may serve other political intentions, as discussed

¹² These changes consisted of a widening of the scope of crimes leading to deportation – this new deportation eligibility becoming retroactive. Also, those awaiting deportation no longer have a legal resource to challenge their deportation orders (Moniz 2004; HRW 2007).

by Maira (2007), Cohen (2006), Gabriel (1987), Moloney (2006), and Bullard (1997), among many others.

Studies of the Soviet forced population removals have tended to put the emphasis on the immediate experience of deportation, that is, on the actual removal of people from their homes, their journey and the initial settlement period (Pohl 2002, Comins-Richmond 2002, Iglicka 1998), often narrating experiences of return similar to those of deportees from the United States to their countries of origin, as narrated by Peutz (2006), Moniz (2004), and Zilberg (2004). In all these accounts the major difficulties in integration derive from the same conditions: lack of knowledge of the language, history, culture and religion, and facing stereotypes of their ‘compatriots’. These studies tend to focus on the “brutality and injustice of deportation itself”, on the deprivations and suffering caused by the process but not so much on the “gradual ‘normalization’ of life in exile” (Pohl 2002: 402). To oppose this tendency Pohl analyses the experiences and survival strategies of Chechens and Ingush deported to Kazakhstan. Her study reinforces the argument that the effects of deportation go beyond the removal of individuals from one nation to another.

Membership, contestation and the criminalisation of migrants

Anderson et al (2011) make the case that deportation is constitutive of deservability to membership. Deportation constructs citizenship (Walters 2002) because “every act of deportation might be seen as reaffirming the significance of the unconditional right of residence that citizenship provides” (Anderson et al 2011: 548). Deportation complies with public expectations and electoral politics, it assures the voting public that the problem has been identified, and is being addressed through state authority (Gibney & Hansen 2003; Leerkes & Broeders 2010; Bosworth 2008). In seeking to expel the unwanted deportation reveals “citizenry as community of value as much as community of law” and this is where the symbolic and definitive power of deportation lies (Anderson et al 2011: 548). Deportation thus has the potential to be divisive (McGregor 2011, Anderson et al 2011, Freedman 2011) as the grounds of who belongs, and who should decide on who belongs, are contested not just between the state and the public but also between different actors.

Conflicts are brought about for instance during Anti-Deportation Campaigns (ADCs). It has been shown how the dynamics of migration control vary during the policy cycle (Ellermann 2009, Fredman 2011): a person may vote for restrictionist policies *and* campaign against the deportation of his neighbours. Where people may in general and abstract terms want stricter migration control, when faced directly (through a neighbour or colleague) with the harsh reality of deportation, they may seek to prevent particular migrants from being deported. It is in this sense that Gibney (2008) argues that deportation invites contestation.

But who is worthy of contestation? ADCs may make use of human rights language, but mostly they deploy ideas of integration, belonging and “the good citizen” to underline the contribution of removable migrants to their community and the society at large:

... by privileging subjective identification over human rights considerations, the criteria may be insensitive to the costs of deportation for those who are deemed unworthy of membership. The violation of the norms and values of the community can come to justify ignoring any other claims the non-citizen may have for not being deported. (Anderson et al 2011: 560)

In fact, as explored in Chapter 7, foreign-national offenders with no asylum claim seldom campaign against their deportation. Society’s normative behaviour deems them less worthy than others (Anderson et al 2011) and “the good citizen” argument is hardly convincing. As Bosworth further points out:

deportation raises questions about the commitment of a liberal state to human rights and to values like respect, the right to family life and security. It also disrupts social relationships, since non-citizens have often become part of British communities, whatever their immigration status. Few qualms exist, however, when the state deals with those convicted of criminal offences. Foreign offenders have limited numbers of supporters either in prison or in the community outside their immediate family. (2011: 591)

Current reliance on criminal justice and punitive rhetoric about the dangers embodied in foreign citizens is used in policy to secure the border both in the UK and elsewhere (Bosworth 2011, Inda 2006, Khosravi 2011). The increasing tendency towards governance through criminal law is prevalent in the management of migration (Stumpf 2006), through the practices of detention, bail, reporting and deportation, which not only allow close monitoring of migrants but also reinforce the notion that the public needs protection from them. The policing and criminalisation of migrants thus

sends the message that foreigners pose a risk to society. Harsh immigration policies may be a symbol of strength, but one indicative of an actual weakness in authority and inadequate controls – it is indicative of government's inability to control the border (Bosworth 2008, Leerkes & Broeders 2010):

Thus, strict immigration and asylum controls which are presented as a means of obtaining (national, economic and social) security, instead foster fear and mistrust. They rely on the power of the prison and legitimate profound state interventions in constructing and securing the actual and symbolic borders of the British nation state. (Bosworth 2008: 201)

But while policy is developed and applied it may not be carried through to the end. There is an “increasing inability of states to conduct the kind of mass deportation campaigns they claim to aim for” (Paoletti 2010:13). For one thing there is often a lack of cooperation from receiving states, which refuse to provide travel documents to deportable migrants. There are legal and human rights constraints and, through immigration appeals, deportation and removal can be delayed for long periods of time. Most migrants participating in this study, for instance, have been appealing their deportation for over two years now. The Home Office also faces financial and administrative constraints (Paoletti 2010). The non-deportability of some migrants (Paoletti 2010) leaves them in a legal limbo where they are not included in the host society even if they are physically present, as they are prevented from actively participating in it. This was particularly felt among research participants as evidenced in Chapter 6. Not being able to work or actively plan their future and carry on with their lives, their existence in the UK is effectively interrupted even if they are still in the country.

The criminalisation of immigrants in liberal democracies and elsewhere has been examined and discussed in a comprehensive body of literature that discusses the legality and social legitimacy of such practices (Bhabha 1998 and 1999, Cohen 1997, Cohen 2006, Maira 2007, De Genova 2002, Hayter 2003, Kanstroom 2000 and 2007, Morawetz 2000, Neyers 2003). These debates are again intrinsically connected with notions of citizenship, entitlements and justice. Stumpf (2011) argues that the convergence of criminal and immigration law also reduces migrants' lives and existence to a particular point in time - that of criminal or immigration offence:

This extraordinary focus on the moment of the crime conflicts with the fundamental notion of the individual as a collection of many moments composing our experiences, relationships, and circumstances. It frames out circumstances, conduct, experiences, or relationships that tell a different story about the individual, closing off the potential for redemption and disregarding the collateral effects on the people and communities with ties to the noncitizen. (Stumpf 2011: 1705)

In the UK, deportation and related practices of surveillance are indeed a straightforward consequence of a criminal conviction. But while the decision to exclude migrants is reduced to that particular moment of their lives, when deciding on deportation appeals the AIT does bear in mind the “circumstances, conduct, experiences, or relationships that tell a different story about the individual” that Stumpf writes about above (see also Chapter 4). That their lives were now dominated by that one moment in time when they were convicted was in fact all too present in research participants lives. They had become labelled as offenders, which, coupled with being foreigners, not only subjected them to deportation and state surveillance (see Chapter 5) but also prevented them from openly resisting and protesting for their rights (see Chapter 7).

Banishment and exile

Deportation ethnographies do illustrate, as Siulc (2004) puts it, the differences between *lived* and *legal* definitions of citizenship, belonging and justice. A good example is Davies’ study (2002) of the deportation of Claudia Jones from the US in 1953 on the grounds of allegiance to communist political ideology. What is of interest here is the political terminology used by Jones. She was a young child when she moved to the United States, and that country was therefore her home. She had even applied for American citizenship. When the deportation order came through and Jones lost the appeal she voluntarily moved to the United Kingdom, instead of being deported to the Caribbean, and has since referred to her deportation as exile. An exiled person is one who is banished from her home, as opposed to a deportee who is forced home. As Davies puts it “[b]y identifying her experience as an exile, Jones was able to challenge the idea of citizenship and belonging” (2002: 963).

In fact, many authors (Pohl 2002, Bullard 1997, Comins-Richmond 2002, among others) use the words *deportation* and *exile* or *deported* and *exiled* interchangeably. It is argued here, however, that the words connote different meanings and it is indeed that

difference that allows deportees to contest established concepts of justice and citizenship, by resisting the notion that they do not belong to the country from which they have been removed. The choice of the word *exile* is often used exactly to resist this idea that someone has been deported to his home as opposed to being forced to leave his home. The title of Moniz's doctoral thesis (2004) on the forced return of foreign-national offenders of Azorean origin - *Exiled Home* - reflects this paradigm. My own findings suggest too that for settled migrants, whether 1.5 or first generation, deportation may indeed be experienced as an exile as they are being expelled from their residence of choice, separated from their families and everything they worked for - their lives remain suspended and interrupted in the UK. As Yngvesson & Coutin put it so well, "deportation interrupts what would presumably otherwise have been the migrant's continued existence" in the country of residence (2006: 181).

Deportation is a strong word.¹³ It may invoke images of World War II, of Jews and many others being deported from Europe and of harsh Soviet population movements (Burman 2006). Similarly strong are *banishment* and *exile*, words that evoke images of people expelled from their home country, resonating with notions of injustice and persecution, mostly associated with repressive political regimes. *Removal*, on the other hand, "is a seemingly benign term seldom applied to humans in other contexts, that simply describes making disappear a stain or a wart on the body politic" (Burman 2006: 280), especially as discourses of 'removal to', not 'removal from', veil "the prospective deportees dwelling place completely" (Burman 2006: 280).¹⁴

In the UK the two terms, deportation and removal, are used for two different practices that have different implications for those subject to them and, most important, have different public opinions behind them. The choice of words resonates with their political uses. Asylum seekers, more likely than others to obtain public sympathy and support when campaigning against their deportation, are *removed to*, or in other words,

¹³ In a short story, Gomez-Pena (2000) takes the reader on a white male's journey through a future US town where Latino Migrants, in a concerted effort, had self-deported themselves the previous day. The US unemployed refuse to work *those* jobs for *that* pay and the situation degenerates into chaos, where there were no cabs, no service gas stations, no nannies, no cleaners. This prompted President Clinton to beg in very broken Spanish that Latinos stay. The author chose the term 'self-deported', which is a contradiction in terms. Yet, *self-deported* allows the author to raise awareness of the consequences of deportation, which would not be so explicit had he used *left* or *returned home*. Self-deportation thus points the reader towards the political uses of deportation, enabling the author to satirise on the idiocy of the policy.

¹⁴ On a curious note, in Portuguese official language deportation goes by the name of *afastamento*, which literally means, *distancing* – another gentle euphemism.

are ‘sent home’ (and what harm can come from returning home?) whereas ‘foreign criminals’ are outright *deported from the UK*. Deportees have no public sympathy, no public support.

Deportation and deportability

Recognising that migrant illegality is more than a juridical status led anthropologists in the early 2000’s to call for a shift in focus away from the illegal migrant and the deportee, and towards illegality and deportability as conditions ensuing from the social and political processes that legally produce them (Coutin 2003; De Genova 2002). Focusing on illegality and deportability emphasises both the socio-political (De Genova 2002) and phenomenological dimensions (Willen 2007). As socio-political modes of existence, they profoundly affect migrants’ everyday lives “shaping their subjective experiences of time, space, embodiment, sociality and self” (Willen 2007: 10).

Consequently, the past decade has witnessed a rise in studies engaging critically with deportation to explore the intricacies of sovereignty, space and the freedom of movement (De Genova & Peutz 2010). Academic attention has focused both on experiences of deportation and deportability as lived by those remaining in the host country (Burman 2006; Willen 2007), and in post-deportation circumstances (Peutz 2006; Zilberg 2004; Moniz 2004; Drotbohm 2011). The latter focus tends to emphasize the removal of second-generation migrants – people who “are returned ‘home’ to a place where, in their memory, they have never been” (Zilberg 2004). Issues of identity formation and alienation have been central in these studies. Studies of deportability on the other hand, have underlined questions of exclusion, entitlements, human rights and the foreigner-citizen divide. Here deportation is most evident as a disciplinary tool of social control (Kanstrom 2000). Both approaches examine the way deportability impacts on migrants’ perceptions of justice, of public/private spheres of life, and of their sense of security (Bhabha 1998). What these studies emphasize, as does this thesis, is that deportation is not merely an event that forcibly relocates migrants from one nation to another, but rather a process that exerts its power far before, and long after, removal takes place, and over a wider group of people than just the deportee.

When narrating the experiences of deportees these ethnographic studies have pointed to several domains of forced return. Peutz (2006 and 2010) explores the embodied and chronotopic experiences created by the practices of deportation of Somali nationals, as well as deportees' perceptions of the law and their uses of it (Peutz 2007). The author finds an apparent contradiction: her informants, expelled for breaking US law, believe that deportation proceedings against them were not lawful and yet, while in 'exile' they trust the power of the law to defend them - they desire the (US) rule of law. Zilberg (2004) focuses on the criminalization and transnationalization of Salvadoran migrant identities and the recreation of the geographies of violence of Los Angeles at the receiving end.

Siulc (2004) has examined strategies deployed by nationals of the Dominican Republic that have been deported from the US, who, perceiving their removal to be unjust, attempt to return illegally, thus becoming "illegal" migrants in a place they call home and where they were legal residents before. Siulc's approach is particularly important in that by looking beyond deportees' suffering her emphasis is not placed on what is being done to the deportees but rather on what they are doing about it. It acknowledges their agency and their resistance. She also, like Peutz (2007), emphasises deportees' perceptions of justice and law. Related to this is the notion of double punishment. One of Zilberg's informants for instance, states that he feels exiled in El Salvador because he is not given a passport and hence cannot leave the country (Zilberg 2004). He feels he is being punished twice: he was incarcerated and served his sentence, after which he was deported. Many others, including my own research participants, have echoed this perception (Moniz 2004; Peutz 2006). Double punishment in these circumstances has been equated to 'double jeopardy' (Bhabha 1998 and 1999) in the sense that it "violates human rights norms of non-discrimination and presumptions of equality of treatment before the law" and "negates the historical and psychological reality of third country nationals" (1998: 615). Here again, lived concepts of citizenship and justice are at play and stand in opposition to legal and institutionalized ones.

These studies were mostly concerned with long-term migrants forcibly removed from the US due to their criminal convictions, and centre their analysis on the deportees themselves at the receiving end. Another literature has focused on the experience of deportability, of waiting for deportation to come through and the experience of living in

a community in which deportations have occurred (Lesch 1979; Taagepera 1980; Gabriel 1987; Gardner 2010). In illegality studies deportability is constructed as inherently tied to illegality, as a means of ensuring a vulnerable and cheap pool of ‘disposable’ labor (De Genova 2002):

... it is deportability, and not deportation as such, that ensures that some are deported in order that most may remain (undeported) – as workers, whose pronounced and protracted legal vulnerability may thus be sustained indefinitely” (De Genova 2009: 456)

Longva (1999) writes about labour migrants in Kuwait being in check due to their imminent deportability. In Kuwait, the violation of moral norms is an offence conducive to deportation, a vague term, that has the potential for arbitrary use, and hence leaves immigrants in a constant state of fear that is exploited by their employers (see also Gardner 2010). Mountz et al (2002) set out to examine how “immigration policies shape identities through both their texts and their effects” (2002: 246). In particular the authors look at Salvadoran migrants in the US holding Temporary Protected Status which, by perpetually granting them only temporary protection from deportation, places their lives in limbo, in a constant state of transition where the uncertainty of the future curtails any attempt to make the most basic decisions. Willen (2007) examines in Israel the impact of illegality on migrants’ sense of embodiment and experiences of time and place. She does not assume that all migrants are victims of structural violence and social suffering, but rather documents how the new “arsenal techniques” developed by the Israeli Immigration Police criminalize undocumented migrants and how the “newly intensified threat of arrest and deportation began to reverberate into everyday corner of migrants’ complicated lives” (2007: 17). Like Mountz et al (2002) and Willen (2007), Burman (2006) focuses on migrants’ fear of deportation (in her case, in Montreal), revealing how they are haunted by their deportability and insecurity. Like Willen, she examines how migrants’ deportability affects their sense of time, space and mobility. Focusing on “... how absence is lived presently – how it is kept moving, not still” Burman reveals “how absence is made presence when those left behind develop a well-founded suspicion of the state, one that transforms their sense of possible futures” (2006: 281).

These and other recent studies of illegality and ethnographies of the lives of undocumented migrants have emphasised feelings of constant fear and insecurity and

detailed strategies of evasion and invisibility (Talavera et al 2010; Wicker 2010; Willen 2007; Castañeda 2010). In this study however, research participants were experiencing their deportability only after deportation action was taken against them, as before criminal conviction most were living legally in UK for a number of years. Most do not have the memory of living in fear of being caught by immigration officials prior to their first time in detention. Their deportability is nevertheless an embodied experience: one expressed not in relation to ‘being caught’ but in appealing at the AIT and performing a good case, in complying with state orders, and enduring uncertainty (see Chapter 6).

Margaret Randall addresses these issues when narrating “... the relentless experience of living with the daily threat of physical removal” (1987: 465) and the aggressiveness of the court hearings where it is decided whether or not she is desirable to the US. Although born a US citizen, in 1966 Randall took her husband’s citizenship in Mexico. Years later, upon return to the US she was denied permanent resident alien status on the grounds of her political ideology. Randall appealed repeatedly and eventually won her case in 1989. She writes how that experience affected her life: she describes the uncertainty of waiting, the difficulty in making basic decisions and what she calls the *imposition of false guilt* – feeling responsible for what her family and close friends are going through on account of her imminent deportation. In many ways, her deportation narrative mirrors those of migrants facing deportation from the UK. Their narratives, as shown in this thesis, highlight how the interruption of their existence in the UK is effected long before their actual removal from the territory. It is a process developing from the embodiment of their deportability as their present and future lives become suspended by the threat of expulsion from their residence of choice.

This study is thus located at the intersection between deportation and deportability – the stage when the state has already wield its power in seeking to deport but is not yet able to remove the unwanted migrant who is appealing against deportation. This is a stage wrought with uncertainty and the suspension of lives, where migrants’ deportability is not experienced in relation to illegality. Furthermore, this thesis is also acknowledging that experiences of deportation and deportability affect not only those the state seeks to deport but also their immediate family and close relatives, who are here expressing their concerns and anxieties over it.

DEPORTATION OF FOREIGN-NATIONAL OFFENDERS FROM THE UK

In international law, it is accepted without much challenge that sovereign states have the right to regulate and control the entrance, permanence and expulsion of foreign nationals in their territories (Hammar 1990; Dembour 2003). Immigration legislation has always included clauses allowing for the deportation of foreigners on national security grounds - deportation and detention are not new state technologies of control and exclusion (Nyers 2003). In the UK, they have been part of British legislation throughout the 20th century, even if they were initially used as a means to exclude people at particular times of crises, such as the World Wars, or in the odd case of espionage (Bloch & Schuster 2005; Schuster 2005; Cohen 1997; Dummett 1994). The parting of deportation from war and emergency scenarios was brought about by the Commonwealth Immigrants Act 1962, which in linking deportation to criminal law was successful in “routinizing and normalising a power previously reserved for crisis” (Bailking 2008: 880).

The 1950s thus saw the development of legislation that sought to allow the removal of commonwealth citizens upon criminal conviction, should they have resided in the UK for less than five years and be recommended by the sentencing judge – provisions ultimately incorporated in the Commonwealth Immigrants Act 1962. Here deportation was dependent on the Judiciary to initiate deportation processes (even if the Home Office had the last say) and its focus on expelling individuals who were new to the country and committed crimes was directly linked to ‘moral purification’ and public security concerns (Bailking 2008). It was not until the Immigration Appeals Act 1969 that deportations were no longer dependent on the judiciary (Bailking 2008) and that the eligibility for deportation was widened to include foreign nationals who failed to comply with conditions of admission: “This was a significant step as it developed deportation as a means of enforcing immigration rules, not only a means of excluding people who were considered socially undesirable” (Clayton, 2008: 571). The 1969 Act, also obliterated the distinction between Commonwealth citizens and other foreign nationals for the purposes of deportation. The only distinction in place today concerns EEA nationals exercising Treaty Rights.

Subsequent legislation has worked to expand deportation eligibility, yet it was not until the end of the 20th century that deportation, along with detention and dispersal,

became normalised tools, deemed necessary to control and manage immigration (Bloch & Schuster 2005; Schuster 2005; Nyers 2003; Gibney & Hansen 2003; Fekete 2006) – a trend further exacerbated by the events of the turn of the century (Allegro 2006; Maira 2007; Gibney 2008). This is not particular to the UK. The US and Canada, for instance, have been deporting foreign citizens *en masse* since the mid 1990s, with devastating effects both for the receiving countries and for the families left behind (HRW 2007; Peutz 2006; Moniz 2004; Zilberg 2004; De Genova 2002; Allegro 2006).

In the UK the ‘deportation turn’ (Gibney 2008) was brought about by a change of government and increasing public concern over rising numbers of asylum seekers. As long as the Conservatives were in power there was no interest, for either the ruling party or the opposition, to make an issue out of the Home Office’s inability to process and manage the rising numbers of migrants seeking asylum in the country. When Labour won the election, the issue was immediately placed on the public and political agenda by the Conservatives, now in opposition (Gibney 2008). Detention and deportation came to be seen as the answer in managing such anxieties. Although at first sight these practices seem incompatible with a liberal democratic state, Gibney (2008) argues that it was in fact through a discourse of protection of human rights that the Labour party managed to enforce such policies. By advocating the need to protect the asylum system from bogus refugees, the government was able to put into practice and without much challenge policies of removal and detention. Indeed, since 2000 the British government has increasingly used removal as a strategy to deal with rejected asylum seekers and other unwanted foreign nationals (Gibney 2008).

Over the last decade, there has been an increasing trend among Western states to tighten immigration laws to allow easier removal of unwanted foreign nationals – deemed dangerous to national security – even if they had not been formally accused or convicted of terrorist acts (Fekete 2006; Bhabha 1999). This has been achieved through an expansion of national security crimes to include ‘speech crime’. In Germany for instance, since 2005, a foreign national may be deported on “evidence-based threat diagnosis”, meaning that there is no need to prove that a crime has actually been committed. Similarly, in Spain, foreign nationals may be deported if suspicion arises that they may in the future attempt criminal action against the state (Fekete 2006). In the

UK, following the July 2005 London bombings, the Home Secretary announced his decision to

...broaden the exercise of the powers [to exclude or deport on non-conducive grounds] to deal more fully and systematically with those who in effect, represent the same categories, in particular those who foment terrorism or seek to provoke others to terrorist acts. (HOCD 2005)

And consulted on a list of 'unacceptable behaviours' (HOCD 2005):

- Writing, producing, publishing or distributing material.
- Public speaking including preaching.
- Running a website.
- Using a position of responsibility such as teacher, community or youth leader.
- To express views which the Government considers:
 - Foment terrorism or seek to provoke others to terrorist acts
 - Justify or glorify terrorism
 - Foment other serious criminal activity or seek to provoke others to serious criminal acts,
 - Foster hatred which may lead to intra community violence in the UK
 - Advocate violence in furtherance of particular beliefs.
- And those who express what the Government considers to be extreme views that are in conflict with the UK's culture of tolerance.

Civil rights groups were highly critical of such changes in the law, claiming that the wording was so vague as to allow the deportation of people on grounds other than the original purpose of the regulations. They also called attention to the effects these changes were likely to have upon free speech rights (see MCB 2005; Liberty 2005; Justice 2005; Article 19 2005; JCWI 2005) and concerns were raised regarding the denial of equal rights as British citizens may express views not allowed to foreign nationals. The lack of transparency of the appeals processes was also contested (see JCWI 2005). The 'unacceptable behaviours' listed above were not ultimately placed in the deportation legislation, but contributed to the Terrorism Act 2006 (Clayton 2008: 572).

It was in this climate of a highly politicised public agenda in favour of both increased control over asylum seekers and the prevention of further terrorist attacks that, in 2006, it came to public attention that over the previous seven years 1,023 foreign-national prisoners had been released after completing their sentences, without being considered for deportation (BBC News 2006; Bhui 2007; Macdonald & Toal 2006). This information generated much polemic, ultimately leading to the resignation of Charles Clarke, then Home Secretary. The scandal fed public anxieties over crime and immigration - two areas of great political sensitivity. It resulted in critical discussions over public security (Bhui 2007:370), in which crime trends became increasingly addressed through deportation policies and enforcement. This was despite the fact that there was (and is) no evidence that foreign-national prisoners present more of a risk to society than British prisoners when released after completing their custodial sentences. As Bhui states

It is evident, therefore, that the anger at the releases was not simply because of concerns about public protection or because foreign nationals are unusually dangerous. Latent prejudice against foreign nationals, and, for politicians, the need to avoid further political embarrassment and to buttress public confidence in the immigration system were at least as important. (2007:370)

Foreign-national offenders thus came to the political agenda “as a virtual combined threat (immigrant/criminal) presenting a series of political hazards and operational headaches” (Bhui 2007: 378). The deportation of foreign-national offenders has, since then, been a priority for the Home Office.

The scandal prompted a series of changes in immigration law and policy that culminated in automatic deportation for foreign nationals convicted of criminal offences. Provisions for automatic deportation under the UK Borders Act 2007 “create statutory obligation to make a deportation order in many criminal cases, and deem these to be conducive to the public good” (Clayton 2008:572) – meaning that there is a presumption in favour of deportation. Automatic deportations set very clear indicators of who ‘qualifies’ for deportation, and Home Office case workers have only minimum discretion to assess the merits of a particular case before issuing a deportation order. This means that the assessment of the merits of a case, the protection of human rights, and the responsibility for any subsequent public scandal that may arise from an incident with a re-offending migrant have been transferred to the AIT. The Home Office thus

maintains its credibility in seeking to expel foreign-national offenders and making Britain a safer country. Furthermore,

In addition to creating intersections within the legal framework of criminal and immigration law New Labour championed a rhetorical convergence between crime and immigration; a move evident in the then Home Secretary Jacqui Smith's assertion made in August 2007 that 'public protection,' previously the remit of the criminal justice system, had become the 'primary concern' of 'the Home Office and our immigration policy'. (Bosworth 2011: 587)

The criminalisation of immigration is not peculiar to the UK and features today as a key element in immigration management and control in many liberal democracies (Bosworth 2011; Bosworth & Guild 2008; Gibney 2008, Ellermann 2009). The deportation of foreign-national offenders has become a symbol of both border control and governance in the UK "as the government has created and then raised annual targets publicising and promoting their intent" (Bosworth 2011: 587). A post dated 1st July 2008 on the Home Office webpage proudly read in big bold letters:

Since January, more than 2400 convicted criminals have been deported, putting the government on track to improve on its record-breaking level of removals in 2007. (HOCD 2008)

This represented a 22% increase on 2007 figures (HOCD 2008). The Home Office was also proud to claim that removals of failed asylum seekers had risen by 127% between 1997 and 2006, reaching the 18,235 individuals removed in 2006 (HOCD 2007). Moreover,

By February 2009, the 'target' was re-designated by Smith as one of 10 'milestones' that she urged 'the UK Border Agency to meet this year'. Rather than a specific figure, at this point she merely directed UKBA to 'deport a record number of foreign prisoners'. (Bosworth 2011: 587)

In 2007 Bhui called attention to the fact that the danger posed by foreign-national offenders had been "overstated and that a move towards risk aversion in both the political and operational arenas has effectively resulted in group sanctions against all foreign-national prisoners" (2007:369). Indeed the fear of subsequent scandals and the increasing portrayal of foreign-national offenders as a risk and threat to public security has translated into operational practices that affect all foreign-national offenders independently of the risk they were assessed as posing to society. This is particularly clear in the detention of foreign-national offenders. Current policy states that there is a

presumption in favour of temporary admission or release for foreign-national prisoners, which may only be outweighed when the individual circumstances of the migrant reveal a high risk of absconding or reoffending (UKBA undated). Yet, a recent report of ICIBI has found that there is nevertheless a culture of detention where “a decision to deport equals a decision to detain” (2011: 22) brought on by fears of a follow-up to the 2006 scandal. The report reads:

In interviews with staff and managers, we encountered genuine fear and reluctance to release foreign national prisoners from detention in case they committed a further crime. This, together with the potential media and political scrutiny, is fuelling a culture where the default position is to identify factors that justify detention rather than considering each case in accordance with the published policy. (2011: 22)

The reluctance to release foreign-national offenders despite what is prescribed in policy is translated into operational procedures in which the level of authorisation required to release a foreign-national offender is much higher than that required to detain (ICIBI 2011).

Another result of the 2006 media scandal has been an increasing interdependence between the UKBA and Her Majesty’s Prison Service (HMPS) in the management of foreign-national prisoners (FNPs) (Bosworth 2011). The latter is responsible for providing the former with the details of any foreign national serving custodial sentences so that deportation can be considered. Since 2006 the government has made efforts to re-structure the penal estate in order to facilitate the deportation of FNPs. In line with this, a hubs and spokes system was devised to concentrate FNPs in designated prison estates to facilitate their removal. Hub prisons are exclusive to FNPs and have UKBA staff on-site. Prisons acting as spokes house a significant proportion of FNPs that are to be directed to the Hub prison. Included in the rationale for such segregation, is the realization that this particular section of the prison population has its own needs and challenges (Bhui 2007). They all face immigration issues, some might have arrived in UK recently and hence face language barriers and isolation. In this sense, these prison facilities may provide better cultural support to FNPs, many provide English as a second language classes, for instance. However, concerns have been raised over this segregation, especially regarding the quality of care and support provided to the FNP population and the need to ensure that rehabilitation and reintegration initiatives are equally accessible to them as to the British prisoners (ILPA 2011, Clinks 2010, Webber

2009). Transfer to open prisons, home detention curfews and other parole arrangements are not made available to FNPs thus hindering their rehabilitation. Other key issues relate to contact with family and friends, maintaining access to legal advice and accessing other support services that may not be part of the hub prison facility. Bosworth (2011) calls attention to the fact that the overall goals of the ‘hub and spokes’ system risk not addressing the rehabilitation and preparation of prisoners for their lives upon release:

The consequences of imprisonment, particularly any rehabilitative goals, are simply not applied to foreigners. Imprisonment for this section of the population instead, aims at something quite different: deportation. (2011: 586)

POLICY IMPERATIVES IN DEPORTATION

Administrative removal and deportation in the UK echo Kanstroom’s (2000) division of deportation laws into those aiming at border control and those aiming at social control. Writing in the US context, Kanstroom suggests that this division casts light on different uses of the expulsion of foreign nationals. Border control deportation laws are essentially contractual where expulsion emerges as “a consequence of a violation by a non-citizen of a condition imposed at the time of entry” (2000:1898). These laws cover foreign nationals who enter the country illegally or under false pretence, who are not complying with a condition to enter (e.g. a migrant on a student visa is expected to be enrolled in a school, college or university), or who breach a prohibition (for instance, if the visa stipulates that the migrant is not to be on benefits for a certain amount of time). In the UK, administrative removals would fall into this category.

On the other hand, social control deportation laws concern long-term lawful permanent residents. These are not tied to borders or to admission but “follow what might best be termed an ‘eternal probation’ or perhaps, an ‘eternal guest’ model” (2000: 1907). Here deportation is used “as a method of continual control of the behaviour of non-citizens” it is closer to criminal law and “more punitive than regulatory” (2000: 1898). It parallels what British immigration law terms as deportation – a tactic of social control that this research project is addressing. Of course, Kanstroom himself acknowledges that this division is uneasy. In the UK for instance the increasing

criminalisation of immigration offences, such as the use of false documents, is leading to a merging of the two.

The rationale for deportation of foreign-national offenders from the UK lies in three imperatives: 1) the protection of the public from possible future offences by the deportees, 2) deterrence of crime, and 3) demonstration of society's revulsion (e.g. in cases of incest and paedophilia). As a protection measure, deportation appears as a successful strategy only if the deportee is likely to reoffend. There are however no definitive indicators of recidivism - the fact that one has committed a crime before does not guarantee that one will offend again:

Instead risk is framed in relative terms by nominated experts, courts, government officials and politicians, with terms such as 'possible' and 'probable' necessarily being imprecise and subjective. (Grewcock 2011: 62)

As a tool to control crime, deportation is successful only locally, as the deportee is sent elsewhere, and in the short-term, as it does not address the roots of criminal behaviour (Kanstroon 2000; Clayton 2008). But, as Kanstroon adds "efficiency is not justice" (2000: 1898). What of those who have been 'rehabilitated,' present a low-risk of reoffending, have long been in the UK and have established family and social links? Citizenship is often a technicality as it can be granted after three years of residency in the UK (Clayton 2008), which means that many long-term migrants being deported would have been eligible for British citizenship prior to conviction had they applied for it. Thus

the discrimination which results from the deportation of the non-citizen, combined with the harm to family and social networks, is a greater fracturing of the social fabric than the continued presence of someone who has committed a criminal offence. (Clayton 2008: 573)

This is a particularly pertinent point considering that, for citizens and non-citizens alike, the risk of re-offending does not prevent release once the custodial sentence has been served (Grewcock 2011: 62). As a tool of crime deterrence, deportation's effectiveness is untested and far from established. What is clear is that a particular practice can only serve to deter certain actions if people are aware that that is the consequence of those actions. My own findings reveal that migrants were usually not aware that they were liable to deportation. Field research took place just three years after the 2006 scandal and the consequent systematic enforcement of deportation

policies. This meant that prior to conviction, research participants did not know of anyone (with leave to remain) within their circles that had been deported. Furthermore, while the deportation of foreign criminals features increasingly in the British media, the migrants participating in this research assumed that it applied to those who did not possess leave to remain. Being ‘legal residents’ in the UK for years prior to their convictions, it had never occurred to them that they might be deported. In any case, it remains unclear whether such knowledge would have prevented them from committing their offences. The prospect of imprisonment certainly has not.

Deterrence and protection are closely interrelated. The idea is that if deportation is successful in deterring criminal activity the public will be safer (Macdonald & Toal 2009: 373). However, the validity of these imperatives can be contested. In the first place, one may ask, whose public good is being protected? The deportation of foreign-national prisoners can only be conducive to the *British* public good. Deportees are sent elsewhere. As Grewcock asks in the Australian context, “if they are considered a risk, how does banishing them reduce the risk either to themselves or others?” (2011: 61). As Macdonald & Toal put it:

If the reason for deportation at the end of the sentence is the protection of the public, this can only mean the British public. The International drug dealer, the terrorist and the psychopath will each be released to another country where he or she will be free to engage in crime. This will be particularly true of a sex offender being removed to countries where there are no sex offenders’ registers. Deportation then risks becoming the means of exporting and circulating of crime – ‘not in my back yard – you can have them’. (2009:374)

Many have argued that there is a general “lack of post-deportation accountability” (Grewcock 2011: 64), which is particularly relevant in the case of second-generation migrants (Bhabha 1998). Of pertinence here is whether crime prevention should be an aim of immigration control in the first place. Clayton argues that

Punishment as meted out by the court is already intended to deter others and prevent re-offending and if it fails to do so that is a matter for criminal policy, not immigration control. (2008: 573)

She goes further stating, “if deportation is not a punishment, the philosophical basis for it is hard to find” (2008: 573). It cannot be seen as a breach of hospitality when often the deportees have spent most of their adult lives as ‘contributing’ citizens (2008). Ironically, deportation can hinder the efforts of rehabilitation developed by both HMPS

and the foreign-national offenders themselves, as they are prevented from moving on with their lives (furthering their education, obtaining employment, etc) after serving their sentences. An idle rehabilitated convict is hardly in the best interests of the public good.

Grewcock (2011) argues that deportation and the “routine imposition of multiple punishments” inherent to the system – detention, reporting, etc - “undermines the principles of rehabilitation and reintegration and enforces permanent separation from social and family networks beyond any measure contemplated by the sentencing court” (Grewcock 2011: 69). In this sense, the author suggests that the deportation of foreign-national offenders operates as a kind of ‘social death’ as they are no longer given the opportunity to reintegrate in society and their communities. This is, in fact, a perception reflected throughout the empirical chapters of this thesis.

In short, deportation is a practice of state power embedded in anxiety, uncertainty and unrest that elicit different perceptions of (un)justice and deservability. If deportation policies may be justified by public authorities as measures responding to anxieties over migration, they also bring out uncertainty and unrest to deportable migrants and their families. The empirical chapters of this thesis aim to provide insights into how deportation and deportability translate to social reality and the lives of the people it affects the most. In the next chapter I will look at methodological issues, before presenting those empirical insights in the subsequent chapters.

3. Not a community, not a group. Challenges of the field.

In this chapter I address methodological and ethical concerns that arose during the course of this research project. I show that researching hard-to-reach populations, especially in a setting where there can be no reliance on gatekeepers and snowballing, demands creativity in devising alternative strategies to access informants and in delimiting the field. These strategies also bring new ethical challenges that must be addressed and that impact on the choice of field locations. I show how this is the case by first approaching some epistemological concerns in locating the field, before detailing the strategies developed to access the research population for this thesis. I then explore the ethical challenges of the research, including the need to adopt different positionalities, how these challenges were addressed and how my field emerged from them.

LOCATING THE FIELD: AN EPISTEMOLOGICAL CONCERN

Social phenomena that move about in multiple settings have long engaged anthropologists and other social scientists in debates regarding which ethnographic strategies may best be applied to its study. Such social phenomena are by no means new to anthropology or to other social science disciplines, and the links between space, place, identity and culture have been consistently challenged (Gupta & Ferguson 1992; Appadurai 1996; Malkki 1997). Yet, as concepts such as globalisation and transnationalism made their way through social sciences jargon, new discussions and proposals were set forward regarding ethnographic and conceptual strategies employed in such contexts (e.g. Appadurai 1996; Basch, Glick & Szanton Blanc 1994; Gupta & Ferguson 1997; Hannerz 1996; Portes, Garnizo & Landolt 1999, Marcus 1995 among others).

This work raises issues concerning the assumptions and expectations of “the field” in an anthropology research project. These are connected with issues of

professional and disciplinary authority; of distancing and otherness and, of course, to the development of a workable field site (Gupta & Ferguson 1997).

For a long time, fieldwork has been central to anthropological research. Today multi-sitedness and unboundedness¹⁵ have become common identifiers of research fields - and delimiting one's field is increasingly challenging. Yet one still has to select a field site. In urban environments researchers may identify subgroups or subculture: they may create their own "epistemological villages" (Passaro 1997) - sites where participant observation is a viable project in itself (Gupta & Ferguson 1997):

Defining localities in a globalized, deterritorialized world is not obvious, and the critical practice required to keep convenient and fictive villages of collective identities at bay is overwhelming ... Unless anthropology can adopt units and strategies of analysis capable of "seeing" and understanding unstable, hybridized, and nonholistic experiences, we will fail at our object of adequate social analysis, and we will remain part of the postcolonial problem we helped create. (Passaro 1997: 161)

One question remained throughout this project's research design and fieldwork stages; how can I delimit the field when the population studied is not only geographically scattered but also can hardly be described as a group, let alone a community? Whereas it is obvious that people tend to empathise with others going through the same difficulties, this alone does not necessarily establish them as a group. How could I carry out field research in a setting where there was nothing immediately available to observe and no one identifiable to talk to?

IDENTIFYING AND ACCESSING RESEARCH PARTICIPANTS

As part of the research design, a theoretical framework and methodology were developed which emphasized qualitative research techniques. Taking guidance from Joanne Passaro's (1997) work with homeless people in the US, several strategies were devised to delimit and access the field. From the start I was volunteering with an NGO that works closely with foreign-national prisoners, which could give me an understanding of deportation from the perspective of imprisoned migrants. Most importantly, this NGO could act as a gatekeeper to potential research participants. Observation at the Asylum and Immigration Tribunal (AIT) was also part of this set of strategies. The AIT is a site of contestation where foreign nationals can appeal

¹⁵ See Canda 2007 for a critique of unboundedness.

deportation, and hence an important location where the experience of facing deportation is manifested. It was also a site where research participants and other gatekeepers could be identified and approached. Focus groups were another element of the research design as, by fostering discussion among participants, they could offer other insights and bring out issues that I might not have known to ask about (Atkinson 1998; Plummer 2001).

Applied field research meant that the strategies for conducting research had to be changed and adapted to the interactions between myself and research participants. For one thing, not all identified subjects were approached to participate in the research project – if people seemed to me to be too distressed after a court hearing, for instance, I would not approach them. I also found that the time commitment demanded by life-story interviews was too much to ask from participants already giving me so much of their time. There was of course a strong autobiographical element in the semi-structured interviews, but there was no systematic collection of life-stories as initially intended. Focus groups were also not viable. For one thing, participants' residences were spread throughout the city and it was extremely difficult to get enough people together at the same time and in one location. Furthermore, participants often felt uneasy about the presence of others. Facing deportation is a long, tiring process and by the time participants were interviewed they were frequently no longer talking about their situation to anyone, including their spouses. Deportation had become a silent everyday presence in their lives. After many efforts however, one focus group was set up. More than anything else, it revealed how lonely deportation can be and how much deportees are disenfranchised from debates over their situation.

Identifying and accessing informants was in fact, and predictably, a major challenge for this project. My research participants would be the people currently facing deportation, their families and the families of migrants who had been deported. Research participants fell under the category of a 'hard-to-reach' population because a) they were not identifiable or accessed through any available databases or institutions, b) they were geographically scattered, and c) their circumstances were highly stigmatized. Research on hard-to-reach populations tends to rely on gatekeepers and snowballing (Singer 1999; Atkinson & Flint 2001). In this project neither approach was successful. In the end, the reluctance of gatekeepers to establish contact, and of research participants to facilitate snowballing, led me to broaden the spectrum of volunteering

sites to gain access, and shift the primary focus of analysis away from absence and towards the experience of deportability. These issues are dealt with in more detail below.

The reluctant gatekeeper

Whereas at the AIT I could, and did, find people currently facing deportation, how could the families of those already deported be identified? They would already have been through the system, so locating them was dependent on gatekeepers such as NGO staff, legal practitioners and informants. As mentioned above, I was already volunteering with an NGO that worked closely with foreign prisoners and I had built trust with the NGO staff, who had agreed to act as a gatekeeper and in some cases had already identified possible informants. In addition, and as expected, conducting ethnographic field research at the AIT facilitated encounters with other gatekeepers: law practitioners and other civil rights advocates who work directly with deportees and thus have extensive contacts. They were excited about this research project, urging me to share the findings with them as soon as possible, hoping to use them to advocate for their clients. All assured me that they could put me in contact with several potential research participants. Yet when it came to actually facilitating contact, all these gatekeepers were surprisingly reluctant to do so. In total just three research participants were recruited through these gatekeepers.

This unwillingness to establish contacts was not unique to gatekeepers. My own informants, whom I knew well after several meetings, were also reluctant to introduce me to their acquaintances and facilitate snowballing. Perhaps more surprisingly, this same reluctance was found among my friends and colleagues, who hearing about this project would volunteer the names of one or two acquaintances who would be ‘perfect’ for the project, but who in the end, never did approach these individuals on my behalf.

Given the sensitive nature of the subject this project deals with, the difficulty in accessing and identifying informants was compounded by the suspicion that an outsider, like myself, faced when approaching gatekeepers. In fact, issues of trust are often cited as the reason for this reluctance to open the gates (Bilger & Van Liempt 2009; Burgess 1991; Singer 1999; Rossman & Rallis 1998). After all, deportation is a very sensitive matter entailing issues of conviction, legal status and family relations. Moreover, the

increasing securitization of borders and criminalization of migrants (Peutz & De Genova 2010, see also Chapter 2 above) may lead to higher levels of stigmatisation (Dahinden & Efionayi-Mader 2009), exacerbating migrants' mistrust of strangers (Bilger & Van Liempt 2009). Yet some people were actually my close acquaintances and trusted my judgment and work conduct. Trust (or lack thereof) cannot in itself account for the disinclination to introduce people to me after demonstrating such enthusiasm for my work.

As far as the gatekeepers were concerned, the vulnerability of informants might explain this reluctance. Most people participating in this project, whether deportees or those close to them, had been thoroughly interrogated several times, by the Home Office, solicitors, barristers and immigration judges. To put them in contact with me was to submit them to another questioning session, retelling their stories yet another time. This, understandably, may be too much to ask of an acquaintance, even a close one. When it comes to my informants' own reluctance, and the consequent failure of the snowballing strategy, another issue might be added: it is possible that informants were afraid that I would accidentally leak information about their own cases to their acquaintances, despite my reassurances that their confidentiality would not be breached (cf Jacobsen & Landau 2003).

Although tremendous efforts were put into building trust, this experience revealed how trust alone did not motivate gatekeepers to facilitate contact with respondents. Two interconnected implications for this project arose from this. First, the need to identify additional field sites where informants could be accessed in person. Second, because access to the families of those already deported was fully dependent on gatekeepers, and gatekeepers failed to act as such, I focused my efforts mainly on those informants I could identify and contact: those facing deportation at the time of research. As such, from the early stages of fieldwork, the project solidified around the experience of facing deportation, moving away from the initial focus on the post-deportation experiences of the families that remained in the UK. This is not to say that the absence of deportees no longer forms part of this project – it does, in more ways than one – but rather that the primary focus shifted from post-deportation absence to the deportability of individuals who never thought of themselves as deportable.

On expanding and diversifying research locations

What can a researcher do then, when snowballing fails, gatekeepers refuse to grant access and her research population remains hidden and scattered? Even though the failure of snowballing is now more commonly admitted in studies conducted among hard-to-reach populations (see for instance Bilger & Van Liempt 2009; Staring 2009), there is still little work published on alternative approaches. Two exceptions are Duncan et al (2003) on the use of internet-based surveys and Singer (1999) and Staring (2009) on the use of the site-oriented approach.

Internet-based surveys were not used in this project, but I did set up a research webpage to act as 1) a resource for possible participants to learn more about my research project and establish its credibility and 2) a recruiting tool for eventual deportees who might find me while surfing the net.¹⁶ What is interesting about such cyber locations is that it is no longer just about the researcher accessing research populations but also being accessible to them. Although it was not very successful in its second aim, recruiting only two research participants, the webpage tended to be welcomed by prospective informants.

The site-oriented approach is a common alternative, consisting in identifying sites where the research population is expected to go and finding ways to access them. As Meissner and myself have argued elsewhere (Meissner & Hasselberg forthcoming), choosing field locations is a crucial part in the reflexive process of conducting fieldwork and it impacts greatly on what constitutes the field, in the sense that the field is largely determined by who the researcher is able to talk to, observe and otherwise engage with. Here I will be focusing on the ethical considerations that affected the choice of field locations, and the ways in which research was carried out in those locations.

The Field locations

Passaro's experience became ever more valuable as a guide for this research project as I sought additional sites for research. Passaro, as an anthropologist, was pressured to create her own 'homeless village' where participant observation was possible. But instead, she opted, in her own words, '...to choose sites that would afford me positionalities at varying points along a participant-observer continuum' (1997:

¹⁶ <http://www.sussex.ac.uk/Users/iah20/>

156). Adopting flexible and creative ethnographic approaches Passaro volunteered and got involved in a series of different campaigns and organizations that allowed her to study homelessness from different perspectives.

With Passaro's experience in mind, when a few months into fieldwork I realized I could not rely on gatekeepers or snowballing, other strategies were devised in order to increase direct access to informants, who until then were restricted to those identified at the AIT. Direct access would mean focusing more on those currently facing deportation and their families and less on the families of those who had already been deported, for the latter do not go to specific locations in their role as family members of deportees and therefore it was impossible to locate them without gatekeepers. I then had to spend more time in sites where possible informants were bound to go.

Broadly speaking, in the UK, a foreign national with leave to remain is deportable if convicted to a 12 month sentence, or longer. After the sentence is served, the immigration services might detain the migrant in an Immigration Removal Centre (also know as Detention Centres) while his or her deportation file is processed. Deportation may be appealed at the Asylum and Immigration Tribunal. The migrant, if detained, may also apply to the AIT for bail, which may be granted under certain conditions. Reporting to the Home Office (at designated reporting centres) monthly or weekly is usually part of the terms of bail. The terms of bail remain in place until the migrant is either detained again for removal, or has his deportation appeal granted. Thus prisons, detention centres, reporting centres and the AITs - sites that Barthia (2010) calls the theatres of state power over migrants' bodies - are all locations where one is likely to find people facing deportation. So are migrant support centres run by various NGOs. The problem with seeking out such 'likely' locations concerns those who remain outside and are thus excluded from the research (Wimmer 2008; Singer 1999; Staring 2009). This research therefore does not include those who did not appeal their deportation - this is a bias in the sample that is acknowledged and was dealt with during data analysis.

Access to some of these locations is restricted, which led me to devise alternative strategies of access often involving adopting the role of a volunteer and juggling that with my research work. Overall I adopted three different positionalities: researcher, volunteer and both combined.

The researcher's positionalities

The researcher

The Immigration Tribunal is open to the public, and conducting research there was possible. In fact, the majority of research participants were first approached there, and it was there I engaged with other stakeholders such as solicitors, barristers and Immigration Judges. It was also a site where rich observation data was obtained. I attended 49 full deportation hearings at Taylor House, Field House and the Court of Appeal in London.¹⁷ As the AIT holds no official court transcripts, I had to rely on my note taking. Yet, as both Good (2007) and White (2012) argue of their observations at the AIT, such notes and observations “can provide vivid accounts for analysing what takes place in hearings” (White 2012: 4).

Access to reporting centers is limited to those reporting and their legal representatives, but because the queues and the time spent waiting in them are long, I was able to ‘hang out’ by the entrance door and observe migrants queuing to report, occasionally chatting with them. Although only two of these were subsequently interviewed for the project, the one-off informal chats with many other migrants at this location were very informative. I visited these two locations in my capacity as a researcher, and informed consent was achieved. In other locations, where I adopted the role of either volunteer or researcher and volunteer combined, concerns regarding informed consent and other ethical issues were more prevalent.

The volunteer

Permission to conduct research in detention centers and prisons may be granted, but the process is long and time allocated for field research was limited. In detention centres, detainees are allowed to have mobile phones. I was told by two migrant’s rights activists, at different occasions, that I could easily get around official authorities by conducting phone interviews with inmates, a strategy often used by migrant NGOs to compile data for their own reports on detention (see for instance LDSG 2009). When I argued that the Ethics Review Committee of my University was unlikely to allow me to do that, due to the difficulties in achieving informed consent over the phone with incarcerated individuals, they replied that it would be immoral to leave them out of the

¹⁷ This figure includes only the hearings I attended in full. I also attended a smaller number of hearings that were either adjourned or prolonged far into the afternoon on days I had other research commitments (and hence left the hearing before its end).

research. In fact, balancing the right to participate in research with the right of informants to consent or not, is not new to research projects, and the Belmont Report (1979) discusses this dilemma. The Ethical Guidelines of the Social Research Association (SRA) (2003) also state that researchers are to make efforts in order to avoid excluding certain groups. Yet, I still felt that dodging the authorities was not the way to go. Furthermore, the experiences of prison and detention were not excluded from my project, as my informants, out on bail, discussed them with me. In the end, no interviews were conducted with people detained or imprisoned at the time of field research.

Having said that, I did feel uneasy about excluding these institutional settings and practices from my field, as they are part and parcel of the experience of deportation. I believed that even if I could not interview inmates for the purposes of this study, visiting the facilities and observing some of its practices could be productive. In the end, I was able to access migrants in detention centers and prisons by volunteering with different organizations. In these instances my role as a volunteer was that of a befriender. A befriender is a volunteer that visits one particular individual in prison or detention at regular intervals: once a week, or once a month, depending on the organisation. The aim is to provide support and develop a relationship with an inmate who does not have any visiting relatives or friends. The befriender visits the inmate, checks everything is going well and chats for one hour or so on whatever the inmate wants to talk about. I visited prisons and detention centres in my capacity as volunteer only. Whatever information I received from the individuals I engaged with is confidential and it is not used for the purposes of this research. It is hence deemed unusable. I will come back to this issue below.

The researcher-volunteer

Accessing people in these theatres of state power can be very intimidating. People are often very distressed and suspicious of the official presence. In order to counterbalance this and to diversify the sample I volunteered with two other organizations that work with migrants to provide support and services (legal advice, benefits advice, etc.). Neither organization has a state or official presence and each offered a very welcoming and relaxed setting. My tasks included answering phones, reception duties, welcoming migrants new to the group, setting up and tidying up the

rooms, etc. In these centres I was able to interact with people who, although facing administrative removal, were no longer in the appeals process or under any official form of surveillance such as reporting.

In the following section I will focus on related ethical considerations and their implications for the kind of data I obtained.

ETHICAL CONSIDERATIONS

Any research can be used and misused for all sorts of ends. As the SRA recognises, “all information, whether systematically collected or not, is subject to misuse and no information can be considered devoid of possible harm to one interest or another” (2003: 17). Empathy often underpins the wish to carry out certain kinds of research. The good intentions of researchers should not relieve them of the responsibility for pre-empting the possibility of misuse of their findings. But the risk that that might happen should not prevent the study either.

There are today numerous ethical guidelines. These are not “intended as sets of rules to determine behaviour, but rather as support for decision-making that respects the individuals concerned” (Barber 2003: 139). Ethics in anthropology are an ongoing self-reflexive exercise. Guidelines are, nevertheless, useful instruments of guidance and orientation even if in the end much is dependant on the researcher’s judgement. In this project guidance was taken from the following: SRA (2003), AAA (1971), ASA (1999) the Belmont Report (1979) and BSC (2006).

Informed consent

Informed consent is one of the main pillars of ethically sound research. It is achieved when participants in the research project are provided with clear and complete information about the eventual implications of their participation so that they can make an informed decision about it. Whether anthropologists should obtain signed informed consent from their informants or not has been a long debated issue within academia.¹⁸ In the course of this study informed consent was sought out in means other than writing. Also, informed consent was not sought solely as contacts with informants were first established, but it was an issue further discussed as the relationship between the

¹⁸ See SRA (2003: 50) for a summary of the debate and references for positions on either side.

informant and myself developed. I also made a point of being clear that should, at any point, informants no longer wish to be part of the study their confidentiality would not be breached and the data collected from them would be deleted. Only one research participant interrupted his involvement in the project, and he insisted that I use the data from his previous interviews, so that information was not deleted.

Confidentiality, anonymity and disclosure

Special care was also taken to protect informants' identities. When writing research findings, names are changed and at times also the locations and other details that might identify a particular informant. It has been argued that informants may not want to be "protected" and may want to take ownership of their data (Grinyer 2002). Some research participants expressed at first the wish that I use their real names, however, all redrew this decision following further discussion on the implications of doing so. For all, the decisive factor was that the identity of their family members, of whom they spoke freely to me, should be protected.

A challenge in keeping anonymity and confidentiality arises when conducting focus groups. I could only promise that there would not be a breach of confidentiality on my part. I could not guarantee it for the other informants present. I made this clear to participants in the focus group session when seeking their informed consent, and the issue was discussed from the start.¹⁹

Juggling different positionalities

Researchers today may very well combine their role with that of activist, social worker, legal advisor and so on. Whereas the multiple roles of the researcher might present further ethical dilemmas, they may also favour ethical opportunities, as explored for instance by Empez (2009). The most pressing ethical dilemmas at stake in these situations concern on the one hand issues of confidentiality and informed consent and on the other, issues regarding informant's expectations and free will. For instance, is the informant aware that he is speaking to both his social worker and a researcher? Is he

¹⁹ There are other limits to confidentiality agreed by most guidelines (SRA 2003, AAA 1971, ASA 1999 and the Belmont Report, BSC 2006): if the subjects disclose that they or someone else is in immediate danger the researcher has the obligation to act on it. These were stated clearly when seeking informed consent, but there was never a need to break confidentiality on these or other grounds.

aware that the information he is divulging will be used for X and Y purposes? Or, is the informant participating in the research because he believes the researcher, being a legal worker for instance, might give him a hand with his case? Does the informant feel that his legal representative will do less for him should he not agree to participate in the research?

In the case at hand the ethical slippery slope was navigated by carefully choosing which roles to adopt at the different locations. In the migrant support centres, I was wearing the two hats at the same time: the people I engaged with were fully aware both of my role as volunteer and my work as a researcher, and what it implied for them: issues of consent, and confidentiality were dealt with consistently. Informed consent here, as in other cases, was discussed not just when contacts were first established but also as the relationship between informant and researcher developed. So, when chatting informally with migrants, if something particularly interesting for my project came up, I would again reinforce informed consent at the end of the conversation, to make sure people were reminded of my other role as researcher. In fact, many of the usual visitors to the NGOs got to know me well, and often they would come up to me as researcher and not as a volunteer: “Ines you have to hear this...” or “I just heard this great story for your project.”

At prisons and detention centres I was wearing my volunteer hat only. I never pushed my research agenda, nor consulted with inmates about my project or interests. In fact, few were aware of my research work. Inmates in prisons and detention centres were not participants in the research – it is in this sense that the information derived from my volunteer work there is deemed unusable. The people I visited, their stories, their anxieties, hopes and concerns did not form part of my data analysis, or the writing-up of the results. But of course, while the hats can change, the person is the same, and the knowledge I gathered in one hat was hardly erased when I put on a different one. The volunteering experience did inform my knowledge of detention and imprisonment, and this knowledge allowed me to better formulate questions to my actual informants about the role of prison and detention in their experience of deportation. It led me to formulate questions to my informants that otherwise I wouldn’t have known to ask. However, this by no means infringed the rights of the inmates I visited in prison and detention, nor did it compromise my work as a volunteer, which I took very seriously.

Other ethical considerations

The SAR (2003) code of conduct states that the researcher must ensure that informants (and informant's relations to their environment) are disturbed as little as possible. Yet, when working among foreign-national offenders, this raises another ethical issue, that of "such an ethnography's mimicking and continuing the surveillance of already interrogated individuals and reifying the category of the deported" (Peutz 2006: 219). Researchers should be sensitive to this and do whatever is at their reach to ensure that informants do not feel they are being interrogated again, and are not disturbed more than necessary to conduct the study. I believe that no harm came to anyone from participating in this research project. I am aware that the issue in question is very sensitive to many people and, while my project depended on informants' willingness to discuss these and other issues with me, I made efforts to never push them to share more than they were willing to, or to cause them distress. As Atkinson says, "more important ... than formality, or appearing scientific, is the ability to be human, emphatic, sensitive, and understanding" (1998: 28). In fact, many times I chose not to approach potential participants, at the AIT for instance, if they seemed too distressed. To the best of my ability I was attentive to participants' feelings, respected their privacy and made clear that they could stop whenever they wanted to.

Another issue of concern, which is raised by Moniz (2004), regards subjects' expectations of what the researcher might do for them. During fieldwork, there was a constant need to clearly inform the subjects about what I could and could not do for them in order not raise false hopes. For instance, informants often presumed at the start that I could help their cases or give them legal advice – I could do neither. In fact, informants would often call me for advice when things went wrong and again I would have to reiterate that I was not qualified to give them legal advice. There were a few occasions where I could be of assistance, and whenever these came up I did my best to be of use. When Tania's partner's appeal was denied she called me in distress. He was to be deported but had no one back home, no place to go, no one to contact there. Further she had no money to give him. I helped her to locate a few NGOs back home that provided support to newly arrived deportees, and together we contacted them. She felt reassured that there was some institutional support to receive deportees.

Whereas I do hope that this study will raise awareness of the impact that deportation inflicts on families, I made clear to informants that this was a hope and not a confirmed outcome - the limits of what my research could offer were clearly and truthfully stated, to the best of my ability.

FIELDWORK DETAILS

Fieldwork was conducted in London for a period of 12 months in 2009. In addition to volunteering at different sites inherent to the deportation process, I applied the following research methods: a) review of existing literature and statistics; b) semi-structured interviews with key stake-holders; c) a focus group with migrants facing deportation; and d) observation of deportation appeals at the Asylum and Immigration Tribunal in London.

In total, I followed 18 deportation cases: 11 from the perspective of the appellant (ten male and one female) and seven from the perspective of a family member: spouse or parent (five female and two male). The home country in all these cases varied and never overlapped. There were seven African appellants, three European, two Latin American, two Caribbean, two South East Asians, a North American and a Middle Easterner. All were facing deportation following criminal conviction over: drug-related charges (8); assault (3); fraud (2); robbery (1) and immigration related offences (4) such as the use of false documents or working without a license. In all cases but one, the foreign-national offenders were male.

Research participants did not form a homogenous group. They came from different countries, and varied greatly in cultural and religious background and in age groups, ranging from 18 years old to the late 60s. Whereas most research participants were struggling financially at the time of field research, mostly due to their deportability, prior to conviction their financial situations varied considerably, from some relying on benefits to others being clearly located in the middle class. Some arrived at a young age, most others in their early adulthood, and they ranged from between four and 50 years of residency in the UK.

In the midst of all this variation, the obvious link between them was their relationship to the state. Yet, they shared other features. First, they were all well established in the UK. They felt their lives and families were settled and none was

foreseeing moving out of the country in the short term. Second, and related, in all cases but one (that of an EEA national exercising Treaty Rights), the appellant was the only member of the immediate family not holding British citizenship at the time of field research.²⁰ Third, they all agreed to participate in the research, mostly because they felt both angry and lonely.

Following these cases entailed attending or accompanying participants to related deportation proceedings such as appeal hearings, bail applications and reporting appointments, and at least two semi-structured interviews per informant. Interviewing over time was of utmost importance here. For one thing, during the second and subsequent interviews research participants had already met with me a few times and were much more at ease to openly discuss their cases and their lives. Furthermore, peoples' feelings and perceptions of events change over time and are shaped by new experiences and emotions. This was particularly evident in interviews with Tania where she went from feeling betrayed and angry with her partner to a greater understanding of why he ran away following his last (denied) appeal.

Interviews were carried out at places identified by the respondent: their homes, the gym, a quiet café, the park, the hospital where a premature son was born, in a car while the respondent drove around doing errands, in one respondent's ice-cream parlour, etc. These locations, where informants felt comfortable, formed part of their daily lives and gave me a further insight as to how deportability is experienced. In most cases, I was introduced to other members of the family and close friends. Most interviews were carried out in English, but some were in Spanish and Portuguese.²¹

I also conducted semi-structured interviews with legal caseworkers, NGO staff and other removable migrants (asylum seekers, undocumented people, overstayers, etc). Additionally I had one-off conversations with many others facing deportation, as well as with solicitors, case workers, Immigration Judges, Non-Legal Members (NLMs), court clerks, and other stakeholders.

²⁰ Some were married to British citizens. In other cases relatives obtained citizenship after the appellant faced deportation although none ever attributed their naturalisation efforts to fear of deportation.

²¹ Although all were fluent in English, speaking in a foreign language allowed more privacy in interviews conducted in public spaces. The choice of language (only available for Portuguese and Spanish speakers) was always left to the interviewee. The Spanish and Portuguese narratives quoted in the thesis were then translated into English by me.

Over the course of field research I also attended 49 deportation hearings. Most of these took place at Taylor House in London. Others were heard at Field House (another AIT in central London) and the Royal Courts of Justice. I also attended numerous bail hearings and other immigration appeals at Taylor House.

As has been shown above, in this particular research project, adopting the role of volunteer in several different organisations was instrumental in gathering data and accessing informants. Yet many stakeholders were left out: a) those who had not appealed their deportation, and were hence not identifiable; b) those who I thought were too distressed to be approached; c) Home Office Presenting Officers (HOPOs)– who were never open to talk to me despite my many efforts in approaching them;²² and d) all others who when approached by me did not wish to participate in the project – for instance, no one convicted of a very serious offence in the eyes of the public, such as murder or rape, agreed to participate.²³

This chapter has detailed some of the challenges and opportunities that arose during fieldwork and how I responded to them. I am not claiming to have constructed a holistic field reflecting the experience of deportation from the UK. Instead, I am arguing that my field emerged from the locations I was able to access within the ethical imperatives that guided me as researcher and a volunteer. My field consists not just of the places I visited, the data I can use and the data I cannot use, but it has become a combination of all the places, practices, experiences and ideas that were advanced by the people I engaged with. By expanding and diversifying my field locations and my positionalities I gained an understanding of deportability from different perspectives and was able to obtain the necessary data to pursue the project.

²² The difficulties in accessing the Home Office for research purposes, as well as of formally interviewing Immigration Judges and other AIT officials is documented in White 2012.

²³ I was open to include all those who wished to participate no matter how ‘shocking’ their crimes might appear at the eyes of the public. More often than not, at the time I approached appellants regarding participation in this research project I was not yet aware of the crime they had been convicted of. This means that I cannot say if I have actually approached some one who committed these kinds of offences, as the stories of those who refused to participate remained closed to me. I can only say that those who did agree to participate were not convicted of offences deemed serious by the public (although several were convicted of drug-related offences that are considered serious offences at policy level).

4. Appealing against deportation. Migrants' experiences at the Asylum and Immigration Tribunal

"Facts" about the circumstances of a particular family are not just there to be discovered. They must be *created* and translated into documents and "credible" testimony.

(Wight 2004, 21)

This chapter is centred on the encounter of migrants, as lay people, with legal institutions, drawing on ethnographic research conducted at the Asylum and Immigration Tribunal in London. It examines court proceedings from an ethnographic and not a legal perspective. Here the interest is not located in issues of sentencing or case law, but rather on how deportation appeals are lived and understood by appellants.

In his study of British courts, Scheffer asks "What is going on in court hearings?" (2002:3). Several immigration courtroom ethnographies in the UK have sought to answer this question taking different issues into consideration. Anthony Good (2004) examines expert evidence in the legal decision-making process of asylum appeals, while Travers (1999), examines the Immigration Tribunal from the perspective of legal representatives, HOPOs, and adjudicators and portrays the tribunal as an administrative problem. Craig et al's (2008) evaluation report includes a detailed section on the experiences of different parties, including asylum seekers, of the onward appeals system in Scotland, and many of their findings are echoed here. Scheffer (2002) takes the viewpoint of legal representatives and focuses on the private and written side of hearings. Whereas this body of literature has produced valuable knowledge, what has been left unexplored is the answer to Scheffer's question from the perspective of appellants.

Looking at appeal hearings is a vital component in understanding the effect of deportation policies in the UK. Appealing deportation is one of the few options available to a migrant subject to deportation. In this setting, the host state takes the form of the Home Office as the respondent and the Tribunal as the adjudicator. The courtroom becomes the stage where the policy is both challenged and reinforced – it is the site of contestation where foreign nationals can fight for their right to stay, thus forming part and parcel of the experience of deportation. The court is also a site of negotiation whose procedure, setting and language are not familiar to most lay people. Appellants are thus not fighting on their own terms – their lives are shaped to fit the parameters of a good legal case and discussed in a legal language that is not immediately accessible to them. This appeals process nevertheless influences appellants' perceptions of justice. The Tribunal, even if independent, is still perceived as a state institution, constrained by the laws of the country and the policies of the respondent.

In the first two sections of this chapter I explore what Achermann (forthcoming) has termed the 'struggle over exclusion', i.e. the decision-making process in which foreign-national offenders and their host state dispute whether the first ought to be excluded or not from the territory. I first review the grounds available to contest deportation and provide an overall view of the appeal system, before detailing appellants' efforts to make their case as strong as possible. The third section is devoted to understanding how the appeal hearing is experienced and understood by appellants and their families.

THE RIGHT TO APPEAL

When liable to deportation, whether before or after being served with a notice of decision to deport by the immigration authorities, migrants are faced with four options: a) leave voluntarily; b) appeal the decision to deport; c) go underground or; d) not act on it and eventually be removed under deportation provisions (or not). These are not necessarily mutually exclusive actions. A migrant might choose to appeal only to go underground when the appeal is dismissed and there are no further appeal rights, or might abandon the appeal and leave voluntarily before the deportation order is signed. Leaving the country voluntarily, at their own expense, will ensure that migrants are not

restrained by a ban on re-entry to the UK,²⁴ as long as a deportation order has not been signed before departure. However, it is likely that upon attempting to re-enter the country, the grounds for the decision to deport will be used by immigration authorities to refuse leave to enter (Macdonald & Toal 2008). As such this is not an option representatives are likely to recommend when there are grounds for appeal. Further, if the decision to deport is made under the provisions for automatic deportation, a deportation order may be signed while the appeal is pending, thus negating the ‘advantage’ of leaving voluntarily for, if nothing else, migrants save the plane fare if deported under removal directions.

A decision to deport is appealable in-country when there is an asylum or human rights claim. An appeal is a public hearing for migrants to present their case (against a decision to deport, or any other appealable immigration decision) to an independent immigration judge or panel of judges. Immigration appeals have suspensive effects, meaning that they entail a prohibition on the removal of the appellant from the UK until all rights to appeal have been exhausted.²⁵ Immigration appeals are also subject to the one-stop appeal principle, which ensures that all grounds of appeal are heard in a single appeal. In a deportation appeal, for instance, it is not uncommon for migrants to include an asylum claim based on Article 3 of the ECHR along with Article 8 grounds on the right to respect for private and family life – both issues are dealt with simultaneously.

There have been multiple reforms to the immigration tribunal system.²⁶ At the time of research, in 2009, immigration appeals were heard at the single-tier Asylum and Immigration Tribunal (AIT)²⁷ but this subsequently reverted to a two-tier system in February 2010. It is important to note that the process here described refers to the appeals system as it stood in 2009, which differs in many respects from current procedures. The immigration tribunal system is administered by the Tribunals Service, an agency of the Ministry of Justice.

²⁴ A deportation order, which carries the prohibition of return for as long as the order is valid, cannot be signed if the migrant has left the country.

²⁵ In deportation cases under the Immigration Act 1971 this means that a deportation order cannot be signed while the appeal is pending. If the decision to deport was grounded under the provisions of automatic deportation, a deportation order may be signed at any stage but it will not cancel leave to remain while the appeal is pending.

²⁶ For critical reviews of these reforms please see Thomas 2005, Clayton 2008 and Macdonald & Toal 2008.

²⁷ If the decision to deport was taken on national security grounds the appeal is heard at the Special Immigration Appeals Commission (SIAC).

The AIT has several hearing centres throughout the country. Information for this chapter is mostly derived from observations at Taylor House in London. Hearings were also observed at the Court of Appeal and at Field House, the main hearing centre in London dealing with reconsideration hearings.

The immigration appeals system

The immigration appeals system is hardly simple to understand and navigate. As Macdonald & Toal state:

Rights of appeal against immigration and asylum decisions have undergone great changes in the last few years. (...) What we are left with is a somewhat complicated and cumbersome system of one-tier appeals by one-to-three-judge panels, review and onward appeal which will require very careful calibration to achieve the desired combination of efficiency and fairness. (2008: 1341)

When deciding to deport a migrant, the Secretary of State for the Home Department, through the appropriate immigration authority, must serve a notice of decision to deport on the migrant. This notice includes the reasons for the decision, the country where the migrant is to be sent, the migrant's rights of appeal and how to exercise these rights. For all research participants, receiving the notice of decision to deport was not only unexpected but also confusing as most, possessing leave to remain, were not aware that they were liable to deportation:

The Home Office send me a letter saying because my crime was serious it was conducive to the public good, they gave me notice of deportation order, so I'm thinking "what?" Because I was confused, I didn't come in the back of a lorry, I was young and didn't know anything about immigration or anything like that. (Tony)

The migrant has ten business days (five, if in detention) to serve a notice of appeal to the AIT. The notice of appeal includes the personal and contact details of the appellant, the details of the representative, the grounds for appeal (which may be amended at a later stage subject to the Tribunal's permission), the reasons in support of those grounds, a list of the documents the appellant will rely on during the appeal, and a copy of the notice of decision to deport. The Tribunal then serves a copy of the notice of appeal on the respondent, i.e. the Home Office, who in turn must serve the Tribunal and the appellant and his representative with all documentation related to the case in hand. At this point the AIT may hold a Case Management Review hearing to decide on directions to the appeal hearing – matters such as the duration of the hearing, the panel

composition, type of evidence accepted (oral and/or documentary), issues to be addressed, the time parties need to prepare for the full hearing etc (Macdonald & Toal 2008; Clayton 2008).

A Notice of Hearing will then be served by the AIT to all parties and representatives stating the date, time and place of the hearing. Five days prior to the hearing each party must provide the AIT and the opposing party with the documentation that is to be relied on during the appeal. At the hearing both parties have the opportunity to present a claim and give evidence in support of that claim. The findings of the Tribunal and its decision to allow or dismiss the appeal are called a determination. The determination is served to both parties in writing within 10 days of the hearing (this period is extended if there is an asylum claim) and includes a statement of the issues that were addressed, what the Tribunal decided about them and the evidence that led to that decision. Either party may then apply to the High Court for a reconsideration order on an error of law.²⁸ This application is documentary only. If successful the High Court will instruct the AIT to hold a reconsideration hearing, in which it hears the appeal again, or it may refer the case directly to the Court of Appeal for a substantive hearing. The outcome of the reconsideration hearing can in turn be appealed on a point of law to the Court of Appeal. When appeal rights are exhausted, either party may file for a judicial review to the Administrative Court.

Appellants, like most lay people, do not possess the necessary skills to successfully navigate through this complex appeals system and structure their cases in the legal form that the Tribunal expects – it is thus in their best interests to secure legal representation (Wight 2004, Clayton 2008). Although many eventually self-represent, it is rare not to have legal representation at some point during the appeal process. Securing representation is thus one of the first tasks of appellants, and one they will not have much time to contemplate if the representative is to put together the notice of appeal.

Grounds for appeal: deportation and article 8

Mostly, decisions to deport are challenged based on Article 8 of the European Convention on Human Rights (ECHR), regarding the *right to respect for private and*

²⁸ This is so if the appeal was heard by a panel of one or two legally qualified members. If the panel had three or more legally qualified members, either party can appeal directly to the Court of Appeal. I have never come across a panel with more than two legally qualified members in the hearings I observed.

family life. When appropriate, the appeal may also include an asylum claim (Article 3 of the ECHR on the *prohibition of torture*).

Article 8 (ECHR) provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The appeal is thus a balancing act between the appellant's right to private and/or family life (point 1) and the government's interests in removing him or her (point 2). This means that in a deportation appeal based on Article 8, the Tribunal must first establish if there is private and/or family life and if removal will interfere with it. If that is the case, assuming interference is in accordance with the law, the Tribunal must then determine whether that interference is proportionate or not to the State's legitimate desire for the prevention of disorder or crime.²⁹

There is no detailed definition of what constitutes private life in the ECHR or relevant case law. The concept is wide and specific to the circumstances at hand ranging from the right to self-determination to the right to establish and develop relationships with others. Family life can be established through the existence of close family relations with a spouse through a marriage or civil partnership, and/or biological or adopted children (legitimacy bears no importance for Article 8 purposes). Wider family relations – like grandparents, grandchildren, aunts, uncles, nephews, nieces, adult siblings and adult children – also form part of family life if the appellant's representative successfully proves there is a reasonable level of dependency and emotional connection. This is particularly important in cases involving young adults with no children of their own, but it is not easily achieved.³⁰ Co-habitation is not a necessary element in establishing family life.

²⁹ For a detailed discussion of issues relating to jurisdiction and proportionality arising from Article 8 cases, please see Clayton 2008, pp. 122-135 and 611-618.

³⁰ See <http://strasbourgobservers.com/2011/09/27/when-is-family-life-family-life-a-look-at-deportation-cases/> for a discussion of such cases and difficulties arising in establishing family life with siblings and parents.

Proportionality must be decided on a case-by-case basis, considering all the facts and circumstances of a particular case. There is some guidance to be found in ECHR case law regarding criteria to take into consideration when determining whether the deportation of a foreign-national offender is proportionate or not. These factors were outlined in *Boultif v Switzerland* [2001] ECHR 497, and expanded in *Üner v Netherlands* 2006 [ECHR] 873 (Clayton 2008; Macdonald & Toal 2008):

- The nature and seriousness of the offence;
- The length of the applicant's stay in the country from which he is to be expelled;
- The time elapsed since the offence was committed and the applicant's conduct during that period;
- The nationalities of the various people involved;
- The applicant's family situation such as the length of the marriage and other factors expressing the effectiveness of a couple's family life;
- Whether the spouse knew about the offence at the time when he or she entered into a family relationship;
- Whether there are children of the marriage, and if so, their age;
- The seriousness of the difficulties which the spouse is likely to encounter in the country to which the applicant is to be expelled;
- The best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is to be expelled;
- The solidity of the social, cultural and family ties with the host country and with the country of destination.

What this translates into is that appellants must re-create their lives to make a good case, ensuring they score well in all ten criteria. Further, they must produce appropriate evidence to back up their claims, as the burden of proof lies with the appellant. The standard of proof in immigration cases is lower than in criminal cases, and amounts to the balance of probabilities, meaning that the Tribunal only has to be satisfied that a claim is more likely to be true than not.

THE MAKING OF A CASE

When migrants appeal against deportation, their circumstances become a “case” – their lives are shaped to fit the parameters of good legal arguments. This is done with the guidance of representatives, crucial insiders to the court system (Wight 2004, Conley & O’Barr 1990). But representatives alone are not enough to make a good case. Appealing at the AIT on Article 8 grounds will demand the involvement of the appellant’s immediate family and other close relatives. Due to the nature of the balancing act described above, Article 8 deportation appeals focus much of their attention on the relationships, feelings, ambitions and regrets of the appellant and their family. It is thus a very emotional process, as expressed here by Maria:

...its not like I am here today gone tomorrow. It’s an ongoing process and the whole family are taking a part in that. They are doing statements, they are going to court, they are the ones that [*cries*] ... (...) And what is really painful is when you exposed your whole family, because you can’t even go [*to the AIT*] on your own merit! (Maria)

This section will centre on appellants’ efforts and anxieties in making their case and producing related evidence for the hearing.

Securing legal representation

Representatives are crucial in translating the appellant’s circumstances into a legal language that is accessible to the Tribunal. They actively build a case by searching for, selecting and framing their client’s information according to the legal framework that allows them to act for their client (Conley & O’Barr 1990; Wight 2004). Representatives thus play a crucial role in how the experience of deportation is lived.

Securing good representation is not however a one-off effort – it was a constant concern for the research participants, many of whom went through two or three representatives until settling for one:

the first solicitor she wasn't no good, she didn't try to get me no bail and that, she didn't make no effort, she didn't really tell my mom what to bring in the first hearing (...) I like these ones now, they put a lot of effort into me. (Samuel)

In my case the [sentencing] Judge remarked that I shouldn't be deported, that is why the Home Office is not using the remarks, because if he said bad stuff about me they surely be using it. But my solicitor, it was his job to research and ask for that transcript and use it (...) So the solicitor had to do everything but he did nothing.

Well but thank god I have a good barrister, she is amazing. She is really cool. She really defends you, she puts her heart and soul into it. She fights for you. (David)

... because what happened was that my solicitor was rubbish, was legal aid, now I know that the thing for free never never never NEVER are gonna help you here. So I am paying, I do it for my family, for my children, because after what they been through I think that was some kind of relief, I got a good solicitor, I am paying my money so I know they are working for me. (George)

Research participants were not seeking merely a qualified representative that could argue their case, they wished to have one that cares, that knows them and their case well, and that is unmistakably working in their best interests. Appellants also expect their representatives to inspire confidence and hope, even if that entails different things for each person. Tania's partner and Naomi's son had the same representative and yet the two women felt very differently about her. For Naomi, the representative saying, "if anything goes wrong with the case we just appeal it" was not comforting. Naomi lacked confidence in the representative's work because she was already thinking what to do if things went wrong. For Tania, the same statement was reassuring - she felt safe knowing there was a back-up, even if the prospect of another round of appeals was hardly encouraging. Maria, after consecutive rounds of appeals, was disappointed that her representative did not give her any hope:

I walked away from there [meeting with immigration advisor] really kind of more worried because I thought he would say "right you might have two different things to look at," but he didn't, and I suppose it's right for him not to give me any hope, 'cause you know, it's probably right but ... I kind of wanted a bit of hope. I need it...

For representatives this can be highly problematic as they have to carefully balance the merits of the case with their clients' expectations. Legal aid is available in deportation appeals subject to the appellant's financial situation and the merits of the case. Not all agree with George on the inferior quality of legal aid representation. Many are in fact represented through legal aid provisions and both David's and Samuel's final representatives were legal aid advisers. Whereas self-funded representation may give the appellant more confidence, it is also a strain on the financial situation of the family.³¹ Moreover, legal aid may allow for evidence that otherwise the appellant couldn't afford. As a Senior Immigration Caseworker put it:

³¹ George paid £600 for his second appeal. Some paid far more, going up to £3000 depending on the work needed.

When we had to appeal the first time around he paid for my work, for his partner had a high income and couldn't get legal funding, (...) so statements and all had little time to be done and we couldn't get social worker. And then by the time the second appeal came out, her income had gone down, so he was eligible for legal aid, so we were able to afford to get social worker and spend more time in the appeal.

Together, the appellant, family members and legal representatives will have to produce evidence in support of a) the existence of family life; b) the disruption of family life by the appellant's deportation and; c) the appellant's rehabilitation. This process is not necessarily devoid of conflict, frustration and negotiation in the relationship between the three parties involved.

Family support

Evidence of family support may be provided in the form of witness statements. It is also very important that family members are physically present at the hearings, even if they are not going to be called to give evidence. Appellants are generally very aware of the importance of family support in the appeal, but quickly learn that this cannot be taken for granted. Naomi is a single mother of five, whose oldest son was appealing deportation. Her narrative shows both her embarrassment at not having a family that is there for her, as expected by the Tribunal, and the strategy she deployed to go around it:

My partner [father to her youngest child], he came to court, and he tried to kind a say a few things on behalf of Jerome, but to be honest he does nothing for me or Jerome. Is just because I am on my own, I need to make it look like we got someone helping us, but he got his own life, he got his son, he comes and looks after his daughter here, but that is where it stops. No one gives Jerome anything, no one supports him any way, so it's hard. (...) My mom didn't want to come to court, my aunties didn't want to come to court, nobody wanted to get involved. (...) So I had to beg him to come and go to court and say you give Jerome support. Most of what he was saying in court was just to help me, 'cause I got no one. And its embarrassing when you got them saying "look, you got no one to come to court". And my mom lives in London and my auntie too. And all my family as soon as they hear 'court' and 'drugs' they don't want their name in it. And that's just it. They done me the letters but that was as far as it went, they wouldn't come to court, they wouldn't write statements, they will not stand and give evidence.

Tony believes his hearing was jeopardised by the absence of his father, the one who could really show the Tribunal the depth of their relationship and the impact of his absence. Steve's hearing was very unfortunate in this regard as well. Divorced, but a father of three, Steve had good grounds for his appeal. However, only one son was available at the time of the hearing to give evidence. The son arrived late when the

hearing was already in progress. Shy of entering the room he waited by the door. Inside the HOPO was arguing “if family is so important for the appellant, why is there none present today?” It was not until the end of the hearing that the son entered the room and by that time it was too late. Latrell’s mother, an overstayer, feared the repercussions of showing herself in court. Dennis’s wife was so overwhelmed by constant hearings and visits to lawyers that she felt the need to step back to keep her sanity, even if this meant jeopardising her husband’s case. Tony’s sister couldn’t take any more days off work. There are many reasons why family members may not be present at or involved in the appeal. The tribunal’s emphasis on the importance of family involvement, reasonable considering the grounds for appeal, is for some appellants a constant concern, as something as simple as having family members sitting in chairs at the back of the hearing can prove to be more challenging than expected.

Disruption of family life

The AIT makes a decision that goes beyond the removal of a person and this is acknowledged. That is why there is a balancing act at the hearing, to ascertain the extent of disruption of family life and counterbalance it with the concern over public safety and crime prevention. The Tribunal tends to presume that family life is disrupted if there are major impediments to the family relocating with the appellant. This assumption may, in practice, be flawed as not one of my research participants ever considered family relocation as an option.³² This means that great effort is deployed in convincing the Tribunal that this is indeed not an option and a big part of casework goes to establishing exactly why the family cannot relocate. The spouse’s professional obligations, language barriers for spouse and/or children, health needs that cannot be provided for in the country of origin, extended family present in the UK are but a few issues that may be in favour of the appellant.

Children from previous relationships, either from the appellant or the spouse, are a strong element in this regard: the Tribunal can hardly expect them to relocate with the appellant and be separated from their other parent. This however, is a point that many appellants take issue with:

³² In fact, for research participants, deportation meant family separation (or even termination), but never family relocation. See Chapter 6 for further exploration of this issue.

In this country it is very unfair. I had this friend that I met in prison (...) He has a kid, the kid she doesn't have a British passport, doesn't even live with him, he's not together with the mother right?. (...) he was in for drugs, a dealer, he did 2½ years. But he was ok, the judge said to him "ok, I won't break your family, I know you love your daughter, you can go now, give him back the indefinite", and me, I got four children, British, from my wife, she is British as well, and we live together, a family... I got more positive and he was all negative. He is very happy now and I am still sad. (George)

For George, and many others, it makes no sense that grounds of respect for family life should be stronger for those with "broken" families as they believe that if you manage to build a successful 'traditional' family life you should be more entitled to have it respected than someone who has a "broken" one. That the Tribunal is not there to reward one's successful family life, but rather to assess eventual disruption is hard to accept and greatly affects appellants' perceptions of justice, as they feel punished for having 'proper' family units.

Appellant's rehabilitation

Finally, evidence of appellants' rehabilitation is important in establishing that they are no longer a danger to public security. The first proof of rehabilitation is accountability: it is crucial that the appellant recognises the crime, takes responsibility for it and shows regret. George, the only research participant claiming innocence for the crime that led to his deportation (possession with intent, of false documents), jeopardised his case by constantly reaffirming he had been framed:

... in court, the immigration judge said to me "you still say you are innocent, you are still not admitting you did something wrong" I said to the judge, "I can't, sorry, even if you want to kick me from this country I say to you no, I did not commit any crime", that was why they refused me, in the special remark he said "he is not a trusted person". Untrustworthy. (...) Here I think they are punishing me even more because I pleaded not guilty.

I often observed in hearings unrepresented appellants stating they were innocent but had pleaded guilty on their criminal lawyer's promise of a lesser sentence. Many appellants believe this casts doubt over their, now alleged, criminality. Representatives on the other hand, are well aware that the only message sent to the judges is that they are not taking responsibility for their actions and are not credible – that they learnt nothing from their time in prison and are not rehabilitated. This is, in fact, a common point of contention between appellants and representatives:

The classic thing is that people often want to say, “oh well, I committed that offence, but I did it because... I hit that person on the street because they said...” that kind of thing. And you really have to tell, “you been convicted of the criminal offence you can’t go back there again, its too late”. In this one case, he sort of said “well I was under pressure and it was a sort of stressful situation and you know” and I had to say to him “I really wouldn’t say that if I was you (...) you don’t want to be telling the judge that what you did was ok, because they are not going to accept that, just don’t bother, stay away from that”. And that is quite typical. (...) I mean you can, you are allowed to say these things in court but they won’t do you favours. And that can be quite difficult. (Senior Immigration caseworker)

The crime for which the appellant was convicted and the length of the sentence are but two criteria the Tribunal will consider. If they are favourable, the appellant may cite the sentencing Judge’s remarks as evidence. For instance, the sentencing Judge might have said that the appellant’s behaviour leading to conviction was an unfortunate incident in an otherwise good record. On the other hand, if the sentencing Judge recommended deportation, the respondent can use the remarks as evidence. A parole report may also be produced in support of the appellant if it attests to the unlikelihood of reoffending. The conduct of the appellant in prison and since release is also of importance: rehabilitation in drug or alcohol abuse cases, seeking education both in prison and since release, giving support to the family, working or volunteering, involvement in local church or community groups, all attest to appellants’ efforts to redeem their behaviour and contribute to society.

The burden of evidence

All the above-mentioned issues may be included in witness-statements,³³ the importance of which is clear to most appellants:

The statement is just something you have to say, you have to say your reasons, put in your compassionate grounds (...) In the statement the only thing you want to mention is that you are sorry for what you have done in the past, but after that you just talk about everything that is good in you, your family, your feelings (...) because the Home Office only mentions the bad in you, it will never say “Oh, he’s a good guy...”, he is going to mention the worst possible. So you have to contradict and put in that human feeling, that you were wrong, paid it and you are sorry and you want to move on with your life now. Because the way the Home Office see things is that you will never change, but the Judges know the Home Office’s intention. So you have to prepare the statement in your defence. (David)

³³ A witness statement is a written record of the evidence, which that witness will give orally at the hearing. At times, witness statements may stand as evidence-in-chief.

As mentioned above, witness statements are produced with the guidance of legal representatives who select from their client's account what is to be included and excluded and frame this newly assembled version of their lives in the legal and procedural conventions of the Tribunal. Whereas David here has long-time experience of appeals and hence shows a good understanding of what should go into a statement, more often than not this process is long and frustrating and writing statements may involve some negotiation between appellants and representatives:

There is always a debate on what to put in the statement because a lot of the time appeals appear at the tribunal because the state doesn't believe that they [appellants] are being truthful about something and you always got that thing of trying to get the right facts in. (Senior Immigration caseworker)

... there were so many things I wanted to include in the statement and my solicitor didn't. What he was using was my private/family life, article 8, and I'm a grown man my dad don't need to depend on me and I don't need to depend on him, so he told not to include him, and also my stepmom and my sisters, because they had just dismissed a case like that before, so he just wanted to use me and my partner. (...) So he said that my family was not really important, but I wanted to put in my father and sisters, I thought it would be stronger. (Tony)

Witness statements are of course a form of evidence, reliant on the witness's credibility. But evidence in written form is considered more authoritative (Wight 2004, Conley & O'Barr 1990, Scheffer 2005). Thus, building a case involves gathering all sorts of documentation in support of the appellants' claims. Claims and facts are thus "...translated into documents and 'credible' testimony" (Wight 2004: 21). The Sentencing Judge's remarks and parole reports have already been mentioned. Other relevant documentation may be letters from teachers of the appellant's children, health documentation, bank statements, slips from visits paid to the appellant while he was in prison and/or detention, phone records, etc.

The use of expert evidence at the AIT is common in asylum cases but less frequent in deportation appeals. Expert reports provide assessments on matters that are beyond the legal expertise of the Tribunal but that are nonetheless of importance when deciding on an appeal (Thomas 2009). Social worker's reports are the most common expert evidence provided in deportation appeals. These reports examine the emotional and dependency links among the appellant's closest family and attest to the disruption

that the absence of the appellant may create in the family.³⁴ However, getting appellants to agree to a social worker's report may test the representative's persuasive skills: for one thing they are costly and, for another, appellants tend not to want a stranger prying into their domestic lives, while for many the term "social worker" alone causes fear.

Strengthening the case on a daily basis

In addition to writing witness statements for the appeal and producing important documentation, research participants also adopted or further developed forms of behaviour that were likely to strengthen their cases:

Its been one year, 2 months since detention, I been doing volunteer work. Has he committed any crime? No, he hasn't. Just trying to keep my nose clean. 'Cause if I go to court, my solicitor can say "all right, you say he was criminal 4 or 5 years ago, but what has he done since he came out? He's doing this, he's doing that". (...) He made a mistake when he was young. I know that is what's going to happen, so I keep positive, doing what I'm doing. (Tony)

Volunteering with different organisations, in particular if one is not allowed to work, shows commitment to the community and responsibility. In cases of addiction, attending unfailingly AA or NA meetings and volunteering drug/alcohol tests demonstrate a will to "stay clean". In the case of young adults, developing new friendships and avoiding 'hanging around with the gang', reveals a break from bad influences. Appellants may also become more engaged in their children's lives, picking them up from school and taking them to the park, helping with homework, getting to know their teachers and being more involved in school activities, etc.

Adopting or increasing such behaviour however, should not be seen as a calculated manoeuvre intended to deceive the court. Whereas strengthening the case is certainly a good incentive to keep up with the 'good behaviour', and this is definitely part of 'building the case', there are other reasons behind it. Volunteering keeps appellants busy and distracted and helps to ground a sense of worthiness that is constantly being challenged by the state's intention to deport. Being involved in PTAs may serve the purpose of obtaining a written statement from these groups attesting to the appellant's commitment, but spending more time with the children is making the

³⁴ Of course the value of expert reports is subject to the credibility of the expert in question. The controversy surrounding the use of expert-evidence at the AIT in asylum cases has not gone un-noticed by researchers (see for instance Thomas 2009 and Good 2004).

most of the time the appellant and his family have for now in view of a future which research participants were very much aware was uncertain.

This section has centred on the efforts and strategies that appellants, families and legal representatives deploy in the making of a case. It has focused on how preparing for an appeal hearing entails more than just gathering facts – it demands that appellants and their families present and adapt themselves and their circumstances as “cases”, a process that is not devoid of conflict and resistance. It is in this sense that cases are made, and not just prepared. The next section will examine the experience of appeal hearings.

APPEAL HEARINGS AT TAYLOR HOUSE

Taylor House is located in Islington in North London. As hearings are usually scheduled for 10am³⁵ there is a small queue leading into the building early in the morning. Past a security check, people are instructed to take the lift to the 2nd floor. The lift opens directly on to the reception and waiting area. On the wall, court listings inform parties which courtroom will hold their appeal and the Panel that will hear it. Just before 10am the waiting lounge is full of the sound of different languages being whispered at the same time, children playing in the back, the sighs of long waits, foot and pen tapping from nervousness and impatience. Legal representatives, suited up and pulling around trolley bags bursting with bundles, look for their clients. Some have found them and are going through details: *“Just tell the truth ok? Don’t exaggerate. You understand what I’m saying?”* Court clerks run around making sure all parties involved in their listings are present: appellants, witnesses, representatives, and sureties. At 09:50 a clerk comes around urging people to make their way to their courts, and the lounge empties.

Courtrooms are divided lengthwise by the Tribunal’s desk. The appellant and interpreter sit side by side in a desk facing the Tribunal, with the representative to their left and the HOPO to their right, each with their own desk. Each desk holds a jug of water with plastic cups neatly piled on the side, all carefully placed on a folded A4 paper. The wall behind the panel bears the royal coat of arms, the wall to one side has windows leading either to the street or to the patio, and the wall to the other side has the

³⁵ There are some exceptions and at times some hearings are scheduled for 2pm.

doors. At the back of the room a few chairs are laid for witnesses and observers. Courtrooms at Taylor House are alike, the exception being courts 12 and 26, which have a third door connecting them to the security room where appellants in detention are held prior to the hearing. This security door is an automatic 'lift-style' door, parting from the middle. A security guard escorts detained appellants into the room and sits behind them or by the exit door.

Although the AIT is intended to provide a less formal and more relaxed setting (Good 2004), there are several features that retain much of the hierarchy and formality of a courthouse. The Tribunal's desk is raised and can only be accessed through a separate door, used by the panel and the usher alone. This door stands next to the door used by all other parties. The panels' chairs are also clearly distinct: not only are they a different colour but they are also higher and more comfortable than the others. Neither the Tribunal nor legal representatives wear robes or wigs but are dressed in formal business attire. Those present in the room are asked to rise when the Judges enter or leave, but do not have to rise when addressing the Tribunal.

Some representatives and Judges believe that the setting is still too formal to be conducive to good problem-solving and that immigration appeals would be less stressful to appellants and others involved (children in particular) should they be heard in a setting similar to those of Social Security appeals, where all parties and the Tribunal sit around one table. For the research participants however, who had been through criminal courts before, and were expecting a proper courtroom, this setting is indeed less formal and intimidating:

It was very different from magistrates. It was a funny Court. The way you were talking to the Judge, ... the way of treatment, altogether, it's like an office, you were just in an office anywhere sharing information with each other and asking questions. And there is no hard language because they're judges, I know in the magistrates they can't talk, but that was not happening here (Jamal, father to the appellant)

Various people are present at a deportation appeal hearing. The panel of judges, who decide the appeal after considering both parties' evidence and submissions, is composed of one or two Immigration Judges and a Non-Legal Member (NLM). NLMs do not have legal qualifications but derive their expertise from experience and knowledge of immigration services. Their role in the AIT is contentious and not all

Judges and solicitors appreciate their value.³⁶ Present too are the appellant and representative. Representatives may be legal caseworkers, solicitors or barristers. The Home Office case is presented by Home Office Presenting Officers (HOPOs), who are civil servants, usually not legally qualified. Depending on the specificities of the case, interpreters, witnesses and sureties may also be present. Although I was usually the only one observing the hearings, other people may be sitting in court since more than one hearing is scheduled for the same court at the same hour, so parties to later hearings may be in the court waiting their turn.

Proceedings are adversarial as each party, or their representative, presents their case to the independent panel of judges. Parties may give evidence, call and examine witnesses and cross-examine the opposing party's witnesses. Yet the Tribunal also has an inquisitorial role and may put questions to the witnesses to clarify inconsistencies or address relevant issues. Both parties are entitled to further examine the witnesses following the Tribunal's questions. In general the Tribunal asks its questions after the representative and the HOPO have presented their cases, but it may also pose questions during these presentations as issues arise (Macdonald & Toal 2008). These 'interruptions' however can increase the witnesses' anxiety, as they may feel that they are not answering 'correctly' or that their integrity is being questioned.

There are no transcripts of immigration hearings. Judges have to note down everything. This means that often those giving evidence are asked to slow down, yet speaking in dictation mode does not come easy and many appellants and witnesses complained (to me) of the added stress this produces.

The hearings tend to proceed in an established order. The Tribunal starts by addressing the appellant, stating why the hearing is taking place, who are the parties present, and how the hearing will proceed. It often also reasserts that the panel is independent and not aiming to punish the appellant. It will also make clear that a decision will not be made that day, but will be sent to the parties in writing about ten days later. This introduction to the hearing is very welcomed to appellants and family, who are thus guided through the hearing and can better understand what is happening.

³⁶ As revealed to me in informal conversations both with Immigration Judges and legal caseworkers.

The bundles of documentation submitted by each party to be relied on during the hearing are generally quite large. Before hearing evidence, the Tribunal makes sure everyone has all the documentation and that all copies of the bundles³⁷ are equally organised and numbered so that parties can refer to paragraphs and pages during examination and submissions and all are literally on the same page. “Bundle talk” can take anything between five minutes and one hour. When it takes a long time, this can be distressing for appellants and their families, as it may be rather difficult to follow what is being discussed and this prolongs their pre-examination anxiety. Once these matters are settled, the Tribunal is ready to hear evidence.

The hearing starts with the appellant’s case, and the appellant is the first witness called to give evidence. If there are other witnesses, they are asked to leave the room until called to give evidence.³⁸ The representative will ask the appellant to state his name, date of birth and address. He is then asked if he wishes to rely on his statement. The representative may pose further questions to emphasize or clarify certain issues in the statement or to bring out recent issues that were not included in the statement. The HOPO then has a chance to cross-examine the witness. After that, the Tribunal may ask further questions. The representative then has a chance to re-examine the witness to control possible ‘damage’ arising from cross-examination or the Tribunal’s questions. If there are more witnesses, these are called one at a time and examined in the same fashion. Giving evidence may take a few minutes or well over an hour. Witnesses tend to be the appellant’s family members and/or close ones. At times sureties or other character witnesses, such as a local minister or an employer, may be called to give evidence. The appellant’s party is generally the only one calling witnesses. Once all witnesses are examined, the Tribunal hears the HOPO’s submission first and the appellants’ afterwards. The Tribunal will reserve its decision and pronounce that the hearing has come to an end.

³⁷ The bundles include statements of evidence that can be called or just stand as evidence-in-chief; chronologies; skeleton arguments; lists of witnesses; and all other documentation that is to be relied on, such as expert reports, the criminal Judge’s sentencing remarks; parole reports; evidence of family visits to prison and detention, etc.

³⁸ Some Judges also warn other people present in the court that if they choose to stay they may not leave the room until all evidence has been heard.

The build up to the hearing

Appealing deportation is a long process. At given points there are short time limits to serve notices and to prepare and provide the parties with all relevant documentation, making it a very stressful and time-pressured activity. Mostly however, there are long periods of waiting between hearings, between notices and hearings, and between hearings, determinations and further appeals (Craig et al 2008). These in-between periods are more often than not weeks or months marked with extreme nervousness, anxiety, lack of sleep, irritation and lack of patience:

I have headaches since the case, I haven't been to work last week and I haven't been to work Saturday and Sunday and I am not going to work tonight. Because I got these bad migraines and they get in the way. Its like am I tired, am I ran down, am I exhausted? What's going on? Its just too much. I don't know how I am dealing with it to be honest. (...) sometimes I feel I am mentally breaking down. I just got to stay calm. (Naomi, mother to appellant)

But as nerve-racking as it may be to contemplate the approaching hearing day, having the hearing postponed to a later date³⁹ is an unwelcome and unforeseen anti-climax. Appellants are seldom prepared for the possibility of an adjournment. Tomas's hearing was adjourned at the request of the HOPO who claimed the case was not on his list. Tomas became very distressed at the prospect of having to wait yet another three months. He paced up and down the corridor outside the courtroom, shaking his head and mumbling words neither his wife nor representative could understand. His representative urged him to be patient and reassured him they would use this time in their favour. Tomas is married and has three children. He also has a son from a previous relationship. His representative insisted that he keeps close contact with this son as that was the strongest element in their favour – the children from his current marriage and his wife can all be expected to move with him to Central Africa, but the son is not expected to be separated from his mother. The three months could also be used to gather more evidence that he has close contact with his ex-wife and takes part in decisions regarding their son. The representative warned Tomas that it was vital that the ex-wife made a statement in his support. For Tomas, however, who did not enjoy a smooth relationship with his ex-wife this task, along with three more months of waiting, was daunting. For Tania too, the adjournment of her partner's hearing was disheartening:

³⁹ At the hearing day, when in court, representative or HOPO may ask for an adjournment of the hearing on different grounds. If the Tribunal allows the adjournment, a new date for the hearing is agreed among parties.

The Home Office didn't produce what they call the bundles. They should have done it a few weeks or, you know, some time beforehand and they just really left out to last-minute. So it is, in a way ... the thing is it's just really prolonging a person suffering, that's how I feel. If it works in his favour then of course... but it's difficult. I was just a nervous wreck. I just thought, get on with it, just do it now, because just the whole build-up into the court case... I was sick, I couldn't eat, it was really very stressful. I'm calm now that I know ... I'm calm to a degree but I'm not sleeping.... it's hard, the whole waiting and not knowing, it's hard. It really is horrible (...).

Even if they can be used to their advantage, adjournments are always difficult for appellants and their families as some level of closure was expected for that day. Overall, the built up to the hearing is a particularly anxious time. In much the same way, the actual hearing is lived intensely and very emotionally.

Talk yourself free... or not. On being in court

Experiences of appeal hearings differ not only from person to person and according to their positionality (whether they are an appellant or a spouse for instance), but also from hearing to hearing. Many of the appellants who had been through successive rounds of appeals had very different experiences in each. Hamid for instance had two deportation appeal hearings. In the first one, in which his appeal was denied, he believes the judges were not interested in ascertaining the truth; rather they were looking for excuses to deport him:

He wasn't looking for the truth, he wasn't looking for my story. He wasn't looking at my children, they wasn't looking at the story of my wife, he wasn't looking out at what happened to me. They was asking about what I did (...) so when you blaming someone like this is 'cause I'm looking to destroy you that's what I'm trying to do, if blame you. So they was blaming me but they didn't ask me what I like to do, what I'm thinking to do, how I'm gonna be if they deport me, they didn't even ask me about it.

In the very last hearing, on the other hand, Hamid believes the judges were sincerely interested in finding the truth. At the time of interview he had not yet received his determination, so he did not know whether the appeal was allowed or dismissed, but to him, the questions the judges asked were clear, allowing him and his wife to provide good evidence. For him "it was very easy court that day (...) it looked like the truth was around the room, around the people".

Louise, the wife of an appellant, also had very different experiences in the first and second hearing, even though both appeals were denied:

L - the first one we went, it was just me and my husband, that was in 2006. And they didn't believe in anything he was saying. They said to me "if he has to be sent back, what would I do?" and said I would go out there with him for like 3 weeks just try and sort it out, but then I would come back, but they twisted it to say that I would go live in Africa so there would be no need for him to stay out here, because I am happy to live out there, which is not what I said at all, but it was all written down, I couldn't change it. It wasn't nice. I could only answer yes or no answers, and could never explain myself to the judge, he would just stop me.

IH – Were you not being represented?

L – No, because we weren't told, because the solicitor that my husband got at the time was just rubbish and he didn't tell us anything, what to expect or come with us or anything. So its only now that I got a new solicitor that I got know a little bit more.... The second time [*in court*] it was better. The new solicitor didn't go but he sent someone to go with us. (...) It was better because we spoke and we drew up a thing before anyway [*statement*] so I had already talked to the solicitor and the other man went through it all with us so it was all clear in my head and I knew what to expect, and what to say. And it was me that all the questions were being fired at so I got to say what I wanted to say. And they did let me explain a few things so it was better. But I really did think they were going to say we won, but the Home Office man was terrible. He just said that he didn't see any problem that he was apart from us for 3 years. (...) I thought the Judge was on our side. He was really nice.

For Maria, on the other hand, appealing deportation at the Tribunal was a dreadful experience:

It was horrific (...) when I was going to court for my crime I didn't get so disrespected, so humiliated, so belittled. I wasn't rubbished. In the Immigration Court I was ... well a piece of shit would have been better. And I think that what undid me most was being called a liar and a deceiver. And I think that what infuriated me was the fact that my family were also liars, they were also deceivers and you know, the insinuation that I could never ever be trusted because I made a mistake in my life was very painful. (...) When you go to the tribunal, they treat you like you are scum and they twist everything and what comes out is this vomit that is repugnant. And I know that I am not a bad person. But, that I am looked at as a monster and as an unwanted and as an undesirable. Like a leper, like when they used to walk around with bells on and it's inhuman and it's degrading and its demoralising. It's heartbreaking. Sorry [she is crying]. The presumption that immigrants are liars is wrong. Is wrong and I don't understand how somebody isn't screaming out human rights.

What the above narratives illustrate are the factors that most often influence how people feel about the hearing: a) how prepared people felt for the hearing, b) whether or not they had a chance to voice their concerns, and c) how the panel of Judges engaged with them. The outcome of the appeal is not the determining factor in how one feels about the hearing, even if reading the tribunal's findings can cause pain and frustration.

Feeling prepared

As evidenced in Louise's quote above, having a legal representative present at the hearing is the crucial element in feeling prepared. I observed six hearings where representatives simply did not show up, with no prior notice of their absence, forcing appellants and their families to either ask for an adjournment or nervously self-represent.

Whereas for both appellants and representatives preparation for court hearings is important, what 'preparation' actually entails differs. For representatives, preparing a client for court is mostly related to practical issues: how the hearing will proceed, how clients can get to the court and general guidance on how to answer questions: *never guess, don't exaggerate, if you don't understand the question say so*, etc. For appellants being prepared entailed, first of all, knowing that their case was as strong as it possibly could be. Secondly, research participants felt it was important to know what would happen at the hearing, e.g. when a decision would be made and how the Judges and opposing council would behave towards them. The most important dimension of being prepared for the hearing, for appellants, was to be given detailed guidance on the questions they would be likely to be asked and the best ways to answer them – most feared answering the wrong way or misinterpreting the questions. This however, is very close to 'coaching' clients, a practice not allowed to representatives.⁴⁰

Feeling unprepared was also expressed in research participants' frequent remarks that the aggressiveness of the HOPO's examination or lines of reasoning came as a shocking surprise:

... the man from the Home Office said that Ellis [son] is so young and 3 years isn't long that it shouldn't matter that he is gone for 3 years! Well, it does not matter how old the children are, he's missed out so much now, and I had to do it all on my own. He just seemed quite as if he didn't care, it was just like as if I was another number, I wasn't a situation with a family that had been broken with no proper explanation. He seemed like he just really wanted to win the case and not let him be here. (Louise, wife of appellant)

The home office bloke was awful (...) He just ran rings around them [*appellant and his wife*], and because I been sit listening to what was going on I could see what he was doing, but the judge wouldn't allow me to speak. So, it was ridiculous. And he does do things like that, he twists everything that is said, and he's quite a bully,

⁴⁰ These findings are not particular to deportation appellants, and echo the findings of a previous study on the onwards appeals and reconsiderations of asylum decisions in Scotland (Craig et al 2008).

when you get in court he is quite a bully. And of course, having us three who knew nothing about the legal system, and weren't even sure what was going on there, no solicitor, he just went all over us. And it was just a shame. (Trude, mother-in-law of appellant)

Naomi was outraged that the HOPO would assume she was lying by not knowing where her sister lived:

He was being very funny about "how could she not know where her sister is" (...) If he has a happy family and got his sisters and brothers around him, he's lucky, but me, I've been on my own since I was what, 19? Popping out children. So he can say whatever he wants to say.

For research participants, the ferociousness of the HOPO's examination was an added distress that they felt might have been prevented if their representatives had warned them about it.

On giving evidence in court

As shown by Hamid's and Louise's narratives above, having a chance to voice one's concerns in a consistent manner is a vital factor in people's feelings towards the hearing. Yet giving evidence is not without emotional stress, anxiety and frustration.⁴¹ As Naomi said:

Giving evidence was very depressing because you know what I don't like? I don't like having to go into my past. My past has a lot of pain and I don't like going into my past and explaining this and that. It really breaks me down. I got two dead fathers you understand? Having them dig up my past and ask me questions is hard. I don't like answering those things. And asking me about my son it really broke me down, that is why I left the court and I didn't come back in. I just couldn't deal with it. I don't like answering questions like that.

Witnesses may be distressed not only about having to talk of intimate issues but also that their loved ones might see them cry, and more often than not witnesses do cry while being examined. They also fear that they might answer something the wrong way or they might forget to say something really important. For Louise (see above) writing a statement prior to the hearing took the edge out of witnessing, she felt safer having the statement to rely on. In fact, the fear of answering something the wrong way, or misunderstanding a question is so prevalent that some appellants and family members,

⁴¹ Albeit in a different context, Dembour & Haslam's (2004) analysis of being a victim-witness in a war crime trial reveals how testifying is not necessarily part of a healing process, on the contrary it can be a painful and frustrating experience.

even though they spoke English fluently, felt safer using an interpreter: this way they were sure to understand the questions and answer without any ambiguity that may arise from using the wrong word.⁴² Anxieties apart, for most people, having a chance to speak was perceived as an important way to make the Tribunal see how one has changed and is being truthful:

Yeah I like giving evidence, really, because if you don't speak they don't really know more about you and your plans you know what I'm saying? So obviously the Home Office, they're going to try and paint me off as the *baddest* person even though you might have changed, you were young and that. I'm not really trying to make excuses but still they try to paint you as someone really bad so you have to really talk yourself free. So that's a good thing you know to try to interact with the judges and that. (Samuel)

I wanted to speak to the Judge so he could understand what it is like: how I've changed, so he can give me a chance to an honest life, you see? That is what I want. But my lawyer told me to shut up, but I would like the judge to hear me, so he know what is happening with me. If he hears you speak you show in your voice and manner that you are honest and he will feel it "this guy is talking good, let's give him a chance." (Andre).

In fact, the importance of giving oral evidence was well engrained in research participants who often 'complained' about what others said during examination:

And in the court, when it was finished, the Judge talked to him [appellant] and said "the case is finished now, do you have any additional information or want to say something to the court?" and believe me all he said was, which is different from what I would have said, "I got involved with this for the first time, and I'm very sorry, so I apologise". That's all he said. (...) It should have been different. Like telling them to give you another chance so that you don't end up in another country where there is danger to yourself, some explanation, I would have done that, but that was all he did. (Jamal, father of appellant)

Judging Judges

As we have seen in Hamid's narrative above, having a chance to speak is also related to how the panel is perceived to be listening. For Hamid the first panel was only interested in listening to things relating to his offence, and not about his family, his

⁴² In all instances the Judge clarified that the use of interpreters could not be used in the appellant's detriment. However, the Judge hearing Andre's appeal warned him that the use of an interpreter would go against him, for it would reveal that he had yet not integrated into the community (if he couldn't speak the language). Andre's representative argued with the Judge on that regard evoking the procedural rules of the Tribunal to establish that using an interpreter cannot jeopardise the appellant's case.

hopes and concerns. He was however happy with the second hearing because he felt the judges were interested in the truth.

Just prior to her husbands' deportation hearing, Claire was hoping the Judge would be English (not just British): she believed an English person would see things from her perspective, would understand how unreasonable it was to ask her, an English woman, to leave her country of birth. The Judge was English indeed, but her hopes were not met. As her representative was examining her the Judge kept interrupting with questions she didn't consider relevant at all: why her children were in prison, why her husband kept re-offending, and why would she say they could not maintain contact through modern technologies, such as emailing and skype, when she had already said they had a computer at home. The Judge's questions left her feeling that he was interested only in establishing why her husband should be deported and not at all interested in hearing about the things that mattered to her: her 25 years of married life to the appellant, her dire situation of having two (adult) children imprisoned, the impossibility of her moving to North America and the conditions under which her husband would find himself if deported.

Jamal, on the other hand, even when the representative did not show up at his stepson's hearing, felt he was heard by the Judges and had a fair hearing:

I have no problem with the judge. There were two, a man and a woman. The two were listening, were very patient. I know their decision maybe disappointing or maybe okay, I don't know about that, but the questions they were asking, I was very comfortable with it, and they were going in depth with everything. (...) And he asked me many questions like what do you think your son's life is going to be if we deport him? And they had questions for the other guy [HOPO], but they didn't ask him too much, his answers were nothing, were not correct.

The way Judges engage with appellants and other witnesses is also a determining factor in people's sense of fairness regarding the appeals system as a whole. Every time he was at the AIT, David encountered Judges who listened to him and to his wife and asked about his children and their life in the UK. His last appeal was dismissed, but in his view not because the system is unfair but due to poor representation:

As for the immigration court, it is more balanced than the criminal court. They hear your case and they also hear the Home Office part. What they have there is really an adjudicator, they are not on one side or the other. They are guided by your rights, by the law. (...) so if you notice, my first time in this situation, the appeal was granted. Now, the second time there was aggravation because it's the second time I got

arrested and go through this, but also I see that my solicitor did not defend me properly, and so that is why my case is dismissed. The Judges really are impartial, it's just that my solicitor was no good.

Maria on the other hand believed her case was doomed to be dismissed over and over again because subsequent appeals take into account the first determination, whose Judge she considered partial:

I thought that it was going to be a fair chance, and I didn't and I hadn't. It's not a fair chance, it hasn't been and what I find really disturbing is that the initial judge that took my case, took it upon herself to make sure that it was hers. (...). And I feel that I have been tricked and disadvantaged because every single appeal that I have done, all they do is re-read what she has written, so how is that a fair system? How is that an appeal? That is not an appeal! That's me saying "have a read, what do you think?" (...) I've had lots of kinds of hearings... I can't remember... about 3 times I went before the crown, the tribunal and then after that its all just a paper exercise. But if its just a paper, none of these other judges have met me, have heard me, have listened to my son, they haven't listened to what my nieces said, all they have done is re-read what the initial judge wrote, and that to me isn't a fair system. (...) And I knew from the very first time I saw her [the Judge] in court, and I told her "just tell me what's going to happen because what I am getting from you is that I'm gonna get deported and you haven't even heard my case yet. The behaviour that you are showing me with the friendliness with the immigration home office is clear. Whereas with my solicitor it is a completely different thing." (Maria)

Maria's narrative also reveals how the behaviour of the Judges is crucial to people's expectations of the outcome: Maria was sure her appeal would be denied because that was the message she read from the Judges behaviour. Samuel's narrative of three court hearings below is also illustrative of this:

The judge, in the first hearing, she had her mind into somewhere else because she was trying to rush the proceedings because she had to go somewhere, so she wasn't really understanding. As soon as she walked in, you know sometimes you know, so she walked in and I saw the woman's face, the body language and I knew it wasn't really my day (...). Then, when I went into Field house to see if I could get me another hearing, I walked in the court and the judge smile at me, I sat down and I knew it [that it would be granted, and it was]. After that, in this last hearing the woman, I thought she was firm, she seemed firm but I think she looks a bit fair, tough love kind of thing. (...) I think she did understand what was at stake for me because I put it across to her that this was my last chance, I had everything to lose now, so if they do give me the next chance I'm not going to mess it up and I don't really get anyone to blame for. So I really think that she did get to see my point of view was well, she just has to balance it out (...) (Samuel)

In fact, appellants and family members read so much into Judge's engagement with them that, if the judges are warm and nice, they tend to believe the appeal will be allowed, leaving them confused and betrayed when that does not happen:

I thought that if the Judge had the power he would have allowed it because he just seemed so... nice. Like he understood everything that we were saying and he was very sympathetic to it and realised that wrong had be done by my son-in-law, and I thought if he had the power he would actually put it right. He still didn't put it right, so although he didn't help he was very good. (Trude, mother-in-law of appellant).

I was confused... He [the Judge] seemed so nice, he said he understood how hard this was for us, I really thought he was, you know, on our side...and then we get the letter saying we lost, its hard. I don't understand, why was he nice if he knew he was going to decide against us? (Louise, wife of appellant)

The aftermath of the hearing

The end of the hearing is not a final closure. Appellants and their families have to wait for the determination. These are two weeks marked by disquiet, uncertainty and fear of what the future may hold, and constant anxiety over postal deliveries:

I got huge weight on my shoulders (...) the hearing went well but I don't really feel too good because I know if it goes against me that's a serious thing you know so I can't really loosen up, I can't enjoy myself 'cause I know this thing is hanging over me so until this thing like concludes ... I'm under a lot of stress you know, when I tell people they don't really know. (Samuel)

I have to wait a couple of weeks for the hearing to send me the reading. I don't even know what is going on. So I'm sitting down here, with my hands in my heart basically, what's gonna happen? Are they going to send him home or are they going to send someone around to pick him up or are they going to send me a letter saying that everything is ok? That is why I am going through my mail now, because I can't see a letter reaching and its over two weeks now, right? So you are actually sitting down at home wondering "ok, when is this letter going to be here?" I'm making him feel ok and safe, and then BANG! You get bad results and then his whole life falls apart. (Naomi, mother to appellant)

Reading that the appeal has been successful can be very uplifting. Hamid called me when he heard his appeal was allowed. He was happy and relieved and believed the Home Office would not appeal the decision because the determination made it clear, in his reading of it, that they wouldn't stand a chance. The Home Office never did appeal that decision. Jamal was not so lucky: his stepson's first appeal was allowed. He was happy and joyous when he heard the news although he couldn't quite understand why his stepson was not immediately released from detention. A few days later, the Home Office contested the decision, taking them to another round of appeals that kept his stepson in uncertainty and detention for a further eighteen months. Samuel knew better than that and was cautious about celebrating when his second appeal was allowed – not until the expiry of the period for the Home Office to appeal:

Because at the end of the day until they say “you're free to go, your case is finished” you never know what's going to happen. Say if the Home Office appealed now to the higher court and a High Court allowed their appeal then you know there was no point on me really being happy until I got that closure. Now I got that closure.

In contrast, reading the determination of a dismissed appeal, can be a painful experience that forces appellants to rethink their options:

When I got the letter I couldn't even read it right so I gave to someone else to read it for me.... Oh my God! I was so stressed, I was thinking, what am I going to do? Run away? Disappear? Some friends were saying “dude, we'll make you a new passport and you disappear.” But then it is like I am gonna lose my mother, lose my life. I can't live like that. (...) Then I thought, I'll just go back to my country, I can still make a life from scratch, but its hard. (Andre)

They send you a paper in the shape of a dagger and reading it is being stabbed with it in your heart. The impact when you get a letter from court is great, because your mind goes blank, it's like they kill you. The worry kills you. (George)

For most, a dismissed appeal means another visit to the representative and, if there is agreement between appellant and representative, another round of notices and hearings. Appellants generally want to proceed with the case, and there are advantages to this, as illustrated in the statement below, but a decision can only be appealed on a point of law, and not all representatives are willing to take a case further if they see no merits in it. Craig et al (2008) also found, in their study of asylum appeals in Scotland that representatives are divided as to when to take a case further: for some there is an ethical duty to only take further those cases that merit it and not to pressure the system with those who lack the legal grounds for further appeals. Other representatives feel it is their ethical duty to do as much as they can for their clients and explore all the possibilities. There are also funding considerations:

I turn it away if it has no chance. There is privately funded work and there is legal aid. And in a legal aid contract, you are obliged, if there is less than 50% chance you can't take the case on, you won't get paid for it. You would have to turn the client around. In the privately fund, you will also not take the case if there is no merit, you'll say “I won't take your money for this” but some clients want to do it anyway. 'Cause there is always a chance, even if you got a low chance, you almost got to try, because if you don't try it reduces your opportunities for a later date. It's all down to funding really. (...) If you argued your appeal and you lose but then later the law changes in your favour but you are still here [in the appeals system] then you can rely on arguments and points made previously so you should go and appeal if you can. But if you're given the opportunity to appeal and you don't, then you try again when the changes come and they will say “well, you had the opportunity to present your facts.” So you should be trying every case, but it usually comes down to funding. (Senior Immigration Caseworker)

Recent legal aid reform has limited and restricted funding in a way that has forced legal case workers to take on the role of judges (James & Killick 2010) or border officials (Fischer 2012a) when deciding which cases to take on in the first place and which cases to pursue further, forcing them into "... a surveillance role, complementing or anticipating the judgements of the Home Office and its Border Agency" (James & Killick 2010:13). Whether or not to take a case further is not a simple decision for representatives - appellants are not fully aware of these complexities and resent their representatives when they refuse a further appeal. When representatives will not take a case further under legal aid provisions, appellants have to finance representation themselves (and find themselves another representative in the short period they have to appeal a decision), self-represent or abandon the appeal altogether.

Looking at research participants and the cases that this research followed, two had their appeals allowed and two were deported. Nearly two years later all the others continue in the appeals system indicating the importance for appellants of remaining in the country. Even when legal aid was no longer available and their financial situation was dire, one way or another money was secured for representation.

LEARNING THE RIGHT TO STAY

In this chapter I have examined the deportation appeals process and how it is experienced and understood by appellants and their families. The appeals system is so complex that the longer appellants have been in it the more difficulty they face in locating where their case stands. This confusion is not likely to be reversed even if, as the appeal proceeds through the system, appellants get to understand the issues at stake, the legal language and the procedures of the AIT. Tony for instance, is so familiar with 'deportation' language that at times he sounds like a legal representative, yet he cannot say where his case is at the moment – it is somehow lost in a maze of notices and appeals. Tony is not alone, and many use their time in detention to learn more about the law and their rights:

I sort of know the law by now, because I was imprisoned, so I read a lot and I am familiarised with the law. I am the one who suggested to my solicitor that he put in a judicial review because they scheduled my deportation flight and I was in detention and he said "there is nothing we can do" and I said "What do you mean we can do nothing?" "well, your appeal is exhausted" and I said "no, it isn't, I still have many grounds, I have grounds for judicial review", and he tells me "so what are your

grounds for judicial review?” “Well, I have family, that is a ground” and he said “so give me some time, I’ll look into it and I’ll call you back.” (David)

In January 2008 I had my flight removal, but me and a friend who is a caseworker we done our judicial review, we had no lawyer at that time so I done my own judicial review and then the day I was supposed to go to the airport the judge cancelled my flight and then they brought me back. When I first got the letter from Home Office I was young and I was panicking. (...) That place I was, there were no books, I could not learn about things, about how they can revoke your indefinite, how they can do this. I did not know nothing about it so I was panicking (...). Now I can stand in high court and I’ll defend myself. ‘Cause I read so much in detention, I read so much books, I read about cases, and my friend is saying “you should come and be an immigration lawyer”. That is what you do. Because when they want to fuck you up you have to use your brain, you have to feel qualified. (Tony)

In fact, for both Tony and David, it was their knowledge of the use of judicial review that saved them from immediate deportation. Of interest here is Conley & O’Barr’s (1994) study of how lay people conceptualise legal problems. The authors found that people conceptualise legal problems either in a rule-oriented approach (understanding what is at stake in court and framing their problems according to it, i.e. sticking to the facts for instance) or a relationship-oriented approach. The latter is the common approach among lay people, who tend to look at the moral and social issues. They frame their legal problems in court in terms of their relationships with the defendants and their past and present condition – they express their legal rights like one who is telling a story to a neighbour, looking to contextualise the facts in their personal worlds, which makes it harder for judges to understand their position, as they need to filter the facts from their stories. In fact, as already mentioned, one of the most important tasks of legal representatives is precisely to select from a relational narrative the facts and issues that can stand as evidence in court, and as I have shown, this process is not without conflicts over which elements of the narratives should be translated into fact.⁴³ There is a divide between the manner in which my informants conceived their legal conflict with the Home Office, and this divide echoes the rules versus relationship approach of Conley & O’Barr.

Appellants like Tony and David, who have long been in the appeals system, have learned how to frame their stories in the required legal fashion: they know what issues and facts are legally relevant to their cases and are well aware of what the Tribunal is expecting from them and their families. Appellants’ family members – spouses, in-laws,

⁴³ Conley & O’Barr’s (1994) used speech analysis. Although this study does not follow the same methodology findings are mirrored to an extent.

siblings, etc – are in general not so familiar with the legal issues at stake as the appellants try to protect them as much as possible from the anxieties inherent in their cases. Parents of very young offenders are the exception here, as they take ownership of their children's cases, and become more learned in the immigration issues at stake. But understanding the legal matters at hand is not tantamount to taking a rule-oriented approach in Conley & O'Barr's sense. Appellants like Tony and David are very pragmatic when in court – they already know how best to answer questions and to stick to the facts that are important for the Judges. In this sense, one may say they are taking a rule-oriented approach in court. During my interviews however, their narratives were not restricted to 'facts' and legal rights, but were again more relational: the emphasis was on what they felt was their entitlement to live in their country of choice with their family, on how fair or unfair they consider the law as it affected them and on how their particular case deserved a chance due to their personal circumstances, their ambitions, their past. Yet even their relational narrative is built within an 'entitlement' framework that seems to be related to their knowledge of the law. Peutz (2007) discusses how it was through imprisonment that her informants 'learned the law' and began considering themselves as 'rights-bearing subjects.' The ability to perform a rule-oriented approach in court without discarding a relational-orientation,⁴⁴ is testament to the appellants' learning of the law in the effort to increase their chances and by playing the game by its rules.

Finding themselves in this ordeal, appellants soon learn the importance of 'learning the law', of understanding as much as possible what is going on in their cases and how to better their chances. For many the 'learning of the law' translates into 'speaking the law' – they have appropriated a rule-oriented narrative to their case, often sounding like legal caseworkers. They do so without discarding a relational-orientation that is structured nevertheless within a framework of rights and entitlement. This is particularly visible in the efforts appellants deployed in making their case and their own understandings and readings of procedures. Appellants may adopt a rule-oriented approach in court, but they still read the faces of Immigration Judges to infer what the determination will be and they still perceive as unreasonable the idea that 'broken' families have better chances than traditional family units.

⁴⁴ Also documented in White's (2012) paper on immigration bail hearings in the UK.

Both appellants and their families emphasise getting legal representation from someone who cares for them and knows them well, much the same way that the importance of voicing regrets and concerns in court - and being heard – is seen as a vital element in their efforts to make the tribunal see that they are sincere and deserving of a second chance. That appellants feel a need to be seen as persons, and not merely appellants/criminals, by both their legal representatives and the Tribunal, is testament to their relational-orientation.

Furthermore, in adopting or furthering behaviour and activities that strengthen their case and in complying with their conditions of bail, appellants are also ‘living the law’ - they are living their lives in accordance with their cases, and are experiencing on a daily basis the anxiety, uncertainty and distress attached to their case and their will to stay. However, the experience of appealing deportation cannot be looked at in isolation – it is part of a wider process that entails state surveillance and control, chronic uncertainty, and limited scope for political action. These issues will be examined in the following chapters.

5. To punish and compel. On state surveillance over deportable migrants

Facing deportation implies the establishment, or reinforcement, of a relationship between the migrant (and his family) and the host state. How that relationship develops and resulting consequences are to be addressed in this thesis. The previous chapter dealt with the AIT and the experience of legally challenging one's deportation. Immigration Tribunals however are but one theatre of state power (Bhartia 2010) over migrants' bodies. When migrants are subject to deportation or removal, they become subjects to be placed under surveillance, to be monitored and detained – Immigration Removal Centres and Reporting centres thus become stages of state control. This chapter focuses on how these institutions become part of migrant's daily lives and how these encounters are experienced.

Forms of state surveillance over deportable migrants in the UK, and elsewhere, are conceived legally as administrative practices necessary for the enforcement of the removal process. For the research participants however, these forms of state surveillance are understood as a punishment and a strategy to render their lives in the UK impossible to the point at which they will acquiesce to deportation. This chapter will focus on the punitive and coercive effects of state surveillance on deportable migrants, and their own understanding of such practices. Although other forms of migrant surveillance are being tested and used in the UK, such as Biometric Resident Permits (Warren & Mavroudi 2011), in this chapter attention will be focused on immigration detention and reporting, the two forms of state surveillance most commonly applied to those facing deportation from the UK.

MIGRANT SURVEILLANCE IN THE UK

At the time of writing, in early 2012, there were 13 UKBA Immigration Removal Centres (IRCs) with an overall capacity to hold over 3.000 migrants on any given day.

Some are managed by HMPS, others through private contractors. According to the ICIBI (2011) in February 2007 there were 1,300 foreign-national offenders detained under immigration powers either in IRCs or in prisons. By January 2011 the number had risen to 1,667. In February 2010 the average time spent by foreign-national offenders in IRCs awaiting deportation (not removal) was 142 days (over 4 months) and by January 2012 this had risen to 190 days (over 6 months). By 2011, 27% had been in detention for more than 12 months. The high numbers of foreign-national offenders in detention are a reflection of the informal operational policy of treating a deportation order as an order to detain (see Chapter 2).

The grounds to detain migrants were developed in the 1971 Immigration Act and subsequent legislation. A migrant facing deportation from the UK may be detained at any point of the process 1) if there is reason to believe the migrant will abscond, or 2) if the migrant, having exhausted all appeal rights, is about to be deported. This means that upon receiving a notice to deport (or being issued a deportation order under the automatic deportation system)⁴⁵ a migrant can be detained at any stage of the deportation process. Of all the migrants facing deportation that I came across during fieldwork, only one was not under any form of state controlled surveillance. All others had been through at least one period of detention and were reporting as part of their conditions of bail. In addition, two were electronically monitored. When in detention, a migrant may apply for bail every four weeks. Bail hearings however, were considered by research participants to be very arbitrary and most believed that it was really up to the personal and political inclinations of the Judge considering the application, and not the merits of it. More than a perception, this is a tendency that has since been documented in different studies (White 2012, BID 2010, CCC 2011).

Reporting is usually required as condition of bail from detention.⁴⁶ It consists of the allocation of a regular appointment at a pre-determined reporting centre or police station. Every week during a given time-slot migrants must go to the reporting centre and present their papers. Although in certain cases this is a monthly or daily appointment, depending on the level of risk of absconding of the migrant, all but one of

⁴⁵ See Chapter 4.

⁴⁶ Other conditions of bail from detention tend to be the requisite that the detainee lives in a particular address and that the detainee and/or one or more sureties volunteer an amount of money adequate to their financial means, that is retained by the Tribunal should the detainee abscond. At times, electronic monitoring is also part of conditions of bail.

my research participants were reporting weekly. There are 14 UKBA Reporting Centres, four of which are located in London. Reporting Centres are run by private security companies and many have short-term holding facilities, consisting of one or more secure cells where migrants apprehended upon reporting await transfer to an IRC.

Another form of migrant surveillance is electronic monitoring (which also goes by the name of *home detention curfew*) as a condition of bail. In these cases, an electronic ankle tag is attached to the migrant who, at pre-determined hours of the day must be in range of the transmitter that has been placed in his or her home, thus enforcing curfew times. Only two informants were under electronic monitoring. They felt extremely uncomfortable about it. Samuel was not only was ashamed of it, but also strongly felt the pressure of the electronic curfew, worrying every time he left his place whether he would be able to get back in time.

SURVEILLANCE AND CONTROL

Under the heading “Immigration Removal Centres” UKBA’s webpage⁴⁷ reads:

Our removal centres are used for *temporary detention*, in situations where people *have no legal right to be in the UK* but have refused to leave voluntarily. Those detained in any of our centres can leave at any time to return to their home country. Some detainees are foreign national prisoners who have completed prison terms for serious crimes, but who then *refuse to comply with the law* by leaving the UK. If detainees *refuse to comply with the law* and leave the UK, we will move to enforce their return. (*emphasis added*)

Overall these few sentences are successful in presenting detention as an administrative practice necessary to remove from the territory those who not only have no right to be in the country but also refuse to comply with their obligation to leave.⁴⁸ The text is in fact geared to present detainees as deviants: people actively and intentionally not complying with the law, whose action – of refusing to leave – justifies their incarceration, much like a criminal conviction may justify imprisonment. The portrayal of detainees as a risk and danger that must be contained is well developed elsewhere (Malloch & Stanley 2005, Feldman 2011) and will not be dealt with here. Of

⁴⁷ <http://www.ukba.homeoffice.gov.uk/aboutus/organisation/immigrationremovalcentres/> (last accessed on 25th January 2012)

⁴⁸ It should be noted here that the composition of the government has changed between 2009 (time of fieldwork) and the time of this UKBA post, which might have implications if I were trying to examine the Home Office’s legitimisation of detention. Here however, I am merely seeking to illustrate how detention is officially conceptualised as an administrative practice necessary to law enforcement.

concern in this chapter is what the UKBA text above fails to convey: that the powers to detain reach not only those who have been denied entry or leave to remain but also all others whose “legal right to be in the UK” is still to be adjudicated, as is the case with asylum seekers and migrants with ongoing appeals at the AIT. The text also fails to convey the indefinite nature of detention in the UK. Whereas the EU maximum limit for detention is 18 months, there is no such limit in Britain, a fact that adds to detainees’ distress. The text also presents an alternative to detention: voluntary departure. In fact for many this is not the case and the Home Office indeed often faces serious obstacles when attempting to remove migrants either because it cannot identify their origin (when there are no papers), or the consulates are not cooperative in issuing travel documents or simply because the country of origin will not take them back (what Leerkes & Broeders 2010: 831 call the *undeportable deportable migrant* and Paoletti 2010 *non-deportability*).

Legally, detention and reporting are administrative practices designed and practiced to expedite the removal process. Their aim is thus not to punish nor to rehabilitate, but to facilitate the removal of migrants who have no legal right to stay in the UK, to use UKBA’s words. In practice however the forms of surveillance discussed here work to punish migrants and coerce them to leave.

Leerkes & Broeders (2010), in the context of the Netherlands, question if the administrative rationale for immigration detention is sufficient to explain current and actual practices of detention. The authors argue that immigration detention serves three informal functions in addition to its official purpose as an administrative practice aiding the removal of unwanted migrants: deterrence, control of poverty (detention acting as a temporary relief from street poverty) and symbolic assertion of state power. These informal functions are not necessarily unintended, even if they are not ratified in the law. By keeping detention under administrative law, policy makers have a ‘flexible instrument of control’ (2010:846). Deterrence would then work not just to coerce those detained to leave or assist in their removal, but more broadly to prevent migrants from violating immigration policies and the law in general. The extent to which such methods actually work as a deterrent more generally are difficult to ascertain but, as it will be seen here, research participants did feel very strongly the coercive element of this form

of surveillance, often wondering whether they would be able to endure another period in detention.

Detention also works in symbolically asserting state power and managing popular anxieties over immigration control because “the increase in immigration detention communicates the message that the state is still in control over the geographical (and social) borders that citizens want to maintain” (2010: 843). In other words, the government recognises that there is a problem and that that problem is being addressed.⁴⁹

Foucault (1991), through his examination of Jeremy Bentham’s Panopticon, takes surveillance as a disciplinary practice. In the Panopticon, power is exercised through the allocation of visibility to those who are to be disciplined and of invisibility to those who discipline. The dyad between the one who sees and the one who is seen is thus not established for both actors, as the eye sees all but is never seen. The Panopticon acts as a disciplinary practice precisely because the subjects of surveillance know that they are visible but do not know *when* they are being watched. Surveillance in that setting thus seeks to discipline by coercing a change of behaviour.

Whyte (2011) reveals how Foucault’s Panopticon does not fully reflect the reality of open immigration detention camps in Denmark, for the gaze is not fully fixed and the dyad between the seeing eye and being seen is in fact established. Because there is no all-seeing-eye, and the seeing is partial and inconstant “applicants worried about what it was the central gaze saw when it did observe them” (2011:20). In the UK, IRCs are not open camps as in Denmark, where detainees are free to spend the day outside and need only to return for the night. British IRCs more resemble prison facilities, and some in fact were acting as prison or military establishments before being converted into IRCs. They are high security facilities with barred windows, locked doors, security checks for visitors (and detainees), and countless CCTV cameras spread throughout the facilities. Even so, IRCs do not function as a Panopticon and research participants did not feel

⁴⁹ This is true of other forms of surveillance and state practices. Frois (2011) for instance, is examining the intention of the Portuguese government in installing CCTV in public open spaces. This surveillance is justified in its preventive role, so in that sense it is disciplining as it is aiming at a change in behaviour. But, it is not rehabilitating because it is not addressing the causes that led to a need for surveillance. However, Frois contends that as a line of action it is effective because it reveals that a problem has been identified and that is being acted upon, even if the action is centred on the intention and not necessarily on practice (2011: 125).

constantly the gaze of power on them, not in the sense of feeling observed. In IRCs, as in Whyte's case, the gaze of the guards is not permanent but rather uneven in its application and is motivated not so much by disciplinary concerns but rather by control and security concerns (Hall 2012).

When the potential deportee has to report, after being granted bail from immigration detention, the gaze is established in much the same way as in Danish open camps: it is limited to the reporting appointment and the dyad between the one who sees and the one who is seen is established. Deleuze (1992) argues that the will to discipline is being replaced by the will to control. In this context this would translate into surveillance being applied not to punish or rehabilitate offenders, but to prevent or anticipate crime or unwanted behaviour and should control fail in its preventive role, it will nevertheless facilitate accountability and punishment (Frois 2011:17). In fact, immigration detention and reporting do not have the disciplining aim or effect of the Panopticon. They are concerned with removability and control, not with discipline in the foucauldian sense (Whyte 2011). Yet, their power is nevertheless exerted intensely over migrants' lives constantly. Migrants experience the power of the state through state technologies of surveillance even if the gaze is not permanently on them. This is so not only when in detention, but also when out on bail through tagging and reporting, which as this chapter and the next chapter seek to show, heavily restrict and impact migrants lives and sense of self. Moreover, whereas citizens have some flexibility and scope for negotiating surveillance on them, migrants facing expulsion from the UK have little power of negotiation. For them there are but two options: to endure surveillance or to leave.

Agamben's work is useful in examining migrant detention. The biopolitics of his 'state of exception' and 'the camp' (1998 and 2005) resonates with the reality of detention centres. In a state of exception power is centralised, with the state holding extra-judicial powers to address perceived threats to its authority, that confer on it near absolute authority to rule, i.e. unrestrained by the law the state can operate outside it. In this context whatever is done to individuals is not considered a crime, as they have been stripped of their rights and their political status - they are thus reduced to 'bare life' (Agamben 2005). Yet, as many authors have argued recently, Agamben does not leave much space for socio-political action in this context (McGregor 2011, Hall 2010, Nyers

2008). Furthermore, despite the many parallels that can be drawn, IRCs do have a legal status and allow detainees to have legal representation, the right to appear before a Judge and to apply for bail, which hardly fit with Agamben's conception of spaces of exception (Richard & Fischer 2008). Liberal states do face many constraints when pursuing such avenues of policy (Ellermann 2010; Freedman 2011), which often lead to non-deportability (Paoletti 2010; Leerkes & Broeders 2010).

Isin & Rygiel (2007) conceptualise the camp as an abject space in the sense that, in the camp, people are not to be disciplined, nor eliminated, but just left without a presence, invisible and inaudible. However the camp, in this account, may also be a space of resistance. Furthermore, McGregor's (2012) work on religious revival manifested within immigration detention centres in the UK not only brought religion into the discussion of borders, but successfully argued that IRCs cannot be seen solely as zones of exclusion but must be seen also as 'socio-political spaces in themselves' (2012: 236).

There is a growing body of literature on immigrant detention. Although some have examined detention from the perspective of immigration officers (Hall 2012, Sutton & Vigneswaran 2011), most tend to focus on the experiences of detainees. In the UK, this body of research has mostly centred on the lived experience of detention by asylum seekers and tends to limit the analysis to experiences of detention while migrants are detained (LDSG 2009, BID 2009). McGregor's (2009) work is a valuable contribution as it explores the legacies of detention of Zimbabwean asylum seekers in the UK long after release. Although asylum seekers' experiences of detention vary in some important ways from those of foreign-national offenders, many of her findings on the impact of detention both while detained and after release, on attitudes towards Britain and ways of coping, are echoed here.

The practice of reporting has been largely overlooked in academic literature. Migrant support groups provide some information on reporting, mostly alerting migrants to the risk of detention when reporting and how to be prepared for it. Some migrant support groups have even established groups that control each other's reporting appointments so that if one should be detained when reporting the others can contact

immediately his representatives, family and other advocacy groups.⁵⁰ Reporting to the UKBA as part of the conditions of bail from detention is a practice that greatly impacts migrants' lives and perceptions of safety. In including it in this thesis I show how it is also part and parcel of the experience of deportation and deportability from the UK.

NARRATIVES OF SURVEILLANCE

Detention

Narratives of detention and surveillance were remarkably similar, showing very little variation between the accounts of different research participants. This, rather long, excerpt from George's detention narrative will be used to ground many of the issues dealt with in this section:

I went in September to sign, it was on Monday, I went to sign it and one woman come to me and said "I'm really sorry but you have exhausted all appeals" I said "excuse me, I haven't got any appeal yet", she said to me "well sorry, its Croydon [UKBA office], they give me order to detain you" and they send me for one week to detention! Oh my, I couldn't believe! (...) It was the first day of school for my children. It was 3:30 pm and I called my wife saying "look, they are detaining me, I have with me the money to pay the lawyer for the appeal" because I was going there afterwards and if I don't give him the money there is no appeal. She started crying. It was terrible, it was like recalling the experience of when they treated you like a criminal, but after so many bitter experiences... and my son, he was so small, in hospital... the only advantage is that you can have a cell phone there, so I could speak with them at any time and that gave me the peace of mind to cope with it all. Of all that I could see there, it is the psychological damage that it makes you... because all the time you are hearing the planes go by. They are very clever, this country. You're thinking "I'm one step away from being sent away" and the planes go by and by. It was a shock to find myself detained. I am never violent. I couldn't eat, I was too stressed. Hunger? What hunger? I couldn't eat, I felt like eating nothing. I lost 3 kilos in 8 days. Once this torment was over, my appetite was back immediately. When I arrived home I eat so much. Then I went to the hospital to see my son. My innocent son who was unaware of my pain. But they don't care about any of that, and that is what hurts. There were many who wanted to go, thinking "if I am here to be locked up, I rather go home". There are a few still fighting to stay, most want to go, they are tired. Even this Colombian friend of mine, he called me yesterday, saying he lost in court, and his representative told him she would charge £3000 to appeal, and he said no. He has been here for 20 years, has children, all British. His problem is his record, he has an extensive record, he was in jail for about 4 or 5 times. He says he wants to go, he said "I am happy because my family will stay here, but I am tired of all this." Oh well... And I don't understand why they detained me, I have my kids, where would I go? How would I endanger my kids and

⁵⁰ See NCADC on "A sneak preview of NCADS's campaign toolkit: immigration detention" available at <http://ncadc.org.uk/blog/2012/03/a-sneak-preview-of-ncads-campaign-toolkit-immigration-detention/>

my family, they are my life. (...) I have suffered a lot here, and if they send me to detention again I can't take it, I'll say "deport me, deport me now." (George)

George had been reporting for over a year by the time he was detained. This was not his first time in detention, nor his last. At this point though, he was not expecting to be detained. He had been granted bail a year before, had not violated its conditions and was about to start another appeal with the AIT. He had no way of seeing it coming and, like many others, was detained with what he had on him that day. He didn't have with him spare clothes, toiletries, his medicines or any other things he might need while in detention. Of more concern in George's particular case was what he did have on him - the money to pay his solicitor so that he would start working on the appeal. Given the short time granted to file the appeal, this situation was particularly troublesome and very illustrative of how apprehension cancels all plans that migrants might have for the day and the immediate future - their time is interrupted.

Deportees interviewed for this study were detained either straight from prison upon completing their sentences or, like George, when reporting to the Home Office as part of the terms of bail. Detention was always unexpected and all reported feeling confused, shocked and scared. Some were held at the reporting facilities for a few hours before being informed that they were going to be transferred to an IRC, exacerbating their anxiety.

Phoning home to break the news of their detention is a key moment of the detention process for the migrants - as George says, it is a reminder of their criminal status and of what the family had to go through while they served their criminal sentence. On top of everything else, detainees feel guilty for putting their families through another ordeal. The phone call is always described as a terrible experience: migrants are well aware of how difficult receiving this news can be. For their families this means yet another period of separation, an added fear that detention will jeopardise the appeal or that deportation might be imminent, and adaptation to the logistics of having a spouse or child in detention. Whereas George was sent to Brook House, next to Gatwick airport and fairly close to London, others are sent to IRCs a considerable distance from their places of residence. David, for instance, was sent to Dover, hampering family and legal visits as the travel is time consuming and costly. Family members also often described feeling publicly 'shamed' by the IRC staff. Claire for

example, as an English woman visiting her husband in detention, felt the judgmental gaze of IRC staff on her: “When I visit him [her husband] in detention, the guards know that I am English, they can tell, and they don’t understand what I’m doing there.” Families also have to adjust to the gap left behind by the migrant’s detention: it might mean one less breadwinner, but also that someone has to fill in the detainee’s daily tasks, such as taking children to school, which may require great logistical effort. In addition, whatever documentation might be needed to prepare the appeal must now be gathered and provided to solicitors by family members.

Unlike many other detainees, migrants facing deportation from the UK following criminal conviction had experienced penal incarceration in the UK prior to their detention. Unlike IRCs, prisons have the dual purpose of punishment and rehabilitation, and research participants felt the importance of both. Prison time is always narrated as time used to rethink life, a time of rehabilitation whether from drugs, deviant behaviour or simply from oneself. It is a time when research participants learned to appreciate the good things they have in life. It was also described as an experience that made them realise the potential they had to succeed in life and be happy. Most took courses in prison both for education purposes and for their personal development:

I think that it was kind of good that I went to jail, I think God gave me that opportunity to be arrested and think about what I want from my life and to see that I have a lot of chances, a lot of good things to do, that I have a future. And that the people who are close to me, they are good people and that I lose people because I was not thinking straight. (...) I don’t know what happened to me. The answer that I get is that I changed, I really changed a lot. I look at myself and it’s like “Shit Andre, is that really you?” (...) I think before I wanted everything at the same time and I couldn’t get nothing and then I would get out of control. Now I want one thing at a time, I’m focused in taking care of my mom, and getting in the gym [he was training to be personal trainer] which is something that I like and won’t pull me back to evil or dirty business. (Andre)

Be locked up in a place, the first few days were terrible. In the first days you spend 23 hours locked up. Today I cannot hear the sound of keys. It’s psychological torture. At the beginning everything hurts. Then once you get your time worked up it’s ok. I was very friendly and the guards and the chief of prison all liked me. What the prison taught me was that it made me develop as a person. I was mediocre, I thought about things but I never finish them. And now, whatever I want to do, I do it till the end. It made me a better person and a better father. The only sin I committed in this country was working too much. (George)

This is not to say that prison was a pleasant experience or that migrants’ imprisonment was easy and agreeable. It was not. Much like detention, imprisonment

meant the deprivation of freedom and absence from both family life and society more generally, and the punitive element of it was strongly felt. The point here is that, unlike detention, research participants found positive outcomes from their imprisonment and it was mostly on these that they focused their prison narratives, reinforcing the rehabilitation element of penal incarceration. Most importantly, for them detention was always experienced in comparison to imprisonment. In this sense, and although conditions vary between different IRCs, facilities and provisions in detention were always deemed better than in prison:⁵¹ they spent less time locked up in the cells, were allowed a mobile phone, had more freedom to walk around the facilities as they pleased, more visiting time, etc. Tony spent over two years in several detention centres:

In prison you are not allowed to have a mobile phone, in prison you are more limited to coming out of your room, you are criminal so you know you are going to do what they tell you. If you go to detention in Dover is like run by a private company, you know, they run prisons and is like they have the same uniforms as in prison, is a prison building and the food was the same, the only difference is that in detention you come off your room more often and you got mobile phone and also there are other things you can have, like DVD player, and stuff, but roughly... in Harmondsworth it was more secure, and Colnbrook, there was not a lot of movement, but other detention centres you can walk around all day and come back in when its like closing time. (Tony)

Having a mobile phone was considered of utmost importance to detainees. For George, having a mobile in detention was crucial in helping him cope with confinement and maintaining contact with his family and solicitor. As Tony says:

You can phone but the phone cannot have a camera. You get more freedom, you can talk to your family, to your friends, if you feeling depressed you can call other people, you can call your solicitor, he can call you. Its more easy access. (Tony)

This however does not mean that by and large the experience of detention was better than that of imprisonment. Quite the contrary. For all research participants, even if daily life in detention was more agreeable than that in prison, its overall experience was far worse. The first thing to bear in mind is that, in IRCs, the element of rehabilitation, so appreciated in penal imprisonment, is absent: immigration detainees are not being rehabilitated and prepared for life “outside” – they are just awaiting removal, which is tantamount to full exclusion from that life “outside”. Two other

⁵¹ Although this was not the case with any of the migrants I came across, many foreign-prisoners are detained post-sentence in prison before removal, immigration bail or transfer to an IRC. See Bosworth 2011 for a detailed discussion of such issues.

elements were stated to contribute to detention being experienced more negatively than prison. First, in prison, migrants were ‘doing time’ for the offence for which they were convicted, and that is accepted. It is the expected outcome of committing an offence and being convicted. In detention however, they felt they were being deprived of time and freedom for what seemed to be no reason other than to punish them again. It feels unreasonable and unfair and deportees carry with them the sense that wrong is being done to them:

Big difference if you are a criminal you know you commit a crime and expect punishment, but detention centre... (Basem)

They are again subjected to a state practice that deprives them of their freedom, family and professional development, only this time they see no justification for it. Family members also felt this way:

Well, it’s a step up from prison, because he can write letters and make phone call, he has a mobile phone and we give him pay-as-you-go. He is ok, but it’s too long, and they are doing nothing. He is in prison (detention) for 6 months and he did nothing. If it takes weeks or one month I understand, but 6 months it’s too long. So I say what is wrong with them? Why everything is like this? (Jamal, father of appellant/detainee)

Second, in detention there is no release date. Migrants have no way of knowing how long they will be there for and, given that Britain does not subscribe to the EU’s 18 months maximum limit for detention, detainees do not even have the ‘maximum’ time as a frame of reference for their release date. They can only apply for bail every four weeks, and hope for the best. As Tony put it:

That is the real issue people face [not having a release date]. That is what makes people feel depressed. They were angry and bitter towards the UK government. In prison I used to see people come and go, and in detention you could be there for months, you could be there for years, and that is the difference. It makes it hard for people in there. People see it as their liberty being taken, human rights abuse, because there are some people who already say take back to my country but they take longer because they can’t get travel documents or because they are just taking the piss. You don’t know when you gonna go. (...) and then bail it’s like a lottery ticket, if it’s your day it’s your day and you go and if not you stay. I went for bail six times. The sixth one I got out. (Tony)

Detainees do not know if they will be released at all, as deportation becomes an ever more real occurrence in detention. As Coutin as argued in the context of the US, “removed from their communities (...) detainees are to a large degree already

‘elsewhere’, therefore deportation is the seemingly inevitable realisation of the illegality experienced in detention” (2010: 205). Detainees see others being deported and as George puts it, hearing the planes coming and going was a constant reminder that he was about to leave. In that sense the IRC is already a transitional space where migrants, although physically in the UK, are compelled to feel themselves closer to their country of origin. They also experience constant pressure to agree to deportation:

As a prisoner you have a law to follow so you ok, so in prison that is different but in detention you haven’t got nothing to say. Everyday they come “do you wanna sign this paper to go to your country? Ha?” Everyday come “We give you 3500 if you go to your country.” They come again “ah... This application for you” Everyday they trying with you, everyday they put you in stress, everyday, everyday, everyday, the same story... in detention you are, like they used to say, you are in your country, you are in Algeria, Jamaica or whatever it is your country. Definitely. There’s the airport, you are here, they gonna take you back. So that pressure is very difficult. That’s the thing. (Hamid)

These elements combined – no release date, no justifiable reason for their detention and a feeling that deportation is eminent – when added to worrying about such things as appeals and solicitor’s fees are nerve-racking, unsettling and intense to the point of turning the experience of detention into one far worse than that of prison, even if the conditions of the former are far better than those of the latter. This is well captured in George’s comments. He talks approvingly about his room in detention, with plasma TV and the advantage of being allowed a mobile phone, he compliments the gym facilities and detention schedules, after which he states without hesitation “*It was horrible.*” What George is reinforcing is that no facilities will ever be good enough to make up for wrongful incarceration. He could not eat while he was detained and he was hurt by the lack of attention to his personal circumstances. Fear of removal, concern over family, isolation, stress, anxiety, panic attacks, depression, weight loss, appetite loss, inability to sleep, inability to focus, and crying all formed part of the experience of detention for George and others.

Finding in detention some of the people he first met there a year before added to the unrest George already felt about being detained. This is an issue many research participants mentioned. Even for those detained for the first time, encountering people who have been detained for years brought the realisation that there was little to protect them from indefinite detention. It exacerbated their feelings of vulnerability and disquiet. George details the hatred many detainees developed towards the UK:

When you talk to people there, people ask you how things are out in the street. And the hate they (detainees) have to this country. If I didn't have my children here I would hate the British too. The hate is strong, from detainees... guards were heavily bullied, I actually felt sorry for the guards. They were treated like servants or dogs. The hate you generate among detainees in the detention centres is brutal. There was this one Jamaican guy who used to tell the guards, "you're sending me to Jamaica and when I am there I am going to find an Englishman and I am going to kill him, I'm going to kill him." He would said that to the guards (...) But I met many people in detention who want to go back to their countries. The problem is they won't allow them to go; there is why this is so disgusting. Because of documents, the system is... For instance, there was this guy from Albania, every day he would go to the reception to say that he wanted to leave to his country, and he yell at them, and this guy from India too would say "I no longer want to stay here. Deport me! Deport me!"

George goes on stating how he understands such feelings:

I don't share their ideas, but I understand them. They have been detained for long, nobody listens to them, they are ignored, left there, no one cares for them, or helps them. They are just there. It's amazing!

When narrating their experiences of detention and reporting, research participants constantly reasserted the humanity of detainees. The human factor needed reinforcement for them because the elements that make one human are trimmed down in detention: no respect, no care, no voice and no notion of human rights. Detainees are no longer people, "*they are just there*". In this sense, for research participants, detainees encapsulate Agamben's bare life (1998 and 2005). I am not here endorsing Agamben's state of exception as a framework within which to understand detention. I am merely pointing out that the way research participants understood being detained resembled 'bare life' in the sense of being stripped of all protection and existing outside the legal and political order. Their sense of vulnerability, and of existing in detention as someone not worthy of human treatment, reflect this.

The experience of detention, as narrated by George and other research participants, is an experience that breaks one down. Present in all narratives is shock at detention practices, and events such as seeing others being deported and bullied, denied medical attention or committing suicide:

Over there, in detention, you have to see it to believe it. The way people suffer. When I was there two people died Ines... they throw themselves down the stairs. But they would not allow anyone to see it. The ambulance came and took them right away. One died one day and then the other the next day. That's what happened. It is really shocking what goes on over there, what the British government is doing and

all that. A person cannot, a person is always... you are sleeping but you are always thinking about the problem. (David)

Because in detention migrants find many others facing deportation there is a lot of case-comparing. Take for instance Samuel's words:

In detention I knew people getting deported and knew people that was there for like three years, that's got kids, that they trying to deport. I met a lot of people with strong cases. (...) if they got their minds to try and deport them, that is being here more than twice my age, that has got families here, so think of what they will try to do to me, you know what I'm saying? So then again these people have less case than you, not quite as strong cases and win and some people got a stronger case than you and they go, so it really depends on how the judges feeling

What Samuel is describing echoes the narratives of other research participants. They often detailed how scared they were to find that people with stronger cases than them get deported and others with weaker cases are allowed to remain. Of course it can be said that migrants, as lay people, are not qualified to fully understand the merits of particular cases. As mentioned in the previous chapter, often what they perceive as strong elements (a close-knit family, or innocence of the crime for which they were convicted) may in fact weaken their case. What they are left with is the realisation that there is a strong arbitrary element to bail and the appeals system, again reinforcing their sense of vulnerability.

Reporting

Reporting (*signing-in* or *signing-on* in migrants' current language) although in theory a very quick event, entails more often than not a few hours queuing outside the reporting centre, waiting one's turn to enter the building and showing one's papers. For research participants, standing in line outside the reporting centre is a re-assertion of their lack of status, a public display of their condition as someone who is not deemed worthy to reside in the UK and who needs to be monitored:

Now I have to do it every Monday, in Hounslow, between 9 and 4. It's just awful. Even though I'm out, which is better, but sometimes I feel I'm being controlled you know because...the people I see, we are all humans, I don't judge no one so when I go there people look at me differently, they look at me like "why is he here" you know? But no one knows so. People who are there are people who come from other countries. (Tony)

But look, over there, signing-in, you have old people, sick people, people who can't even walk... the human rights! There are other ways of controlling people. This is a

humiliation too. Last week it was raining and the queue was long. We are not animals, we are human beings. (David)

This control is strongly felt, not only when actually going there to report, but also in migrants' daily life:

It's shit, you are stuck, they are controlling you, you can't go anywhere. You have a leach, you can go and go but come Monday and they'll pull you back in. You have to go back there. And they won't give a chance to arrive late, past the hour or go there next day. So I'm there. But at the same time I miss my classes. I'm studying and I can't go to college on Mondays. (Andre)

They are making me suffer – sign-in every day. But I can't move anywhere, not even for a week. They'll ask "why did you left?" For two years I have been signing-in. They keep you in control. You're on bail condition, they hold on responsibility. They are taking your freedom away. It's like a little dog and put a chain on the neck. (...). At Communications House you wait hours! Two hours in the rain! It's the whole morning. You don't sign nothing. You just give the letter and they check and tick and that's it. Even babies have to wait outside. (...) Every time I go with the hope they say I don't need to get back. (Basem)

Reporting involves spending time and money. Research participants mentioned the travel costs of reporting as a strain on their already fragile budget and the time needed to report as hindering their educational or professional activities. In fact, research participants who were not employed often cited reporting as the reason for it:

Look at their stupidity. I have family; I have a house, where am I going to go? I have responsibilities. Sign-in? Why spend my money every week to come here? I can't work full time because of that day, Wednesday. Imagine you work for a company and every Wednesday you have to skip work because you have to come here. You get unbalanced, it's a pain. You have work but you can't work... for instance I became self-employed because of it. When I was doing my course I told them "listen, I won't be able to come and sign-in on these days." "Why?" and I replied, "because I am taking a course, I paid my course and I am not going to miss the course because of signing-in. You have to get me a day on weekend." They looked at my timetable and said, "no, you can come at 9am." "But how can I come at 9am? My college is in Luton, this is a waste of my time and I am losing money, why can you not put me on a Saturday?" "Oh no, it has to be Wednesday." (David)

Louise's husband managed to get around this problem by working night shifts in a factory. He also had the advantage of reporting monthly as opposed to weekly like all other research participants. Even so, reporting meant that once a month he would go without sleep for a day:

He would have to travel up to Croydon and sign just a piece of paper, it was 2 seconds, and he was back on the train again. (...) he could only sign in Croydon between 2 and 4 pm, so he would have to have hardly any sleep that morning then to

travel to London to sign and come back and then he would have to go straight to work, so it would hardly sleep on that day. (Louise)

Reporting restricts migrants' liberty not just in jeopardising their access to employment but also in reducing or even nullifying their travelling opportunities. Migrants cannot go away from their residence area for more than a few days, for they cannot miss their weekly appointment. Even for those who could afford vacations, this meant no holidays with their families:

I know what I am going through. At this point I can't even travel. My family goes away on vacation, they go, on the summer and everything and I can't join my family. This is, how they say, a double punishment.... more than double. (David)

As well as constraining the migrant's budget, time and professional and educational options, the weekly visit to the reporting centre is also a source of fear and stress, for migrants and families alike, especially after the first time they are detained while reporting:

Even today I went to report and my wife called me, she always calls me "are you ok? Is everything ok?" 'Cause she is scared! Because it has happened before. I went to sign up and they detained me. (David)

The memory of detention informs the way migrants experience reporting. They become aware that being on bail does not protect them from detention, and consequently feel even more insecure. Moreover, although none of my research participants was ever apprehended at home, home raids as portrayed in the media are a fear that many expressed, both the appellants and their families, which prevents them from being relaxed and feeling safe, even at home:

It's awful! Because you know, being in the house, what it's really awful, because we would be sitting around, it was Christmas, (...) we had pictures taken, we were sitting around at the table having dinner together and I just ... you know, I don't really know what he's feeling, because he doesn't say it to me, but all I think about is that there could be a knock on the door and they've come to take him. It's always at the back of my mind, it's always there, it makes me feel very uncomfortable, all the time. I think with him, I think it just tries to blank it out. Maybe I'm older, I'm more experienced, I've seen on the television, I've seen it on the newspaper how many people they are getting deported so you know what is frightening it's when you hear of instances when people get hurt in the process and in a way I'm happy that it happened [he was taken to detention] when he was outdoors because it just scares me coming here knocking on the door, people running around my house. (Tania, partner of Latrell)

Chronic uncertainty arising from facing deportation and having been in detention will be further explored in Chapter 6, as will the strategies that migrants deploy to cope with it. Here, the point is that the impact of detention for both detainees and their families, goes well beyond the actual time the migrant was detained, while reporting and tagging, which allow a greater degree of freedom are not simple protocols to be followed, they heavily restrict migrant's choices and movement.

Detention and reporting thus impact greatly on migrants' lives both directly and indirectly. Being under such surveillance also has an impact on migrants' sense of self: many described feeling untrustworthy, infantilised, and dehumanised. It is also significant that, even though most research participants agreed with policies of deportation in general – contesting only that these are being applied to them in particular – none could conceive of a legitimate reason to hold people in detention, whatever their lack of entitlement to be in the UK.

George ended his detention narrative by questioning the rationale for his detention. Other research participants didn't understand why they had to report. Why would they run away from their families if they were fighting to stay in the UK precisely so they could be with them? Moreover, if they do wish to run away, reporting weekly will not prevent them from doing so, although some did recognise that it would allow the Home Office to know they are gone in one week's time:

Because I'm out on bail, right, I have to sign-in every week. And I really don't need to do it, because I have been here for longer than I can remember, I have family, have a house, have a place to live, have children. Where am I going to run away to? I have a car, I have my life here. Where am I going to go? Wherever I go the Home Office will find me. So why do I have to go and sign-in? I always have to spend £8 on the tube, to have to go one day. It is stressful, really stressful. I have already paid for my crime, I did the time I had to do... (David)

For research participants the rationale for detention and conditions of bail is not justifiable. For them there can be only one explanation: the Home Office is punishing them again in the hope that they will agree to deportation.

TO PUNISH AND COMPEL

In 2009 a London Magistrate agreed to be tagged for a week as part of an initiative by the London Criminal Justice Board to assess the impact of tagging on daily

life. Her one page description of the experience, included in a guidebook on electronic monitoring, ends with the following:

I am really grateful to have had the experience and when I am considering tagging as a requirement of a community order or as a condition of bail, I shall do so with greater confidence and awareness that *it can be a severe restriction on liberty and act as a real punishment*. (Powell in SERCO undated: 2. Emphasis added)

This reinforces the idea that, in practice, these forms of state surveillance do act as punishment. The experience of deportation cannot be separated from the experience of state surveillance over deportable migrants - they are intertwined and embedded in each other. Migrants find themselves in detention or in queues to report due to their deportability. Foreign-national offenders are thus not just imprisoned and deported. Between one and the other they are often stripped of their right to work (and support their families), to travel and even of their freedom of movement, when placed under detention. Between imprisonment and deportation, migrants and their families live in limbo. Their lives are unsettled, ungrounded and uncertain:

I meant to be out of prison on the 13th February, one day before Valentine's Day, and I came out in October at the 29th so I was eight months in detention so all in all I done like 15 months, I spent more time in detention then I did from my actual crime. (...) and it's not fair 'cause it is like, I want to see my family, I have done my crime now, what am I doing here? That is how you feel isn't it? But they are going to try... they lie, they do a lot of things, they gonna try and say that if they give you bail you gonna reoffend, obviously, that is the way they gonna try to make it seem, so as soon as I done my time I thought they are punishing me. I just did my time, I rehabilitated my life, and all. (Samuel)

What I'm experiencing now? It is a punishment. I don't really know how these people got power, this is my whole life really, this is my future that they got in their hands so it is a punishment. I don't know what I'm going to do with it... (Tony)

Research participants felt that they were being punished consecutively: they had served their time in prison but rather than moving on with their lives as a British national would, they find themselves facing expulsion from their country of residence which in the meanwhile subjects them to constant restrictions and surveillance:

It is a second punishment but they don't care that I have already done my time, they look the other way. This is a second punishment and they just look the other way. (David)

This perception has been mentioned in many ethnographies of deportation (e.g. Moniz 2004; Peutz 2006 and Zilberg 2004 to name a few). Bhabha (1998) calls it

double jeopardy. Double jeopardy, she argues, “violates human rights norms of non-discrimination and presumptions of equality of treatment before the law” and “negates the historical and psychological reality of third country nationals” (1998: 615). Dow, however, argues that, more than double jeopardy, deportation and related forms of state surveillance, such as detention and reporting, are a double punishment as “double jeopardy implies being tried twice for the same crime. The immigrants have been tried only once – and punished twice” (2007: 544). Furthermore, removal “is often not an end at all, but the start of a new and ongoing punishment.” (Dow 2007: 544).

Also present in many of the narratives presented here, is the frequent assertion that forms of state surveillance, and in particular detention, ‘break one down’ to the point of agreeing to deportation. Surveillance is thus conceptualised by foreign-national offenders and their families as a form of coercive action, not in the Foucauldian sense of enforcing a given behaviour, but in the sense of compelling one single action: agreement to leave. As George said “I have suffered a lot here, and if they send me to detention again I can’t take it, I’ll say ‘deport me. Deport me now’.”

Overall the lived experience of surveillance and deportation examined here highlight the punitive effect of such practices. Whether or not this is intentional, this effect must be acknowledged and should be challenged. Punishment should only be inflicted through a judicial process, not in the form of an ‘unaccountable’ administrative practice (Fekete & Webber 2009). As others have argued, deportation and related practices of surveillance are a straightforward consequence of a criminal conviction. They are too closely linked to the criminal justice system, and too punitive in practice to continue to be exercised as an administrative action (e.g. Dow 2007, Pratt 2005). Ironically, but perhaps not unintentionally, those who are deemed a risk and hence are subjected to surveillance and banishment are the ones constantly feeling vulnerable and in need of protection. Because they don’t consider themselves a risk to society, they understand surveillance over them not as a measure of control, but rather as punishment for wanting to stay – it is, in their eyes, a technique designed to coerce them to leave.

6. Undecided present, uncertain futures

Deportation conjures up a constant state of low-level anxiety, (...) the threat of having to leave where I am and therefore never really living where I am. (...) deportation is then a state of mind as well as a state of the body.

Randall 1987: 479

The previous chapters have focused on the encounter of migrants with legal and surveillance institutions. Migrants' deportability however, is not just felt and experienced in relation to these official bodies, it is also embedded in their daily lives, social relations and sense of self.

When migrants are confronted with the Home Office's intent to deport them, they are usually confused, surprised, some even shocked. They don't fully understand why this is happening to them, how they can prevent it, what their chances are of preventing it and the full consequences of failing to prevent it. As these questions are gradually answered in one way or another, migrants grasp the circumstances they are in and uncertainty prevails as to whether or not they will remain in the UK and the degree of damage to their present and future life. When filing the notice of appeal, migrants become appellants and new routines enter their daily lives. Some might lose their right to work, most will be subjected to some form of state surveillance, all will experience long-term uncertainty. This chapter will focus on the impact of deportability on migrants' everyday lives and the strategies devised to cope with it.

Much literature on uncertainty has been developed by researchers in the field of nursing and health, focusing on patients, their relatives and caregivers (Penrod 2007; Morser & Penrod 1999; Ågård & Harder 2007). While the context here differs, this literature is nevertheless relevant. The findings of Ågård & Harder's (2007) study of the

experience of uncertainty and coping strategies of relatives of Intensive Care Unit (ICU) patients in Denmark, for example, may be translated into the present context. The authors find that, confronted with uncertainty about whether their loved one will survive (and if so, the extent and seriousness of any eventual disabilities), relatives tend to deploy three main coping strategies: enduring uncertainty, putting self apart (and refraining from showing concern) and, forming personal cues as gathering information is vital in their ability to adapt, even if the cues might lead to misconceptions (Ågård & Harder 2007). In much the same way, both appellants and relatives in this study have used these coping strategies.

Yet living under the constant threat of forced removal affects not just migrants' current lives but also their imagining of possible futures (Burman 2006). Thus the ability of appellants and their relatives to reshape the futures available to them represents another coping strategy that is either not present or a taboo in the context of the intensive care unit. In this context, this chapter looks first at the material consequences and human costs of persistent waiting and the resulting internalisation of deportability. It then focuses on four coping strategies devised by migrants: the three identified by Ågård & Harder (2007) - enduring uncertainty, putting self apart, and forming personal cues - but also a fourth: re-imagining possible futures.

EMBODIMENT OF CHRONIC CONCERN

When looking at the embodied and sensory experiences of undocumented migrants in Israel during a fierce campaign that criminalised, arrested and deported en mass, Willen found that illegality deeply impacted "migrants' everyday, embodied experiences of being-in-the-world (...) profoundly shaping their subjective experiences of time, space, embodiment, sociality and self" (2007: 10). Much like Willen on illegality, I argue here that deportability pervades the everyday lives of migrants facing deportation from the UK and their relatives. It intrudes on their sense of self, affects their social relations, and alters their conceptions of the present and the future.

This embodiment of deportability is informed by migrants' own experiences and memories of arrest, detention and the appeals process; by stories read in the media or heard from other detainees and appellants, and by migrants' own sensory fields: spotting white vans, hearing airplanes or the sound of keys, for instance produce

memories of arrest and detention, reassert migrants' insecurity, and bring out fear and anxiety. Hamid is married to a British citizen. His wife has two children from a previous marriage, and together they have a daughter. By the time I met with him, Hamid had been in the appeals process for two years:

.... I can't, I can't be like this. I can't. Is hard, is like when you go to sleep, you're thinking, when you're having a shower you're thinking, when you eat you're thinking, when get up and go. You're thinking all the time about this. What's going on? Sometimes when I look to my daughter, happy... I'm not happy. I have to show her I'm happy. I have to play with her. 'Cause you know children they have that feeling. If you're not, they can find out. So what I have to do? In my home, I don't know what I have to do, but I cannot do nothing. For a man to sit every day without a job, it is very difficult for me. It is very difficult to wait for my wife to spend money for me. It is very difficult for me, especially in my country [North African country]. It's not woman spending money for man. (...) In my country if a woman spends money for me, he is not a man. He has to spend money for her. He has to get it, even if she is working, he has to spend money for her. Has to buy her clothes, gifts, you know, car, he has to do that. If he's got good money he has to do that. If he hasn't got good money he has to do that. He has to look after the woman. Not the woman look after the man. It is not possible. So I'm feeling like, I'm nothing. So that's the problem. I feel like I'm nothing. I wanna do something, I wanna...you know? One year without working is...I'm gonna be sick. I'm sick already.

Hamid's narrative is revealing of many of the issues that research participants identified as impacting their lives in general and their sense of self in particular. Hamid hides his concerns from the children in order to protect them. Appearing well to others, especially to close relatives, was important to most research participants. Constant efforts were made to conceal visible bodily expressions of worry. This is no easy task. Like Hamid, many research participants spoke of feelings of constant tension, of being consumed by persistent worry. Their lives are ridden with anxiety and even the most basic daily chores must be performed while thinking about their predicament. This is exacerbated when appellants are unable to work, thus having little distractions from concerns over their deportation.⁵²

To Hamid, being financially dependant on his wife seriously challenged his male identity - feelings of emasculation were often described by research participants.⁵³ Inability to work is, in fact, of paramount importance to appellants' sense of self. Like Hamid, others constantly felt idle, useless and a financial burden to their families.

⁵² It may be more than coincidental that the one appellant interviewed who was not consumed by thoughts about his deportation was Basem, a very busy businessman.

⁵³ McGregor (2009, 2011) also found that Zimbabwean asylum seekers felt emasculated due to dependency on relatives.

Facing deportation can be a significant financial strain on the household. Some appellants have lost their permission to work, others cannot be employed as a consequence of conditions of bail. Some are self-employed, but their income is uncertain. The household income may thus be significantly reduced or lost altogether. There are also the added expenses of facing deportation such as solicitor's fees and the costs associated with reporting or being in detention. Being able to work and provide for one's family is something appellants long for:

I am just a normal person, I just want to work and be with my wife and my kids. They depend on me and I want to feel able to work and do my things. Before, we did well, we were not rich but we had enough. Yesterday I did something I never thought I would, I gathered all my stuff and I sold it. They gave me 730 pounds. If I want to get the things back I have to give them back 1000 in six months. I want to be relaxed, to work for my kids, I don't care if I have criminal record, I have people who know me and who will give me work. (George)

Feeling useless is compounded by an additional sense of worthlessness due to an awareness that their presence in the UK is undesired:

It's breaking me down spiritually, it's this feeling that I am worthless, that the government is so disgusted by me, that I'm not even worth being listened to. That I'm just..... a cockroach you know, has more status than I have, more respect than I have. (...) And I know that I am not a bad person. But that I am looked at as a monster and as an unwanted and as an undesirable. Like a leper, like when they used to walk around with bells on and it's inhuman and it's degrading and it's demoralising. It's heartbreaking. Sorry [cries]. (Maria).

This identity as one who is rejected, undesirable and unwanted is experienced as an assault on the sense of self (Burman 2006; Willen 2007). As detailed in the previous chapter, forms of state control such as detention and reporting hinder migrants' sense of self by instilling feelings of untrustworthiness, infantilisation and dehumanisation. Like the chronic stress and long-term uncertainty this is internalised and embodied. Appetite loss, binge eating, sleep loss, nightmares, headaches, migraines, exhaustion, depression, inability to concentrate, sadness, crying, loss of energy or drive, all these were ills afflicting many research participants, both appellants and relatives.⁵⁴ Most have gained or lost visible amounts of weight, and all described feeling aged through loss of hair or growth of white hair, and the appearance or intensification of wrinkles: "I was 78 kilos,

⁵⁴ These symptoms or expressions of concern have been documented in other studies concerning deportable migrants and their families, mostly in the US. See PDHRP 2009, Brubeck & Xu 2010, Das 2008, Hagan et al 2008, Talavera et al 2010, Randall 1987.

I'm going down, I'm going down. My age is nearly 33. I feel like I'm 75. Can you imagine that? Because of this" (Hamid).

Research participants were well aware of how much deportation was insinuating itself into their bodies as a corrupting agent, and many health problems experienced by appellants and their relatives were directly attributed to their deportability:

And now I have a premature baby, born at 6 months. And the question is why was he born at 6 months? Because the day the lawyer told me that the determination was not appealable, there was no grounds for further appeal, I returned home, I told my wife that. That was at 7pm, we went out to the park with the kids, I saw she was very pensive. At 3 am she is feeling unwell, her water breaks and she is ready to give birth. My first reaction was to apologise to her for putting her in this situation. I called the ambulance and we came here to the hospital. And this was the biggest consequence of the stress. I kept asking her to forgive me. Because now it was not just about her life but the life of my son as well. The two were in danger. Because of an unfair determination.. (...) (George)

This was not an isolated incident. Jen too had a premature baby, and Rashid's wife had a late miscarriage, both when appealing their husbands' deportation. In all three cases, and as exemplified by George's words above, a direct link is established by research participants between stress derived from deportation and the early births and miscarriage. It is not my place to validate or challenge these claims. The point is that appellants and families do believe that one was the consequence of the other, and this belief bears consequences: it reasserts their vulnerability, and influences their perception of justice as once again they feel wrong is being done to them.

Even those who were employed, such as appellants' relatives, frequently reported missing work and spending whole days in bed. Other research participants also repeatedly described feeling on the verge of a breakdown:

If they deport me I'm not gonna fight again. I'm not going to do that. 'Cause is finish. No more. (...) If I have to go back, I will go back. I'm not gonna die. I'm still strong, I still have energy. But if stay here like this, I will be destroyed like this. That's the problem here. I will be destroyed. (Hamid)

For Hamid, as for most others, the deportation appeal process has been long and intense: he is reaching the point of giving up, which is exactly what migrants believe to be the point of the system. Hamid met with me a few days after his last appeal at the AIT. At the time he was still waiting for the determination but his mind was set that this was it for him. He hoped for a good outcome, but should the appeal be denied he would

fight no more and would return to northern Africa. He felt nothing any more, he couldn't work, and it hurt him to see his wife's pain. He felt he had reached his limit and could not take his family through another round of appeals. Although not all were this ready to give up, many research participants described similar feelings of hopelessness, abandonment and isolation.

Hamid continues describing how he feels responsible for the circumstances his family finds itself in:

I haven't got any feeling anymore. I don't feel nothing. I've been without work one year. I've been in prison one year so I've been trying to have my proper future legally and properly I didn't have it. And my wife she's... now she's not ok. She's not like before. My wife, she's been changing a lot. She is tired. She been tired before, a lot of problems from when she was married, violence, and now she... it's more than that. She got a depression, she's very... I... I cannot see that. I cannot stay like this and watching her destroying... I don't like it, it's because of me. Because us just trying to have a good, a proper family, that's what we're trying to do. But now it doesn't make any difference for me. (Hamid)

Again, this is not particular to Hamid. For George, the early birth of his son added to his guilt, as his narrative above illustrates. Randall (1987:466) calls this the "*imposition of false guilt*" – feeling responsible for what family and other close ones go through, on account of one's imminent deportation. This is a feeling echoed by most research participants. As David says, "Because of my mistakes the family pays the price."

It is a frustrating process, stressful, depressing, because your life stops there. And in these two years, believe me Ines; I was not able to do anything. (...) It is also a bit shameful, embarrassing to be living like this after 14 years [in the UK]. It really gets frustrating, stressful and also for my wife, this is very difficult for her, difficult for us, very very difficult. Because I always say that I rather have trouble with the police, with the police I know when my troubles will end. But immigration problems with the Home Office... with the Home Office you never know, at any time they can come and say "no, its time to go." (...) So this is something that really affects the family you know? Because the family is not settled, is not grounded, is not safe. So this is bad, especially for me and for my wife. The children don't really know what is happening because I hide it from them. But imagine that when they came to take me last March and said my flight was booked for April, imagine if my kids would hear that Dad is in Africa, that Dad was deported and that Dad won't be able to see them in the next 10 years. What is that? It's absurd! It doesn't make sense. (David)

Unwanted in their country of residence, prevented from working and supporting their families, and feeling responsible for the impact of their own deportability on their relatives, migrants' everyday lives become marked with extreme nervousness, anxiety,

irritation, guilt, fear, anger and suspicion. The long-term waiting, marked by acute uncertainty, is internalised and embodied by appellants and their close relatives. As already noted, migrants responded to this by deploying four main coping strategies: enduring uncertainty, putting self apart and forming personal cues (Ågård & Harder 2007) and re-imagining possible futures.

ENDURING UNCERTAINTY

Underlying the narratives presented thus far is a constant feeling of uncertainty. Migrants do not know whether they will be able to remain in the UK or be removed. They do not know when they will know this. They do not fully understand their rights to appeal and are constantly unsure whether there is scope for another appeal or not. They do not know how (or when) their removal will be carried out and under which conditions. They do not know how much longer they can handle ‘not knowing’ – how much longer they can resist. They do not know whether their family units will survive separation. They do not know how the family will manage financially. They do not know what they will do on departure from the UK.

Appellants and relatives endure uncertainty in the course of their deportability as a coping strategy. To endure is to tolerate, to bear with patience. They endure it because that is their only way to maintain some hope that their families will not be separated and that their lives might resume as they had once planned them. As seen in Chapter 4, the long-term waiting experienced in the deportation appeals process is marked by alternations between on the one hand, short periods of hurry in preparing the case and meeting deadlines, and on the other, a long-lasting un-eventfulness (Craig et al 2008).

Uncertainty here is intrinsically related to waiting: time spent waiting for a hearing to take place, for an appeal to be decided, for a change in policy or new case-law that may favour their odds of winning the appeal. Long-term waiting however is not necessarily a passive time. Rotter (2012) and Fritsche (2012) contend that such long-term waiting for a ‘normal’ secure life ought to be understood as an engaged activity.⁵⁵ In fact, appellants and relatives do try to make the most out of the (now undetermined)

⁵⁵ For instance, the asylum seekers among whom Rotter (2012) conducted research had spent two to nine years waiting for a determination of their status as either refugees to be protected or failed asylum seekers to be removed. During the waiting period they found productive methods to occupy their time, by developing social and religious networks and social relations, strengthening their cases, etc.

time the appellant has left in the UK. For some this translates into spending as much time as possible with their family, for others, like Andre who is single, it means earning as much money as possible so he doesn't go back empty handed. Yet this waiting period is not taken as a gift. Rather it is perceived as a time of non-existence (Khosravi 2011), where lives are not moving forward and time is standing still. For most, this long-term waiting is a further punishment.⁵⁶

Migrants' former plans for their future lives were devised considering their stay in the UK. The threat of deportation has left their future plans and present lives pending:

I did, you know, when I come here the first time, I was having a... I was thinking about a lot of projects you know, like a dream. I was thinking about to do school, for hairdresser, I was thinking to do many project. Business... I was working hard. In one day, in one second, everything been changed for me, for my life. So now, it doesn't make sense for me. Nothing. (Hamid)

Like Hamid, many other research participants commented on how they felt their lives were on hold, the plans they had made before had been suspended. David and Tony were about to start degree courses, Tania was considering another child with her partner. It was not so much that their plans were discarded altogether and others replaced them, rather they became placed on hold, often with no alternative plans. They were waiting, holding on to former plans in case there should be a favourable outcome that would allow them to proceed with life as they had planned it. Some times alternative short-term plans are devised. David pursued a plumbing course instead of a law degree - it demanded less attention and investment, it would be a lesser loss should he be removed half way through, and would (indeed did) provide an income source for him and his family when employment become unfeasible.

Many research participants described feeling as if time itself were standing still, because their lives were not moving forward. This feeling was unsettling to the point of craving for closure even if that meant removal. In fact, as seen in Chapter 5, many in detention are broken down into wanting to be deported. For others it is only to the point of not resisting deportation any longer:

Yeah, just fed up. I was going, One night I was going. I told me wife "That's it, that's it. You come once a year or two times a year and my daughter she gonna stay

⁵⁶ McDonald (2012), in the context of young criminal offenders, refers to waiting as a 'time tax' that further penalises defendants.

with me a little bit and she gonna stay with you a little bit, maybe summer she would have stay with me.” That’s finish. I will work for her over there, I will do everything for my daughter. And that’s it ‘cause I’m tired. I cannot, I never ever thought I would have a life like this. Never. The first time. Never. So, I fed up. I am. And everyone’s saying, even solicitors saying “if you go you never come back” because you gonna be there minimum three years and some people even 10 years you know! Then they not gonna accept your application. I told them “I don’t care. I’m tired.” (Hamid)

In fact, the waiting and uncertainty that ensues in the course of deportation is so exhausting, and the want of closure so prevalent, that many research participants felt they might as well have been deported without appeal if deportation was to be the end result anyway. The interim waiting period of uncertainty is too unnerving to bear. It is seen not merely as a general waste of time but, as mentioned above, a punishment:

It is waiting, it's the waiting, it's the worst thing. And knowing that that is going to be the outcome I'd rather not go through this, I'd rather that they just kept him and send him off. There's no point on letting him getting out and spending time with us, what's up with that? Just makes it worse. (Tania)

Not only I served my time but they then put me in detention and want to deport me, so why didn't they just deported me from the start? They knew they were going to deport me, so why did they let me stay here these two years and at the end of it they want to deport me? The waiting, the family, this whole thing! We're always living with that thing of not knowing what tomorrow brings, what will happen. I don't know what will happen to me tomorrow. Why? I'm not settled. The Home Office won't decide, they don't know what they'll do with me. (David)

Of course these words cannot be taken at face value.⁵⁷ As hard as this long lasting interim period may be, migrants are also aware that it is the product of the appeals system, which is their only available legal recourse to fight deportation. What once again becomes clear from these statements is that detention in particular and the uncertain time period inherent in the appeals process are taken as further punishments. For migrants, having closure is not just the end of uncertainty but also equivalent to ‘having time’. For better or for worst they just want to know what is going to happen so they can plan accordingly and proceed with their lives.⁵⁸ The pending threat of

⁵⁷ Craig et al (2008) found that asylum seekers felt similarly about their adjudication process.

⁵⁸ Reality is not that clear cut however. Closure was certainly the end of extreme uncertainty to Hamid and Samuel whose appeals were allowed. Even so, their deportation experiences have made them all too aware that their lives in the UK are not to be taken for granted. The end of their deportation process meant they could move on with their lives, but obtaining citizenship to secure their stay in the UK was now a main concern. For Tania, Louise, George and Andre closure did not mean the end of uncertainty. Whereas they, or their relatives, have left the UK they all seek to return and their lives are now structured around that eventuality.

deportation hinders migrants' ability to rebuild their lives following conviction, as this extract from the focus-group discussion exemplifies:

M – when I first met Ines I was in a really bad state because I live in my flat where I live for 22 years, I'm still there and when I met Ines I was going through a really hard time because I felt... I wasn't eating, I wasn't sleeping but I was very very stressed out, really really stressed out, because I felt they were going to come and get me in the middle of the night so I was pacing up and down. But I didn't feel that I should leave my home, I didn't think that I should run away, but psychologically I was really screwed up and that affected my behaviour, that affected how I interlinked with people, my concentration, how I saw my life. Well, I didn't see a life: I wasn't able to apply for employment, I was kind of stuck. I felt that I was just getting closed in. And I am just wondering whether you guys have experienced something similar?

(all nod affirmatively)

D - Actually, when I am sleeping sometimes I just go to my window and see if there is any van, any police car down of my building because I was scared that they could come anytime and take me to the detention centre or something like that and...

Also clear here is that living with the pending threat of deportation affects migrants' spatial and temporal constructions of risk (Willen 2007, Khosravi 2011, Talavera et al 2010). Risk, conceptualised here as the possibility of detention and forced removal, was remapped to the weekly appointment at the reporting centre (see Chapter 5) and the nights at home, as shown above. In a more extreme case, for Samuel electronic monitoring turned his home into imprisonment during curfew times. Home is no longer a safehaven, but a site of imprisonment or perceived risk, particularly at night-time.⁵⁹

Family support, religion, counselling and volunteer work were all significant in ensuring research participants were able to endure uncertainty. Family support is vital for appellants not just when making their case for the AIT, as seen in Chapter 4, but also in their daily lives. Appellants tended to disclose their immigration problem only to those who are close to them, but even here there was often a distinction in the support provided by family members and that of other acquaintances. Take Samuel's words:

I told the close people to me 'cause at the end of the day there is still an outcome that is still a possibility (...) so I have to tell people close to me "listen I might not be about too long" but the general people I don't really tell because it's not really a thing I like to disclose. (...) People have been supportive, a lot of people been telling me "no, they can't do that, you will win, you will win, you will win" but they

⁵⁹ As mentioned in Chapter 5, even though no research participant was subjected to home raids, the fact that these are often mentioned in the media affects their sense of security.

don't really understand, you know? So obviously they trying to give me confidence and cheer me up, they are supporting me really, but I know the realness: it's not as easy as people say it is. As before when I was in prison people were telling me "yeah you going to win, look at your case" but when I lost my first hearing, that's when I knew this is serious. (Samuel)

This excerpt illustrates what many appellants described: while other people close to them, such as friends and colleagues, can be supportive, they do not fully understand the extent of their concern. Constant reassertions that "it will all be ok", although an appreciated encouragement, leave appellants with a sense of loneliness: no one but them and their families really understands how serious the matter is.

Volunteering was an option taken by some appellants. Maria, for instance, knows that her volunteer work impacts on other people's lives – continuing to work is what lifts her up, it is her way of enduring uncertainty and dealing with the sense of unworthiness that deportation is imposing on her. Volunteering was vital to many as a way to be active, feel useful and be distracted from deportation concerns.

Many research participants also described how facing deportation reinforced their faith, as many turned to religion for comfort:

But I think what's helping him it's his faith, he prays five times a day and I think that's helping him you know. I find that I spend more time at church now and maybe that might be helping me a bit but now it's just ... I'm really dreading the day [of the appeal hearing], I'm really dreading, and I hope they can just make a decision then and there you know. I can't bear to have it prolonged. (Tania)

If truth be told, during the course of research and writing I felt I "lost" two informants to religion. Both Samuel and Julio had re-found their religions in this period of uncertainty and became more and more engaged with it. Eventually my questions, previously answered with long and intimate narratives, were all answered by variations of "it is God's will." With Samuel in particular, I had the sense that at some point our interviews were to him nothing but evangelising opportunities. Anecdotes apart, for most research participants' faith and religion were important in coping, even if their congregations were usually not aware of their dire situation. In fact, religious renewal has been described as an important source of strength, hope and resilience for migrants under immigration detention in the UK (McGregor 2012). Counselling and therapy were also commonly sought out when deportation became an issue, both for appellants and family members:

He was seeing a counsellor while he was in detention, he was feeling quite sick, but I actually see one here because I find this quite tough to go through but I don't ... it's very hard, I've lost people in my life. Now I feel that there is an uncertain future and it's difficult, I find it very difficult for me. (...) It's just the whole build up, not being able to sleep, it's just so stressful, it really is stressful, just to think about it stresses me. (Tania)

Enduring uncertainty is extremely tiring and exhausting. Migrants' lives are on hold, their families are unsettled, they feel ungrounded. As I have shown, this is a period marked by extreme pressure and, at the same time, an intense sense of stagnation. In enduring it, appellants and relatives navigate through the appeals system in the hope that it brings a positive outcome. Yet, as long-term waiting produces an intense desire for closure (be it deportation or leave to remain), migrants feel their will to endure dwindling.

PUTTING SELF APART

As Randall suggests (see quote at the beginning of Chapter 1), absence in the course of deportation is a process, not an event. Deportees, through uncertainty and disquiet, fear and need of protection, gradually withdraw from their families and everyday lives. Their absence from these begins long before removal is certain and acted upon.

Absence in the context of deportation is expressed in many ways: in the lack of financial contribution to the household, in the appellant's inability to join the family in their holiday outings, in the suspension of future plans, in the physical absence of the appellant when taken into detention. Here, my discussion will be focused on the process of 'putting self apart' as a coping strategy in managing deportability.

Ågård & Harder (2007) describe how relatives of ICU patients use a process of 'putting self apart' as a way to deal with uncertainty. This process involves relatives refraining from showing their concern to the patient and other relatives, in order not to cause additional fear and suffering, choosing instead to act cheerfully. The authors also found that, while having a loved one in an ICU brings its own problems to relatives (extreme anxiety, lack of sleep, financial worries, etc), they felt that their own needs and anxieties were illegitimate – care and attention should be focused exclusively on the patient (Ågård & Harder 2007). Many parallels can be drawn here. Remember, for instance, Hamid's description of his attempts to appear happy for the children. This

section is centred on how the process of ‘putting self apart’ takes shape in the context of deportation in the UK. I argue here that in the course of deportation ‘putting self apart’ is a process that leads to isolation and absencing, to what Randall describes as vanishing and the death of the self (1987: 479).

Like the relatives of ICU patients (Ågård & Harder 2007), appellants become absent in trying to protect family members from their ordeal: not wanting to overburden the family with their concern, they no longer talk about it. Yet being consumed by this concern they are unable to talk about anything else. So they just don’t talk, they are less vocal, less visible, less present:

The problem is now, even if I have some friends and we’re sitting like this talking to each other, I cannot speak with them, I cannot. I cannot focus, I’m not focusing on nothing. So, why? You know, I don’t talk to my family. My sister, she called me yesterday. “Why you don’t wanna talk to me?” My sister, she’s the one I speak to. “Why you don’t speak to me. Go to the internet, I wanna see you in our camera, I wanna talk to you.” I don’t know, I don’t wanna talk. I don’t wanna see anyone. Not people that I don’t know. People I do know, I don’t wanna see them, I don’t wanna talk to them. (...) So the problem, no one can feel it, is only you. So, that’s the pain. The pain you cannot feel it. No one can feel it. Just you. So I did talk too much [at first], maybe... sometimes I think I’m giving them stress or headache or something. So, ‘cause when you talk too much about your problem every day, is no good for people, you gonna hurt people. (Hamid)

Hamid’s quote is illustrative of two ailments often described by appellants and their relatives: first, that as much as people try to be supportive, no one really understands how this is experienced. Close family members are perhaps the only ones who can understand them as they have a stake in what is happening too. Second, by the time they were interviewed, research participants, like Hamid, were often no longer talking to anyone about their cases. Not necessarily because they didn’t want to, but mostly because they don’t want to overburden their loved ones. This not only affects marital relations, it adds to their sense of loneliness and initiates a process of absence. Appellants are still in the UK, with their families, but their minds are engaged elsewhere. They begin to feel absent, and their families are not oblivious to it. Appellants are not able to shake off their concern but no longer share it with their spouses. In their efforts to hide their anxieties, appellants withdraw and unavoidably become absent.

What came out clearly at the focus-group discussion was that participants really longed for the opportunity to share their concerns. They were eager to talk to each other,

to share their stories and compare circumstances. They were excited when exchanging notes on solicitors, detention centres and even immigration Judges. They were finishing each other's sentences and pep-talking each other. At the end of the session:

M – Listen guys, this was really nice to meet people like you that I can talk to about this situation and feel ok about talking...

R – Yeah, it was cool, I needed this support.

A – Is good, I am more relaxed, I took it out.

J – I never talk this topic to my wife because it makes her sad.

They then exchanged contacts and left the session together, heading for the tube while chatting away about their cases. Research participants often felt much the same way about my interviews. The open nature of the research interviews meant that they could talk about pretty much what they wanted to, and what was concerning them the most. As Andre once told me: "Every time I talk to you, I feel good, it uplifts my spirit." Being heard and letting it out during interviews and the focus-group discussion was relieving, just like being heard in court was important for their sense of a 'fair trial' as seen in Chapter 4.

Appellants do not always disclose their deportability to others, sometimes not even to close family members like parents and siblings. Not disclosing means not counting on their support and again feeling isolated. For young offenders, like Samuel and Tony, the need to avoid previous (dodgy) connections means a break with old friendships, further exacerbating their sense of isolation.

Family support is vital in enduring uncertainty and resisting deportation. Yet, having suffered separation before, through imprisonment and detention,⁶⁰ appellants and family members do prepare as best as they can for the gap that removal will leave behind:

What is happening at the moment with my removal is having a huge impact on the whole family, because it's not like I am here today gone tomorrow. It's an ongoing

⁶⁰ While in prison (and detention) however, even if absent from everyday life and family events, relatives could visit. That the prisoner is in the UK, has a release date and will be able to resume life also brings a sense that the family and prisoner are closer to each other than they would or will ever be upon deportation. Deportation is not just personal absence from home, it is absence from the country with no possibility of return – it is thus the absence of a future in the UK and of a future with the family. Having said that, it is important to emphasise that time spent in prison and detention do inform how the threat of deportation is experienced. Appellants and families have these periods of separation as reference points.

process and the whole family are taking a part in that. They are doing statements, they are going to court, they are the ones that ... like for instance today, they are at my sisters house, it's my youngest niece that's been holding me up all day today. She is 17 years old and she is "It's OK aunty, we won't forget you, we'll come and see you" but I can see that she is looking at me thinking "Shit!" because I am very involved in their lives. (Maria)

What Maria is emphasising here is that absence, or invisibility as Randall (1987) calls it, is a process that develops over time and involves the family as well as the one facing deportation. It is not however only the family that starts preparing for the gap, appellants too will make conscious efforts to protect themselves from the pain of separation:

I can't bear... (Maria starts crying) I can't bear to pick up my grandson because I know that I might not be able to do it tomorrow or next week so I don't want to do it and I look at him and when he crawls towards me and wants me to pick him up in a way it's like I am rejecting him and I don't want to, but it's like, it's almost like there is no other way for me to deal with this situation. (...) And now I have to watch my son withdraw himself from me, I have to make myself not hold my grandchild, make myself lie to my mother about the fact that I am ok and that everything is fine. She doesn't really know how bad the situation is, because she got a heart problem and I don't want to tell her because it would just break her. How my sisters avoid me (cries still), and as time passes by, it's not because they are doing it on purpose, it's because they don't know how else to deal with the situation. And because they feel so helpless. All I have to do is tell them what I want them to do and they will do it, but I don't know what to tell them. I don't know... (Maria)

Research participants were well aware that the closer you are to people the harder it is to lose them. For Tania, her partner's deportation was affecting not just their own relationship but how she felt about his relationship to their daughter:

I find it very difficult to be in a relationship with him knowing that this is over my head. I think it's harder to let go of somebody when you very close with him. So I think, if he's able to stay I would love to have another child with him, but I just find that being around him ... I find it upsetting. He deals with it in his own way but I just find ... I don't even like to see him and our daughter together. I'm happy that they are together but I don't want him to be around because it makes me feel sad. Because... if he goes he can't come back for 10 years. And our daughter she's not going to have any relationship with him, because I'm not going there. (...) And my daughter you know, if he is deported, she will be like 14, coming up to 15, (Tania is crying) her childhood will be over, it will be very hard to keep the relationship from abroad. (Tania)

What is narrated here by Maria and Tania was described by others: appellants and family members, attempting to protect themselves in the eventual absence of their loved ones, withdraw from them – they become more distant and less available. Appellants' absence is also vividly and visually felt in the lack of financial contribution, in the

holiday photos spread around the house where the deportee no longer figures and, in the suspension of future plans. In enduring uncertainty and ‘putting self apart’, both appellants and their relatives are responding to the embodiment of fear and anxiety produced by the constant threat of deportation. By withdrawing and isolating themselves, they initiate the appellants’ process of absenting.

The interruption of migrants’ existence in the UK is thus not effected at the moment of their actual removal from the territory. Migrants’ lives become suspended from the moment they realise exactly what it means to receive notice of deportation. Appellants become absent, not when they leave UK soil through removal, but long before through their deportability – their absence is not an event, but a process that develops through the embodiment of their deportability and ensuing chronic stress and long-term uncertainty. Their lives are only half lived in the UK, as their present and their futures are suspended under the threat of having to leave the country of their choice.

FORMING PERSONAL CUES

Enduring uncertainty is challenging and demanding. In their efforts to manage uncertainty and endure it, appellants and relatives relied on work, family support, religion and therapy. They also sought, much like the relatives of ICU patients in Ågård & Harder (2007) study, to retrieve as much information as possible from everywhere possible. The authors found that the experiences of relatives of ICU patients “circled around a predominant need to know what had happened, how the patient was doing and what might happen” (2007: 174). Relatives were constantly making personal assessments of the patient’s condition as, “knowing became the vehicle that could bring assurance or clarity” to them and was thus “a fundamental aspect of the relatives’ ability to adapt to a new reality” (2007: 174). These assessments, or personal cues, were not however always fully informed and often led to misconceptions on the condition of the patient. Much the same way, in the present study, appellants and their relatives, although depending on solicitors and caseworkers to obtain reliable information, were constantly seeking other sources of information, which here too sometimes led to misconceptions. I have mentioned in previous chapters how detainees compared cases in the attempt to understand their own chances and, most importantly, how they have

given different Immigration Judges the reputation of being *too strict* or *good* (see Chapter 4). The media is also an important source of information and news articles are eagerly read or listened to for clues. Stories of dawn raids on asylum seekers' homes haunt migrants and influence their sense of security. Politicians' speeches are also carefully inspected:

Just a moment ago I was watching Theresa May's declarations.... At BBC she said she is going to deport all foreigners with a criminal record and she will destroy the Human Rights Act... I see a dark future ahead.... (Email from George, 04.10.2011)

The Internet is used by many too. In fact, most people who contacted me through my research webpage were seeking informal legal advice.⁶¹ My informants frequently told me of stories and cases they read about on the internet, trying to find ways to determine their chances, to predict the outcome of their cases. Yet despite these efforts they were well aware that the determination of their case was down to the AIT and that many factors outside their control contributed to that decision. Even so, forming personal cues allowed appellants and their relatives to have a relative sense of 'doing something about it'. Further, forming such personal cues about their cases offered at times renewed hope.

In contrast with such willingness to retrieve as much information as possible about their chances in the appeal hearing, preparations for an eventual return were seldom made, even if foreseeing deportation and its implications for the family was constantly on their minds. No efforts were made to retrieve information regarding housing, work opportunities, etc, in the country of origin. This is not to be construed as denial, but rather as a coping strategy: much as relatives of ICU patients will not shop around for mortuary services while their loved ones are struggling to survive, migrants will not make arrangements for deportation until removal is certain.

Generational differences are influential in foreseeing one's eventual deportation to the country of origin. Whereas first generation migrants focused on emotional pain deriving from family separation and financial hardships, the 1.5 generation focused on incidents of displacement, ignorance and isolation. First-generation migrants were seldom capable of conveying their imaginings of return in the context of deportation.

⁶¹ Which I was in no position to offer.

They just couldn't or didn't want '*to even think about that*,' which can be related to the general unwillingness to make arrangements for their eventual return. The few who did manage to convey how they foresaw forced return, described apprehension over their outdated knowledge as to '*how things work over there now*.' Their narratives speculated on the eventual need to call in favours from distant relatives and acquaintances, and depending on them for accommodation and work opportunities, at least at the beginning. Few intended to be open about the nature of their return, and creating a believable reason for their individual return was a task to be performed when time came. Their emphasis was on the impact of family separation on their children, the financial burden they would become to the family left behind and the disruption (or destruction) of what they had accomplished since their arrival in the UK.

Migrants who had arrived in the UK as young children or in their early teens, showed no hesitation in conveying their imagining of return. Not having children and spouses of their own, for them returning was a scary and unsettling prospect, but it was not despairing. They focused their first thoughts upon the actual moment of arrival at the airport, emphasising their lack of links to, and knowledge of, the country of origin. As Tony said: "They'll drop me at the airport and then what? Who do I talk to? Where do I go?" Following the airport narrative, other instances of ignorance and displacement were described: of having no sense of where they will be, where they are supposed to go, how they are to establish a life and how frightening that realisation is to them:

How am I going to problem-solve in Latin America when I don't know what the system is like? How am I going to do that with a British attitude? How am I going to do that? I am going to go back to a country where as a woman I have to be someone else that I don't know who that is. How am I going to cope with that? And it's important for people to realise that, in England. To realise that is British people that are being deported. It's not Latin Americans, just because they hold that passport does not mean that that's the way they are from because the reality is that everything about me that is important, everything that is relative to who I am, is going to be left here. And I am probably half way through my life and I am gonna have to go back to somewhere where I don't know anyone, I don't know how the system work I don't know what the services are, I don't know ... I just don't know and that is a very frightening thought. (...) I have no family whatsoever, none, zero. Nothing. I will arrive in Latin America not knowing where to go. There won't be anybody waiting for me at the airport. (Maria)

Parents of UK-raised young adults, like Naomi or Jamal below, articulated anxieties similar to those expressed above by Maria:

But if they deport him, first I don't think his country is going to accept him (...). And even if they take him, he has nowhere to go, he does not know anyone, he's got nobody. He doesn't speak proper Arabic, so what he is to do I have no idea. He cannot manage to live with them, language barrier, religion, he's not a Muslim, he's not, he doesn't believe nothing. And number three he's going to break away from his family, Foster and the family in Northern America, it's like going to hell, exactly, that's what it is. (Jamal)

My mom said "let them send him home, let him find his own ground", that is how she doesn't care. Sending him home to whom, to what? Where would he go? Standing in the airport and what? I'll have to fly down with him. She is not going to help me with the kids when I travel there. And who is going to look after the kids when I go? (Naomi)

Naomi's statement focuses on yet another concern of research participants when thinking of their eventual return: the logistics of the migrant's return and its financial implications. The deportee, independent of his migration generation, is likely to need remittances from the family left in the UK. In the case of first generation migrants, the family will also have to adjust to the loss of an income-earner. This was a major concern for research participants, who felt the Home Office does not really consider how deportation impacts their lives. Naomi, whose son was being deported and was still dependent on her, expanded on this:

He is not in school, he doesn't have a life, and what are they going to do? Destroy his life, and destroy my life? I can't travel back and forth to the Caribbean, I got 4 other kids to look after, you see I've got a baby. It's going to affect everyone, is not just going to affect me. Because now I'll have to send him money out there, I'll have to find him a home to live, I'm gonna have to go down with him to rent a place, which means I'm gonna have to leave them. I'm on my own; I got no one to look after them. My mom doesn't give any support. Nobody buys them anything or does anything for them. Plus someone can kill my child out there 'cause the crime rate and the murder rate is extremely high. There is a lot of things around it that the government don't even know, and they are not looking at these situations, they are just looking at the fact that "oh you broken the law, bla bla bla and you pay the penalty". (Naomi)

For those with spouses and children, the family remaining in the UK will become, in every practical sense, a single-parent unit. Take Tania's concern:

You know, people say to me, just take it as it comes, enjoy the day but it's not the same you know he could be gone. (...) You know, I know I can get over something easier but it's also not having no support, you know, people say they're friends, they're calling me but blood is thicker than water, and having him around I know that if there is anything I need he's there. And other people are not. When she's sick at two o'clock in the morning, I don't feel comfortable picking up and calling on a friend, it's just it's not feasible you know. And I don't know how I'm going to cope.

We're not in court until next month, it's far, I feel sad, even though he's here, and having a great time, it makes me feel quite depressed to be honest. (Tania)

Many spouses or parents of appellants fear they might have to quit their jobs and become dependent on welfare.⁶² This is what actually happened to Louise who, on her husband's deportation, had to give up her job, as she could not reconcile it with the demands of her baby. She feels it is ironic that her husband's deportation, allegedly for the greater good, resulted in two fewer income-earning tax-payers and one more family depending on government support. It is beyond her understanding how the UK public benefited from it.

Foreseeing how their lives will change if they or their loved ones are deported was constantly on migrants' and family members' minds. Yet, as mentioned above, most were not taking active steps to prepare for their eventual deportation:

In November I left prison, 9 months ago. Each day that goes by, I get along even better with my kids, because you never know. Now I give more time to them. I don't know how it will be when they force you into the plane, I don't want to even think about it. And my kids are very young, and my baby is in hospital... I don't want to think about that now... (George)

Not preparing for the worst was vital to enduring deportability. Appellants had not made any efforts to look for income-earning opportunities or accommodation in their country of origin. Whatever family remained there was not aware that the appellant could be returning soon. To prepare for return is to take deportation as certain. It was not until their cases were outside the remit of hope that preparations were made:

Like I said I don't know anybody there, so I thought ok, I have to try and make some links somehow, so I made an appointment at the consulate to see if there is a way that they might be able to link me up, if there is an organisation, I need to find out what kind of services I can access when I get there, I don't know. I don't have a cousin or uncle to ask. (Maria)

Maria booked the appointment at the consulate after her last visit to a legal caseworker made it clear that there was no hope for her case: the appeals were exhausted and her deportation was only a matter of time.⁶³ She could no longer ignore it. Faced with a general lack of ties to her country of origin she saw no other way than to resort to the consulate.

⁶² Dependency on welfare is also a documented outcome of deportation in Brabeck & Xu 2010, in the US context.

⁶³ To note though that, two years later, at the time of writing, Maria is still in London 'waiting' to be deported.

For different reasons, Tania was constantly urging her partner to make arrangements for his return:

I tell him “you need to prepare, try to make arrangements”. I put £1000 as surety and can I really trust him? I tell him “you need to speak to me”. I’m thinking the worst. What if he goes underground? I don’t know? Who can you trust? I can’t trust anybody else. This is my life savings!

Tania feared her partner would run away and leave her to raise their child alone. As his surety, she had pledged her entire savings, and the prospect of losing them was daunting. In preparing for his return to the Caribbean, should his deportation come through, she hoped her partner would be more assured that there was a place to return to and thus less inclined to run away. Sadly she had no success.

Like enduring uncertainty and putting self apart, forming personal cues about their chances of staying and not preparing for their forced return, assisted appellants and their relatives in managing their deportability. Not making arrangements for deportation assisted migrants in coping with their undecided present and uncertain future, enabling them to hope for the best and cling on to the hope of better luck.

RE-IMAGINING POSSIBLE FUTURES

The long-term experience of being under the threat of deportation reshapes migrants’ sense of time and transforms their sense of possible futures (Burman 2006, Willen 2007, Randall 1987). Living with the risk of being deported is like an intermission of indeterminate length in migrants’ lives and in the plans they had devised and hoped for before deportation intruded into their lives. In this sense, and in the course of the deportation process, migrants have to reshape their sense of possible futures to include possible departures – deportation being only one of them.

Considering alternatives to deportation is presented here as a coping strategy – one that prevents migrants from directly facing a dreaded reality and allows them to focus instead on better futures. It is also testament to the fact that, for research participants, deportation meant above all ‘leaving the UK’, rather than ‘returning home’. This section explores migrants’ departure options and their reshaping of possible futures.

How migrants feel towards their eventual forced return is influenced by their pre-migration lives (and migration aims), sustained transnational connections and the current stage of their life-course:

Personally I can go to my country, is no problem. I can go. It's not hell over there – it is a country. We have food, we have water, I done my job. No problem. But how come I go there, and my daughter here behind me? My wife behind me? How can... my wife and me, we can deal with it, if they deport me, no problem. She can come to see me, I can talk to her, I can speak to her, and phone, she can have her own life. We can divorce, no problem. Just because we haven't got any chance to... But what about our family? Our children? What gonna happen to them? (...) How about us? They're splitting us, they wanna split. Why? So that's why I'm upset. I'm very sad. (Hamid)

Hamid had not long left northern Africa when I met him. His parents and siblings remained there and longed for his return, he still had connections and knew he could easily make a living – enough to support himself in any case. For him, deportation was a problem because it meant separation from his wife, daughter and stepchildren. For others who migrated to the UK as adults, return meant more hardship than this.

Latrell joined his mother in the UK in his late teens. He arrived as an asylum seeker. The rest of his family had been killed prior to his departure. For him, the prospect of return was dominated by fear of violence. He absconded when his appeal was dismissed, and was eventually caught and deported. He remains in touch with Tania and his daughter by phone, and hopes to return soon “one way or another”.

Parallel to his deportation appeal, Andre was fighting the extradition requested by his country of origin. Andre left his country while still on license (from a prison sentence). He joined his adult sisters in the UK in the hope of a clean start. Returning meant having to deal with the consequences of breaking his license and possibly spending more time in prison. It also, and equally important for him, meant the cancellation of all he had accomplished through rehabilitation while in the UK penal system: it was the end of his ongoing training as a personal trainer and his career plans in the UK. Unfortunate in his extradition appeal, Andre decided not to appeal his deportation anymore. Not appealing meant that he was extradited before his deportation order was signed, thus ensuring that once matters were solved back home he could

return to the UK and proceed with his plans. Not appealing his deportation was his way of ensuring he would be able to pursue (in the future) his migration aims.⁶⁴

George and David, and most other first-generation migrants participating in this project, arrived in the UK as young adults seeking better professional opportunities and a better life. All apart from Latrell would agree with Hamid, that wherever they are to be sent “It’s not hell over there – it is a country.” Some had close friends and family back home, others only distant relatives. Most kept contact with family left behind, either frequently or sporadically. Some visited their country of origin whenever their financial situation allowed or when family events demanded (to attend funerals, for instance). Others never returned. Some sent remittances, others didn’t. But most retained some level of connection with their country of origin and had some idea of what it is like to live there. They admitted that hardship can be overcome and that however difficult it may be to adjust to their new situation, sooner or later they would adapt. What they could not cope with was the prospect of family separation and the end of everything they had worked for and accomplished since their arrival in the UK.

For research participants, sustaining transnational connections to their country of origin did not make their return a welcome development in their migration trajectory. A life-course perspective is relevant in understanding migrants’ strategies in managing deportation from the UK. Unlike family relocation, through separation they are able to carry on pursuing their life goals. Yet the existence of transnational connections is not unimportant. On the one hand it may translate into important assistance upon forced return to the country of origin. On the other hand, the prevalence of transnational links with relatives and close acquaintances elsewhere in the world broadens appellants’ options to include onward migration, which appears as a viable and preferable solution to many.

Other appellants arrived in the UK as young children or in their early teens. They are 1.5 or second-generation migrants for whom deportation does not mean a return ‘home’ but rather leaving home. This generational group has little or no memory of living in the country of origin and their links to it vary considerable from those of their parents and the appellants that migrated as adults. A few had visited with their parents

⁶⁴ Andre was extradited in 2010 and placed in prison upon arrival in his country of origin. He was released on parole two years later. He plans to return to the UK in five years time, when his parole is over.

the country they are to be deported too, but most hadn't. Some spoke their country's native language, others didn't. For all of them, the UK was the only reality they knew. As Maria said, "everything about me that is important, everything that is relative to who I am, is going to be left here." For this group, deportation is exile in its purest sense - even if they are being returned to their country of origin. Moniz captures this feeling well in his doctoral thesis *Exiled Home*, where he focused on the reality that Portuguese citizens who had grown up in the US faced upon deportation to the Azores, a small archipelago in the Atlantic that offers little in the way of American lifestyle and opportunities.

In fact, most studies of deportees' experience of return have focused on this generational group of migrants, documenting their displacement and exclusion; in other words, documenting their exile (see Zilberg 2004, Ygvensson & Coutin, 2006, Drotbohm 2011, Moniz 2004, etc). However, my findings suggest that, for first-generation migrants too, deportation is tantamount to exile. The way they see it, they are being banished from their residence of choice. They are being removed not just from their homes and families but also from the lives they have built and the future lives that they had planned.

As shown above, making arrangements for their return amounts to taking deportation as an inevitable event, and not just one possible future. For most, preparing for their return is unthinkable while removal is uncertain and there are other options on the table. Tania's partner, Latrell never did prepare for his return. Even when his last appeal was dismissed, it was Tania and not him who contacted me for help. He was not making arrangements because admitting defeat was not in his plans. He was in fact considering the option that Tania had always feared, and went underground a few days after she called me for help.

Before accepting deportation, research participants considered all other options, including migrating to a third country. The third country is one where the migrant has close family members or other support networks, that offers better opportunities to rebuilt their lives and, very important, which is a shorter (and cheaper) distance from the UK, thus facilitating family visits. However, there are visa restrictions for many, and migrating to a third country is not always feasible:

To be honest it got great impact because Jerome has no one to go back to and if Jerome wants to get deported Jerome will be in over there lost right. And most of my family is over here, my mom is over here and so over here is my cousins, my uncles, most of my mom's family is over here, most of my dad's family is in America. Now, because of his case he can't be sent to America. My grandmother, his great-grandmother, she is the only one in Trinidad and she is in a nursing home. (Naomi)

Naomi's first option would be to send Jerome to the US to live with her aunts, but because Jerome was sentenced for possession of drugs, she knew he would not be allowed in. George, holding a Latin-American passport, developed a similar strategy:

Between you and me, I can tell you that I will go to [southern European country]. I will not let them deport me. If I go there, my kids can see me, it's a two-hour flight. And I can restart my life, my family is there, all my brothers and sisters and my father are there. And on top of it, I can get a passport there in two years because my grandparents are citizens. I had already thought of it. And have told this to my wife to reassure her (...). I have a visa to [southern European country], so I can go there. (George)

George did leave his family in the UK and went to Southern Europe, only to return two years later. David too, instead of being deported to Southern Africa, was considering moving to a southern European country where many of his relatives were now based and to where he was assured he would be able to obtain a visa. Tony also contemplated life in countries other than his own if he was to be deported, although he was well aware that it was unlikely he would be granted a visa elsewhere with his West African passport. Onward migration is often seen as a better option than removal to the country of origin, but one that is dependent on visa policies and on the transnational social relations that migrants have sustained.

Experiencing deportability also impacted on migrants' sense of future in the UK. In Chapter 5, George's long detention narrative mentioned the hatred some detainees developed for the UK because of their unreasonable incarceration. While hatred as such was never made visible to me by research participants, many did describe feeling disenchanted and disappointed with the UK in general and its justice system in particular, over the way they had been treated since their conviction:

My faith is dwindling and my faith in a fair system and in justice, my belief in what I thought Britain stood for, all of that, that's just been crushed, and I been left with nothing else to replace it apart from rejection and the fact that I have been shunned from society and that ... I look at everybody and I just think that everybody hates me, everyone hates me. And I don't know what else to do and it is that helplessness.... (Maria)

McGregor (2009) also describes feelings of hate and anger among formerly detained Zimbabwean asylum seekers in the UK and details how detention has impacted their attitudes towards the law and the UK. Many of her informants responded to this disillusionment by becoming political activists. This was not however a reaction adopted by any of my research participants.⁶⁵ Rather, disappointment with the UK and its justice system prompted many migrants to review their future plans of residence in the UK. George, who before conviction never considered returning to Latin America or migrating elsewhere is now contemplating departure from the UK at a later stage in his life, when his children are grown-up:

I'm 39 year old. I want to go away. The way they are treating me here I don't want to stay. I want to go. But my wife she don't want to go. She said "no, because you didn't do nothing, you are stupid if you give up." (...) This dream for me ended. But the only thing I am very grateful in this country is my children. That's it. I had a cleaner company, I had big contracts, I made lots of money. Now I have ... well money is not everything in this life.

And Simon:

You lose your love for this country when you go through this. And now, even if things go well and I get sorted here, I am not sure I want to stay in the long term. I lost respect for this country. It's no longer the same thing. I no longer can work here with my heart and soul into it. They took that away from me. This injustice.

This is not to say that migrants wish to depart right away and might as well be deported. As mentioned before, at this point in their lives research participants wished to remain in the UK above anything else. The point is that George, Simon and many others have responded to this unexpected disenchantment with the UK by incorporating departure, in the long-term, into their imagining of possible futures.

Deportation as family separation

When all appeals are exhausted the family is left largely with 4 options: 1) the family unit departs; 2) the appellant departs (to the country of origin or elsewhere) and the family remains in the UK; 3) the appellant goes underground and the family stays; 4) the whole family goes underground in the UK. The third and fourth options imply carrying on living indefinitely in fear and uncertainty, under the permanent threat of

⁶⁵ My research participants' inability to protest and take part in overt political action will be explored in the next Chapter.

arrest and deportation. Apart from Latrell who went underground soon after his last appeal was dismissed⁶⁶ none seriously considered these options.⁶⁷

Research participants described both constant worry about how the family would cope with deportation, and recurrent consideration of the strategies available to them, even if none made efforts to prepare for their eventual deportation. In the midst of all the uncertainty, there was one thing all were very clear about: whatever happened to the one facing deportation, the family would stay put in the UK. In this sense, for the research participants, the extent of disruption of family life runs deeper than the AIT envisages, as not one considered moving the family out of the UK: for them deportation meant family separation (or even termination), but never family relocation. See for instance Claire, whose husband was appealing deportation to North America:

They say I can go back to the US with him, but he is going back there as a homeless person, how is he going to sponsor me and my family? And I have no health insurance, how am I going to get treated there? Where will we live? How can they expect me to move to another country in my 50s? Move away from my children and grandchildren... They are making the decision of whether I should remain married or not, 'cause if he's deported that's it, it's the end of my marriage.

Even in cases where visas and health concerns were not an issue, in 12 months of fieldwork I never once came across a family that would consider relocation with the deportation of a parent, child or spouse. The outcome of the four cases that had an unhappy ending confirmed this: no family relocated. Tania stayed in the UK with her daughter after her partner's removal. George when faced with deportation to Latin America, departed to another European country only to come back after two years. Louise stayed in the UK with her newborn baby and struggled to save enough money to visit her husband in Western Africa once, for three weeks, during the three years of his ban on returning. Andre was extradited to Southern Europe, his sisters remained in the UK.

The fact that appellants' immediate relatives (spouse and children or parents and siblings) had all obtained British citizenship since deportation became an issue⁶⁸ also

⁶⁶ Perhaps not coincidentally, Latrell was the only research participant who feared for his life if removed to his country of origin.

⁶⁷ We saw in Chapter 5 how deportees took state control strategies as beside the point as it made no sense for them to abscond when their goal was to remain with their families.

⁶⁸ Tony had already filed for citizenship when he was convicted, but for others, application for citizenship was carried through when the deportability of one family member made it all too clear that the family's stay in the UK was not to

suggests that permanent family relocation did not feature in their plans. Existing studies focusing on deportees from the US, mostly second-generation migrants, further suggest that deportation results more frequently in family separation than family relocation (Peutz 2006, Zilberg 2004, Drotbohm 2011, Moniz 2004, HRW 2007, PDHRP 2009, Hagan et al 2008, etc).⁶⁹ For the Tribunal and the Home Office, family separation brought about as a result of dismissed appeals, such as the above examples, results from the families' own choice not to relocate with the appellant, as no major impediments to it were established (within AIT criteria). For appellants and their families, separation is a direct result of the tribunal's failure to understand that for them relocation is not an option, even if the appellant is to be deported to a country that can eventually afford them the same lifestyle and opportunities. Generational differences and stages in the life cycle play a decisive role in migrants' perspectives on return (Jeffert & Murison 2011, Jansen 2011) and their ability to integrate deportation in their imaginings of the future. A life-course perspective that takes into account the family-cycle is relevant here to the understanding of migrants' reluctance to relocate.

The first-generation migrants in this study migrated to the UK as young adults, either single or jointly with newlywed spouses. Some, like David and George, viewed their lives as settled in the UK and had no desire or intention to ever return permanently to their home countries. Others, like Naomi, wished to return and settle in their country of origin at a later stage in life, when the children were independent and had the financial means to settle comfortably back home.⁷⁰ At this point in their lives, and whether they envisaged or not an eventual return home, none was ready to depart from the UK or migrate elsewhere. Now in the 30-50 age group, they were still advancing

be taken for granted. Although eligible for citizenship, most migrants in this study had not previously applied for it because the process is financially costly and most did not need it on a day to day basis. Apart from Hamid who was working using his brother's papers (and hence not eligible), all others were lawfully residing in the UK. Not having British citizenship had not been an impediment to their lives prior to the conviction of one family member.

⁶⁹ In his study of second-generation Portuguese migrants deported from the US to the Azores, Moniz (2004) found that family reunification was uncommon and, when attempted, largely unsuccessful. Not many children and spouses were willing to leave the US for the Azores due to limited employment opportunities, lack of support networks, and resistance in leaving their home place. Those who did try faced extreme difficulties in adjusting to life in the islands, not only in integrating and due to language barriers, but also in dealing with the stigma now attached to them as families of deportees. Many returned to the US shortly after arrival.

⁷⁰ Jansen (2010) found similar differences in perceptions of return of Bosnian refugees, where the older generations welcomed retirement at home but the younger generations, forming families, were at a stage in their lives where re-emigrating was preferable to return as employment and educational opportunities were important in their plans to improve their lives. The author successfully demonstrates how conceptions of return vary through the course of life.

their careers and had young children to be raised. George, for instance, emphasized several times that, no matter what happened, his children would be educated in the UK.

Those who arrived in the UK as children, were at the time of conviction mostly young adults still living with their parents.⁷¹ They showed no interest whatsoever in returning to their countries of origin. For them the UK is home. Migration may be part of their life plans, but not necessarily to the country of origin. Tony, for instance, revealed the desire to work elsewhere in the world, to travel and get acquainted with different life styles, but to return to the UK once he established a family, as that was where he wanted his children to be raised. Still dependent on their parents, these youth could hardly expect their parents and siblings to return with them. Like the first-generation described above, their parents would not consider a return at a time when their financial situation was unstable and there were other children to think of.

Family relocation implies uprooting children, often born in the UK, who have few links to the country of origin - their cultural, social and linguistic reference points would be left behind (Brabeck & Xu 2010; Bhabha 1998). It also involves the cancellation or deferral not just of their spouses' professional activities/development but also of opportunities for their children to succeed in life. It would involve distancing family members from wider family and friends in the UK and from the support networks that they have developed. Furthermore, there are financial considerations: someone has to remain employed to support the family.⁷² This is particularly important as, for many, whatever savings were accumulated have been spent in their legal battle to stay in the UK. Finally, and no less importantly for research participants, taking the family away from the UK would be tantamount to giving up everything the family had accomplished since arrival. It would be to forget the future that was hoped for the family in general and the children in particular, and to endure another new beginning.

Family separation is often an intrinsic element, temporary or otherwise, of the migration process. Yet, as states tighten their border control and implement increasingly

⁷¹ Maria and Basem both migrated to the UK at a young age, but unlike other 1.5 generation appellants, they were in their 50s. They had children and grand-children, had always lived in the UK and never considered migrating elsewhere.

⁷² In fact, even if it was not the case with any research participant in this study, Zilberg (2004) and Drotbohm (2011) have called attention to the fact that deportation of one family member may hinder the long-desired return of the older generation, which now has to remain in the host country in order to provide for the one stranded in the country of origin.

restrictive migration policies family separation becomes ever more common both through deportation/removal and ever more limited scope for family reunification (Menjívar 2012). Through family separation migrants are able carry on pursuing the family's initial goal of migration.⁷³

Throughout this chapter I have addressed the ways in which the experience of living under the constant threat of deportation, and the resulting uncertainty of waiting, affect everyday life, social relationships and the sense of self, thus highlighting the consequences and costs of deportability. I have also examined the main coping strategies deployed by deportable migrants and their families. Equally important in considering coping strategies is an exploration of what migrants do to react against their deportability, an issue examined in the next chapter.

⁷³ Studies of migrants from Hong Kong and Taiwan in Canada, albeit not in the context of deportation, also find that family separation after migration (not upon migration) was preferable to the return of the whole family in that it would allow the pursuit of the family's overall goals to improve their lives and the opportunities for the children (Waters 2011).

7. On compliance and resistance

In 2009, half way through my fieldwork, I was emailed a call for papers for a journal special issue on migrant protest that I immediately put aside. After all, I thought, my research participants don't protest, I have nothing to contribute. I was however too quick to discard it as next morning I woke with the pressing question that this chapter seeks to address: "why are my research participants not protesting?" They certainly felt that wrong was being done to them, they questioned the state's legitimacy in separating them from their families, they believed their rights had been violated and that they were being consecutively punished for an offence for which they had already served time. In addition, if they were not protesting, what other strategies of resistance, if any, were being deployed?

This chapter is divided into two main sections. The first addresses the lack of collective political action and engagement in protests and anti-deportation campaigns (ADCs) by foreign-national offenders facing deportation from the UK. Taking ADC guidelines from migrant support groups, I argue that the circumstances of foreign-national offenders, and in particular their own understandings of their removal, are incompatible with open political action and with the broader work of ADC support groups.

The second part of the chapter is devoted to an examination of what research participants perceived as their strategies of resistance. Here, compliance with state orders is discussed and conceptualised as a form of resistance to a set of policies that research participants did not consider legitimate. These policies are illegitimate in the eyes of foreign-national offenders, because they are seen as strategies to render their lives impossible to the point of acquiescence in being forced to leave the country. By not giving into the pressure to leave, and enduring the 'limbo' that is placed on their lives, they resist both their deportation and the state's will to deport them. In other words, by complying with conditions and restrictions that the Home Office places upon

them, they feel they are defying the Home Office's attempts to remove them from their country of residence.

MIGRANTS AND POLITICAL AGENCY

As Laubenthal argues in her study of pro-regularisation movements⁷⁴ in three European countries, the political agency of undocumented migrants was often left unexamined as

Existing research on illegality has focused on the lack of political, social, and economic rights of illegal migrants that follows from their illegal status and impedes the possibility of their collective self-organization. (2007: 102)

In fact, the literature on the state of exception, derived from the work of Agamben (2005), on which many studies of migrant illegality and deportability draw, leaves little space for resistance or contestation. In recent years numerous studies attempting to apply Agamben's biopolitics of states of exception to contemporary deportation systems have revealed both that authority is not necessarily overly centralised (Landau 2005; Sutton & Vigneswaran 2011) and that there is in fact scope for resistance and contestation (McGregor 2011, Nyers 2008, Ellermann 2010 and 2009, Abu-Laban & Nath 2007, Rygiel 2011). Even in confined spaces such as Immigration Removal Centres there is room for political action. In these settings, as the agency of detained migrants is limited, acts of protest, resistance and contestation tend to take the form of hunger strikes (see for instance McGregor 2011), self-harm and suicide attempts (see Nyers 2008), or the destruction of identity documents (Ellermann 2010). Confinement may also have a politicising effect in detainees, through the realisation that they are rights-bearing subjects (Peutz 2007) who upon release may pursue open political action (McGregor 2011). Furthermore, the unprecedented mobilization of undocumented migrants in the US in 2003 and 2006, has also worked to challenge the notion that the undocumented, by way of their illegality and rightlessness, are devoid of political visibility and agency (De Genova 2009, see also De Genova 2010).

Immigrants' political action is seldom enacted in isolation. As Laubenthal (2007) argues, immigrants' movements count on the support of other more secure actors: citizens, NGOs, Trade Unions, religious groups, etc. Equally, protest and campaigning

⁷⁴ Broadly speaking, pro-regularization movements are social movements claiming for a regularization of status of irregular and undocumented migrants to allow them to live legally, and permanently, in their host country.

against deportation and removal is not just in the hands of removable migrants themselves. On the contrary, civil rights groups have been increasingly active in contesting both individual cases of deportation and removal policies more generally, grounding their claims on human rights conventions safeguarding the right to protection in the case of asylum seekers (Heyman 2007; Neyers 2003; Walters 2002) and the right to private and family life in the case of deportation of long-term migrants following criminal convictions (Dembour 2003; Bhabha 1998; HRW 2007; Steinorth 2008). In the UK, many advocacy and migrant support groups advocate for migrants, support their campaigns and contest immigration policies (Sen 2000; Bhattacharyya & Gabriel 2002). Trade Unions too, often lend support to campaigns against the deportation of their members. Specifically supporting migrants in campaigns against their removal from the UK, are groups such as the National Coalition of Anti-Deportation Campaigns (NCADC), the Southall Black Sisters (SBS), No One Is Illegal (NOII) and Women Asylum Seekers Together (WAST), among many others. While the approach that these support groups take towards protest and campaigning has an impact on foreign-national offenders' ability to protest, this chapter is mainly concerned with migrants' own actions of protest and resistance, and not with those of organised groups.

LACK OF PROTEST AND PARTICIPATION IN CAMPAIGNS

While there are many forms of open and collective political action, I focus here on ADCs because they suitably illustrate why foreign-national offenders facing deportation from the UK seldom participate in open forms political action. When I probed my informants on protest and other forms of resistance their first reaction was invariably a surprised "*protest?!?*" It was obvious they had not considered it. Jen, whose husband was appealing deportation, was the exception here (see Preface). Jen emailed me about her plans because she wanted to know if I already had any research findings she could use. She was also one of the few research participants who reached me through my online research page. In her email she wrote:

... we are still waiting to hear back from the tribunal service for a hearing date but in the meantime I have decided to try and do something regarding the way deportation is dealt with. I have emailed possibly every MP who can help me and also my own MP is trying to arrange for me to have a one-on-one meeting with Nick Clegg and Damian Green.

She also wanted get a petition started and asked for advice on where to circulate it. She added:

I can't give up and even if we lose our fight something needs to be changed as nobody should have to go through what we are currently going through and I guess I have to put my anger and frustration into something other than sitting dwelling on what I can't control for now.

Sadly her plans fell through and no protest or campaign was ever set up. Jen's initiatives and intentions were not at all representative on two levels: first, she was actively and publicly seeking to protest against the deportation of her husband, second, she sought to go further than her husband's deportation: she was challenging deportation policies in general. In fact, most other research participants were reluctant to consider any kind of protest or collective political action. I met David for a follow-up interview at Communication House, where he had to report weekly on Wednesday mornings. He said:

I see it as unfair but I have never thought in protesting or doing like a demonstration. (...) And participating in a protest could turn against me, I don't know. Then again I never saw any protest like that. And when there are any protests, do they solve things? Does the government ever change things when people protest? (...) I see it as unfair, but I also see my hands tied. Who is going to protect me? Because, imagine, the way things go if all those immigrants you see there [reporting centre] everyday, if we all get together, and together we demonstrate, that would be a massive thing right? But we are all afraid that it might go against us, so that is not going to happen, but imagine, if we all... it could even work. (David)

David centres here on one of the main issues given by research participants to justify their lack of protest. There is a strong sense that forms of political action like protest, campaigns and demonstrations not only have no impact on government decisions, but might actually result in the participants' detention or the acceleration of their removal – most research participants feared the repercussions of becoming 'inconvenient' to the Home Office.

Campaigning and protesting means, above all, going public. The power of individual campaigns lies in the "everyday world of local politics" (Bhattacharyya & Gabriel 2002:150). It is through media publicity that individual campaigns gather wider community support, including when appropriate Trade Union support. Leading an ADC involves actual political action, such as speaking in public, distributing leaflets and letters, demonstrations, pickets, meetings, etc. It also means involving actively

migrants' families and friends. It is demanding and time-consuming. For the research participants this was problematic, as being in the appeals system and complying with the conditions of bail was already too much to handle and most felt they had no energy left to fight on another front. Most importantly, however, they have no wish to divulge publicly that they are facing deportation from the UK, nor that they have been convicted of a criminal offence. They are well aware that for them protesting means putting themselves publicly into the "foreign criminal" category. Trude wanted to go out, set up a campaign and protest on behalf of her son-in-law but he would not have it:

He just thinks it's his business and he doesn't want everyone to know so I don't know. He might think differently if he think it can help us getting him back but I wouldn't know where to start it or where to go or anything.

Trude leads us to yet another reason contributing to the lack of protest, for even when there is will, there is a lack of know-how and organisational support. Anti-deportation campaign support groups acknowledge that most people do not know how to go about protesting and campaigning and need support in that regard – that is what they are providing. Most produce brief guidelines on how to campaign and some logistical support. In 2007, NOII published a 23-page leaflet entitled *Campaigning Against Deportation or Removal. Building An Anti-Deportation Campaign. A practical and political guide to fighting to remain in this country*. Most advocacy groups will refer migrants to it.⁷⁵ The guide provides practical advice on how to start up and maintain a successful campaign, and what pitfalls to avoid; it lists the advantages of campaigning for the right to stay; and details some principles that all campaigns should adhere to. But whereas most ADC organisations give support to campaigns against any and all deportations, the words *prison*, *sentence*, *conviction* or *offender* are absent from their campaign material even though specific sentences or even sections are devoted to *asylum seekers*, *undocumented migrants* and migrants living *underground*. Maria, one of the few research participants who at one point considered open political action⁷⁶ became very aware of this:

Every single organisation that I have approached deals with refugees, nobody deals with ex-offenders. Because it seems to me that there is a need but no one is catering

⁷⁵ At the time of writing the NCADC is developing its own guide to campaigning against deportation, but it is yet to be published.

⁷⁶ Perhaps not coincidentally, Maria had exhausted all her appeals, and by then she knew her deportation was only a matter of time.

for the kinds of need that I have. No one. So it really is ironic. (...) People don't protest because they are scared. And I am scared. But I'm reaching the point where I have nothing to lose, there is nothing for me to be scared about now, because ex-offenders need to have some level of equality over here. (...) I would be happy to take part in for it but I don't know anybody that I could link with... 'Cause I was hoping that I could link with another campaign so I could link my campaign but it just isn't anything out there. (...) I want to protest, I do wanna protest, but how can I get off the ground? How do I do that? Because I am not... I have never done it so I don't know how to start it. And I don't know how to do it basically.

For Maria lack of organisational know-how was compounded by the fact that she could not find any other deportees to join her. As she says, she had nothing to lose and she felt strongly about the rights of former offenders. Most others however, had a more complicated take on this matter. Present throughout participants' narratives of deportation, and surveillance in particular, is the notion that as foreigners and criminals they do not get second chances. *Once a criminal, always a criminal*, is according to them the Home Office's stand on the matter. Jerome's mother, for instance, was appalled that instead of developing efforts to rehabilitate her teenage son, the Home Office was only concerned to deport him.

Research participants felt that they were being doubly punished because they combine in a single person two dreadful categories – those of “foreigner” and “criminal”. Because they have been convicted of an offence *and* they are foreign they have to endure this extra round of punishments. They are fully aware that British citizens convicted of offences also face difficulties upon release from prison due to their criminal record, e.g. when seeking to secure employment or rent accommodation. But for them the point is that British citizens get to move on with their lives despite those difficulties, whereas in their own cases the legacy of the criminal record prevents them from moving on. They have to endure another round of courts, this time immigration courts, and be subjected to a whole new set of surveillance practices that again bring their lives to a halt. Their status as foreigners becomes ever more important after criminal conviction, as they have forfeited their right to be in the UK:

What was I told? I forfeited my rights to being in this country by committing a crime, (...) And why couldn't I be forgiven? [*starts crying*] Why am I simply being looked as a foreign criminal? Why? (...) In a way the needs that I need to be catered for are needs under the law so basically there has to be somebody to kick off about the fact that “you know what? Just because you committed a crime does not mean you are defected for life”(...) When does a person stop being an ex-offender? I mean, please, somebody let know. How many good deeds do I have to do to make up for my one bad deed? No matter which way we look at it, is this not a Christian

country? And are we not supposed to forgive? It's those kinds of moral questions that I would like to have addressed. (Maria)

The feeling arising from the perception that wrong is being done to them should not be underestimated. In deportation this is exacerbated because it is compounded by 1) a sense of powerlessness to do anything about it and, 2) awareness that public opinion is not on their side. So if, on the one hand, they felt that they had been punished already for their criminal offence, on the other they were all too aware that it was their actions that led to their immigration predicament and hence felt accountable for it.

ADC support groups are happy to help and assist foreign-national offenders in protesting against their deportation, just as they do for failed asylum seekers and other deportable migrants. But the work of these organisations goes beyond the individual campaigns they support: they lobby the government and work as pressure groups in an attempt to challenge, if not change, current immigration policies. Individual campaigns are the base for and link to broader campaign work over wider immigration issues (Sen 2000; Bhattacharyya & Gabriel 2002). For instance, individual ADCs can challenge the notion of “public interest” by emphasising the financial independence of the migrants and their many contributions to the community: “Mocking the immigration regulations by introducing alternative ideas about what constitutes the public good became a standard tactic in anti-deportation campaigns in the Midlands and beyond” (Bhattacharyya & Gabriel 2002: 158). For this purpose, and also to ensure that a particular ADC is successful it is deemed essential that migrants’ campaigns conform to two related tenets: in the words of the NOII guidebook, 1) *Demand support- don't beg for it* and, 2) *Don't argue your case is exceptional!* These tenets, even if phrased differently elsewhere, are present in most ADC organisations’ written materials, and are crucial in understanding why foreign-national offenders rarely campaign.

Demand support - don't beg for it

The idea underlining the first tenet is that migrants should seek solidarity because they are the subjects of unreasonable immigration policies. They should not seek pity because they are not responsible for their imminent removal. This is captured in the NOII leaflet:

You are not to blame for the situation you are in. The fault is totally with the Home Office and its immigration laws. Therefore do not feel ashamed! None of this is your fault! (NOII 2007:7)

For foreign-national offenders this is a particularly troublesome point, and who is responsible for their deportation is, more often than not, a difficult issue for them. While they may consider the Home Office's policies as '*over the top*' they are also very aware that deportation arose from their own actions – it is a direct result of their conviction, for which they are accountable:

I have never thought about it [protest], but I see that my case is a bit disgraceful because I had the documents [Indefinite Leave to Remain] and that document is being taken away from me because of my actions, I committed a crime right? Then there are those people who have not committed any crime and they are going through the same thing. (...) (David)

Even if the deportation process and its associated living conditions are deemed to be a hard and unfair second punishment, foreign-national offenders did commit an offence and they feel responsible and accountable for it:

I think I am still paying for the things I did, (...). And I have to accept that. That is why I endure this punishment on me. But then I also think this is too much punishment. Or maybe I just don't want to see it, just don't want to change. But I make my own destiny. I am the one who has to think before doing stuff. (Andre)

During the focus-group discussion, for instance, Maria wondered if the others would wish to join her in forming a campaign to lobby for their rights and added "... and if you guys know other criminals please let me know". Participants all laughed and one replied, "Yeah, we're going to stand in Parliament screaming '*Justice for Criminals*'." Laughter resumed. This small episode illustrates how aware participants are that they have in fact committed an offence and that their status as 'criminals' does not allow them to protest for their right to stay. Justice, they feel, is for the victim and the innocent, not for the criminal. It is in this sense that it is very difficult for research participants to take the ADC support groups' approach of 'demanding' support for their cause and placing full responsibility on the Home Office over their deportation. Ultimately, they acknowledge their part in it. However, acknowledging their role in the events leading to their deportation is not tantamount to considering deportation and related policies (detention, reporting, etc) as legitimate punishments. While they feel they have only themselves to blame for being put into a situation where they are abused, the abuse is recognised as such and never legitimised.

Family members tend to feel the same, and often have conflicting feelings regarding their relatives' entitlement to stay. Take Tania's words on her partner's deportation following a drug-related conviction:

Because of his drug convictions I feel like a hypocrite [protesting on his behalf] but I would quite happy support other people. (...) I think it's quite difficult really because I know that there's a lot of people here that should not be here and there's a lot of people here that commit crimes and shouldn't be here. And if I would say that if a person has committed a crime they shouldn't be here, then look at how difficult it is for me. I'm against drugs, against crime, but my child's father... can you imagine how I feel? (...) I feel like a complete bloody hypocrite! But then I look at my daughter and I just think she deserves the choice to grow up with her dad, she does. (Tania)

Tania is faced with a dilemma in wanting her partner to remain in the UK while at the same time believing that those who commit crimes should be deported:

I don't know, I just think there are so many people who want to come here, why give an opportunity to someone who has committed a crime as serious as that, over somebody else who all they want to do is stay over their families? So ... I don't know. (Tania)

She is not alone here – this is a feeling prevalent not only among relatives but also among deportable migrants themselves. Their deportation narratives are narratives of exception, which brings us to the second tenet of ADCs.

Don't argue your case is exceptional!

This second tenet seeks to assert that all cases deserve solidarity and thus to avoid divisions deriving from speculation over who is more worthy of remaining in the UK:

Many campaigns try to argue that their case is “different” or “worse” or “more desperate” than other cases. This is what the Home Office want us to do! The Home Office wants campaigns to argue in public as to who is more “exceptional” or more “worthy”. The Home Office wants this because it leads to division and not unity. (NOII 2007: 8)

An ADC then should argue that immigration laws overall are cruel and unfair, and not that they are just being misapplied to a particular individual or family. Instead of arguing that the Home Office has failed in their specific case, ADCs should aim to reveal the tremendous misery that all others in the same situation are facing, i.e. that it is the policy in itself that is failing. This allows Anti-deportation organisations to lobby on

wider immigration issues. But research participants were not necessarily against deportation policies *per se* and do consider themselves as exceptional cases:

As a person, as a father, as a citizen, from here or from there, I think these polices [of deportation] are necessary. I think yes, there are some people who deserve being deported. (...) Some people only have bad intentions. And I have met some people like this. And when I heard they were facing deportation I thought to myself “I hope they get deported” because you’re thinking about your children. (...) So yes, they should deport people, but dangerous people, people that already have records of being criminal. (...) People should be deported according to the severity of the crime but you also have to respect the rights of the persons, and you should investigate better the background of the person. Because we are all subject to make mistakes in life, no one is perfect. But yes, they should deport people. Honestly, yes. But not me, I don’t want it. (George)

At the end of the day it is my safety and my family’s safety. If you are in this country 5 years and you are not married, never paid taxes and always chancing criminal activities, those 5 years give you no rights, not enough to loose contact with your country of origin. Then I understand, if they are a risk and don’t value life, but my case is different. (Basem)

I paid for my crimes and my crimes are not really that harmful to the public or anything because they are fraud. One is handling stolen goods and the other is bank fraud. I am not a criminal, I don’t rob people’s houses, and I’m not going to kill anyone or mug people on the streets or anything like that. If I had done terrorism, rape, murder, stuff like that, then I would accept it. But my case is small. I know it is an offence, I am not saying that it is not, but it is not stuff you do to deliberately harm people. And I have regretted it, I done my sentence, I done my parole with no problems so at least all this the Home Office should take into account. I hope the Home Office understands my situation. Even if that is a rule, this rule does not apply for me. This rule should apply to terrorists and people like that. I’m not like that. I’m not a danger to the public. So I think that when the Home Office took the decision [to deport me] it did not measure the consequences that it would have on my family. No, it didn’t. (David)

Research participants are thus not against deportation policies *per se*, they are just against their own deportation. And arguing that one’s deportation is wrong but the policy in general is adequate is incompatible with the broader work of ADC support groups. As the above quotes reveal, research participants tended to favour deportation policies, contesting only the ‘unsatisfying’ consideration of the merits of their particular cases, or the broad applicability of such policies.

This apparent contradiction is not limited to deportable migrants. Ellermann’s (2009) study is revealing of how the dynamics of migration control vary over the policy cycle: while people may in general and abstract terms want stricter migration control, when faced directly, through a neighbour, friend or colleague, with the harsh reality of deportation they may seek to prevent particular migrants from being deported (see also

Freedman 2011; Anderson et al 2011). Relevant here are the arguments of Paoletti (2010) and Anderson et al (2011) on deportation as a practice that does not only accentuate the divide between those who belong and those who don't, but also can act as a space of contestation among the public, and between citizens and the state, over who has the right to decide on who belongs. This contestation is

...a key and everyday feature of the many local anti- deportation campaigns that currently operate in support of individuals and families facing expulsion in liberal democratic states like Britain. Although often used by governmental elites as a way of reaffirming the shared significance of citizenship, deportation, we suggest, may serve to highlight just how divided and confused modern societies are in how they conceptualise membership and in who has the right to determine membership. (Anderson et al 2011: 548)

But whereas failed asylum seekers and other deportable migrants can argue for their cases emphasising both their need for protection and their contribution to society in general and their local communities in particular, criminal offenders are less deserving through society's lens of normative behaviour (Anderson et al 2011). This is not to say that there are no foreign-national offenders leading ADCs. During the course of my research I came across a handful of online petitions, and associated ADCs, involving migrants with criminal convictions. All of these however concerned return to 'unsafe' countries, allowing an emphasis on vulnerability and need of protection. These petitions also used careful wording in justifying or minimising the offences, which were in all cases first offences of minor severity, as exemplified in the petition of Marika, a British army soldier of Fijian nationality, facing deportation "to a country undergoing a military coup" after being convicted of assault following a "trivial bar fight" where he acted in "self-defence" after being "discriminated against and verbally abused."⁷⁷

Campaigning successfully demands not only public support, but that foreign-national offenders re-create their own understanding of their deportation and their rights. This is also true of other forms of open and collective political action. In this sense it can be said that research participants have internalized the discourse of deportation through their own deportability. But if forms of open political action are not

⁷⁷ Marika's petition is available at <http://www.gopetition.com/petitions/stop-the-deportation-of-an-ex-british-army-soldier.html> [last accessed on 21.05.2012].

undertaken by foreign-national offenders facing deportation from the UK, what other strategies of resistance, if any, are deployed?

COMPLIANCE AND RESISTANCE

In this section, drawing on this project's empirical data, I conceptualise compliance as a strategy of resistance. To equate compliance to resistance is counter-intuitive, not to say paradoxical. Resistance is generally equated precisely with non-compliance: with disobedience, defiance and contestation. In the context of foreign-national offenders facing deportation from the UK, I argue that resistance is enacted through the channels that the dominant power makes available to the migrants, i.e. 'due process', the appeals system and compliance with related state orders.

This is not to say that defiance was never enacted by the migrants in my study. Defying state power over their bodies was mostly seen in responses to reporting appointments during the first months of bail from detention. Basem, for instance, reacted to the way he was treated at reporting centres. He would scream at officers and threat to beat or kill them if they got on his nerves:

I went there with my [9 year old] son once and they would not allow him in. I said "Piss off" and went in with my son. Where would I leave him? One time one woman was so nasty that I smashed the papers. When the security guard came I said "You touch me I murder you". I'm not illegal. I worked while in detention as translator. They paid me. I'm not illegal. (Basem)

Yet being detained upon reporting leads to a halt in migrants' defiance. It brings both a fear of being detained again and the clear realisation that government officials have absolute power over them:

When they detained me now again, I got really scared so I also stopped defying them. I am afraid to do that stuff now. Now I am complying better with their terms. Before I complied but sometimes I missed [a reporting appointment], I wouldn't come in and called to let them know, but not anymore, I don't miss on reporting now, I always come. They scared me because they are bullies; they threaten you because you know what they are capable of. So, you do not want to mess with them. At any moment a person goes there to sign-in and they'll stop him and he won't go anywhere else, can you imagine that? (David)

Defiance is therefore often short-lived. Yet it should be clear that while such forms of defiance as missing reporting appointments might be seen as a means to challenge state power over their bodies and their lives, for research participants this was

never a form of resistance to their deportation. On the contrary, being detained upon reporting made them realise that resisting deportation would only be achieved through compliance with precisely the state powers that are seeking to deport them.

As seen in previous chapters, conditions of bail from detention and the removal of certain advantages, such as permission to work, make migrants' lives increasingly difficult, often leading them to consider other options:

It's shit! You are arrested, they are controlling you, you can't go anywhere. You have a leach; you can go and go but on Monday they'll pull you right back. You have to go back there. And they don't give you a chance, they won't let you be late or miss the allocated time and go another day. They don't give you that opportunity. I am there. Then, at the same time I skip my college, I'm studying English, and I can't go on Mondays. (...) Ines, every now and then this thing comes through my head. If it weren't for my mom I think I had already gone away, far away. Fuck the court, fuck all these people. My sisters don't need me, I just had to rebuild my life. I would take off and one day I would say to my wife "this is my real name, I can't marry you, I love you." Or I would turn myself in and then marry her. (Andre)

Andre's narrative reveals how reporting and other conditions of bail make him consider the option of absconding, something which he doesn't really wish to do, but finds himself compelled to do due to the unviability of his current life. According to research participants, this is, in fact, the main goal of such state practices: they are intended to make one's life difficult to the point at which one either agrees with removal or falls back into crime, thus weakening one's chances of remaining in the UK:

I know they are just waiting for me to do something. I know that. I can feel it. (...) This is wrong man. I have to sign-in, sometimes I don't have money but I still have to go, and I can't work. This is an ambush man! They got an ambush for me. 'Cause think about it: I'm black, I can't work, so what is he going to do? Drugs, robbing people. That criminal is a young lost boy. (Ruben)

Following this line of reasoning it becomes clear that resisting deportation might be best achieved through compliance with state practices of surveillance and enduring the harsh living conditions ensuing from their deportability. When I asked David in what ways, other than appealing at the AIT, he was resisting his deportation, he answered:

By complying with the conditions that they set for me right? Because I could just take off and run away and that way it would be easier for me because I wouldn't have to fight them, I wouldn't have to resist no more. But I don't want that. I keep on signing-in, and I have my appeal on the table and I see that as way of resisting them.

Tony elaborated on this:

It's a system, they take everything off me, so they are testing me, what am I going to do? Am going to run away? Am I going to commit a crime? 'Cause they won't let me work, how am I supposed to support myself? My partner gives me £150 a month, I have to go out, travel card, I have to buy stuff like toiletries, spend money in food. All I want to do is find work and support myself and for the past five years that is what is happening to me, it's like a trap. So, I got a few people that support me... financially and emotionally... I guess if I didn't have those people who support me it would be very hard you know. It would be hard to keep my nose clean. But they help me... (...) I just want my passport back. Seriously. Because I don't want to do no crimes man. I spent four years of my 26 years in prison [*and detention*] you know. All I know in my case is that they want me to go crazy again. They just want to squeeze me into the criminal side, that's what they're looking to. I just know. That's what they looking to do "he's young, he's been here long, he's foreign, he cannot work, let's see if he's gonna get involved in criminal activity again, we're gonna prove it, that yeah he is a criminal." But they are not going to get me. I stay clean.

Resistance is thus not related to defiance but is enacted by deportees in the form of compliance with precisely those state controls (reporting weekly, not working, not travelling, curfews, etc) that migrants perceive as tight and 'unreasonable'. In this context, compliance with the system is not equivalent to passivity – compliance is hard to achieve and endure, not only for the migrant but for the family as well. As seen in Chapter 6, compliance with state orders in the context of deportation results in great human and material costs for both migrants and their families.

In their study of deportability in South Africa, Sutton & Vigneswaran (2011) divide migrants' reactions to the deportation system between compliance and resistance, and argue that the choice is directly related to the way migrants conceptualise their migration stories. Those who comply tend to view their migration story as beginning and ending with their entry and removal from South Africa. For them detention and deportation are devastating, but they accept their status as 'illegal' and take the system with a 'fatalistic passivity' (2011: 636). They feel defeated and show submission to the system. Some even perceive detention as adequate punishment for their 'conduct' of illegal entry or overstaying. These migrants have, the authors contend, "internalised the deportation discourse" (2011: 637). Then there are those who attempt to manipulate the system to their benefit: some hold hunger strikes to contest their status as 'illegal', get public attention and press for a faster determination of their cases. Others play their identities according to the outcome they hope for, i.e. quick release from detention through deportation, or avoiding deportation and attempting to remain in the country.

Finally there are those who see deportation only as an interruption of their migration story, and not the end of it. These are the migrants who the authors imply are truly resisting: they are resisting because they do not acknowledge the power of the state in labelling them ‘illegal’ and as such do not bother to contest it – they refuse to accept the deportation discourse. They ignore developments in their cases, choosing to centre their energies on the past and future ‘life outside,’ as they intend to return to South Africa as soon as possible. These migrants might be deported but that is not a crisis for them.

In Foucault’s terms resistance exists within the power structures – to resist something one must first acknowledge and accept its existence and power (2003 and 1998). In that sense, the actions of Sutton & Vigneswaran’s latter group of migrants remain unclear: in ignoring state power over them, are they employing the ultimate form of resistance by avoiding the dominant discourse, or are they not resisting at all by placing themselves outside that discourse? Ignoring the dominant discourse does not allow them to avoid their forced removal. It might limit the influence of state power over their daily lives and give them a (perhaps false) sense of autonomy, as the authors argue, but at the end of the day these migrants are still in detention, waiting to be deported.

The authors leave unexplored how ignoring state power is equivalent to resisting it, but their study is nevertheless an important contribution, in that it is revealing of the varying approaches that migrants take to a given deportation system. Their analysis suggests that in South Africa deportable migrants are either struggling for power by ignoring state power over them and hence having some sense of autonomy; or struggling for freedom when attempting to halt deportation proceedings against them. Unlike these authors, and as mentioned above, I am not distinguishing compliance from resistance, but rather taking the former as a manifestation of the latter. My informants in the UK, albeit in different ways, struggled for freedom by accepting the state’s power over them. Yet this is not the same as relinquishing their power. It is in fact through obedience, acceptance and compliance with state orders that migrants exert their power by enduring them and thus attempting to halt their deportation.

However, before labelling people’s actions as ‘resistance’ one should consider what exactly are people resisting. In the case in hand, are migrants resisting the dominant power, i.e. the Home Office? Or are they just resisting deportation policies?

Or, are they simply resisting the efforts of the Home Office to deport them in particular? And can such forms of action, in this instance compliance, be considered resistance in the first place?

What is considered as an act of resistance varies in different bodies of literature. It has been argued that particular actions can only be conceptualised as resistance if they seek to enact structural change or alter the dynamics of power relations (Jones 2012). Acts of non-compliance “that are more concerned with simply getting by or avoiding adverse changes in daily life” (Jones 2012: 688), and are not perceived as contestation by those enacting them, should not be conceptualised as resistance. Several approaches to categorising such acts have been developed in different contexts, as *resilience* (see Katz in Jones 2012) or *spaces of refusal* (Jones 2012). Following this, it is unclear whether compliance with state orders by foreign-national offenders in the UK should fall under the label of resistance. Foreign-national offenders are not violating the law, they are not contesting the border or the deportation discourse and they are not threatening the sovereignty of the state. Yet as Sutton & Vigneswaran argue, “[w]hile deportable populations may not frame their acts of resistance as claims to citizenship or as new formulations of the rights of citizens, they do struggle for freedom of movement against the global deportation regime” (2011: 628). Foreign-national offenders facing deportation from the UK may not be seeking to enact structural change but they are nevertheless struggling for freedom of movement and their right to remain in the country of their chosen residence and, more importantly, they do perceive their actions as resistance.

At the other extreme is the literature on dominance and resistance, mainly in the work of James Scott. Scott’s (1985) *Weapons of the Weak* came to be a classic study of everyday forms of resistance by peasants. Focusing on the “prosaic but constant struggle between the peasantry and those who seek to extract labour, food, taxes, rents, and interests from them” (1985: xvi), Scott argues that this resistance is made up of individual acts that do not demand planning nor coordination and which avoid direct confrontation because the poor do not have the strength to overtly oppose the dominant. The latter are too powerful, can usually count on the support of the state, and therefore can easily repress and crush the peasantry (Scott 1985). The weapons of the weak are thus the “foot dragging, dissimulation, desertion, false compliance, pilfering, feigned

ignorance, slander, arson, sabotage...”(1985: xvi). In the context of this research project, and like Ellermann’s (2010) analysis of the destruction of identity papers by deportable migrants, parallels can be drawn between the compliance of deportees in the UK and Scott’s weapons of the weak (1985) even if there is no non-compliance. These acts of resistance are *individualised* as opposed to collective acts of disobedience, *short-term* oriented as they are not seeking to generate structural change, and *indirect* as they are not directly confronting the dominant power (Ellermann 2010).

Scott’s work has been influential in drawing scholarly and political attention to hidden and everyday forms of resistance. Yet, his emphasis on the dominance/resistance duality has proved limited in numerous subsequent studies (White 1986; Jones 2012). Within Scott’s framework of power almost every action can be labelled as resistance even if it is unclear what the impact of such resistance is and what exactly is being resisted. White (1986), for instance, shows how arguing that peasants are resisting the dominant power may be problematic and questionable. In Vietnam, White (1986) found that peasants were indeed using ‘the weapons of the weak’ but did not seem to be resisting the colonial power in itself. Although peasants resisted working on the land that was expropriated from them, for they saw it as a tremendous injustice, they willingly worked for the French in the building of roads and other infrastructure.⁷⁸ They contested only the practices they considered illegitimate. Similarly, foreign-national offenders in the UK are not contesting deportation *per se* – a practice they consider legitimate, but the application of that practice to their particular situation and the policies of control and restriction that ensue from it.

Whereas different bodies of literature on resistance were of limited application to the case in hand, I found that current studies of compliance were appropriate in framing compliance as enacted by convicted criminals as a form of resistance. I will draw here on Ellermann’s (2010) review of the literature on compliance with state orders. According to the author, studies of compliance reflect two not mutually exclusive trends. In a nutshell, one sees the individual complying with state orders – such as paying taxes for instance - because the benefits of complying far outweigh the negative consequences of not complying. The emphasis here is on rational choice. The other

⁷⁸ However, like Scott, White falls into the trap of dividing people’s actions into either resistance or collaboration. Not participating in resistance does not necessarily mean collaborating. See Ortner (1995) for further implications and limitations of such a perspective.

trend puts the emphasis on a moral assessment: individuals comply with certain state orders because they consider them legitimate, and not just because they have prevailed in a cost-benefit calculus.

Following the first approach I could say that research participants comply because abiding by the Home Office controls and conditions gives them a chance to stay, whereas defiance may hinder their case and lead to their removal. Yet, this simple cost-benefit analysis hides the underlying perceptions that research participants place on their own acts of compliance. The second approach in studies of compliance brings with it the key element that, in this context, turns compliance into resistance – that of legitimacy.

I have detailed above how research participants considered deportation to be a legitimate technique of state control, contesting only the broad applicability of the policies or the assessment of merit in their own case, meaning, that they contest only their deportation and not necessarily that of others. However, if deportation is considered a legitimate policy, the same cannot be said of detention, conditions of bail and other state controls and restrictions over migrants whose statuses are under adjudication. We saw in Chapter 5, for instance, how the humanity of detainees and reporting migrants was constantly reasserted in surveillance narratives. Such restrictions on migrants lives, are not seen as legitimate because they are perceived to mask the Home Office real intentions: coerce them to leave no matter what.

It is important to remember that authoritarian and draconian as deportation policies may be, in the UK migrants are not (completely) denied the protection of the law. In fact, it is due process and the application of existing law and policies that in this instance provide space for individual resistance (Abu-Laban & Nath 2007). Given that they are using the channels available to them through due process and the law, one could say that research participants were contesting their deportation (while appealing it in court) but not necessarily resisting it. Yet they believed that these channels were not designed to protect their rights and give them a fair chance to remain in the UK. The right to appeal was often taken as just *‘something the government has to do to please those human rights people.’* In practice, because it is combined with such strict controls and restrictions on appellants’ lives, those channels are understood by migrants as means of discouraging contestation, an invitation to migrants to drop appeals and agree

to leave. These are policies that research participants do not consider legitimate. Yet, to defy these policies is to ‘*give them what they want*’, i.e. more reasons to deport them. Because the system is subverted, the only way available to resist these state orders is by complying with them and ensuring that the Home Office will not be given more reasons to remove them. It is in this sense that they perceive themselves as resisting. By not giving in to the pressure to leave, and enduring this ‘limbo’, they resist both their deportation and the state’s will to deport them. Through compliance research participants are not resisting policies of deportation, which they consider legitimate, but are resisting the notion that they are a threat to society and hence should be removed. They are resisting the labels of *criminal* and *danger to society* that are being imposed on them (see Ruben’s and Tony’s statements above).

Labelling people’s actions as resistance brings out the antagonism between the parties involved, in this case between deportable migrants and the host state. Yet it is important to remember that migrants’ interests are not always at odds with those of their host state. Prior to their conviction, this project’s research participants had held leave to remain and enjoyed a peaceful and productive relationship with the host state.⁷⁹ Moreover, many do indeed wish to become citizens of the UK. Migrants have their own aspirations and their own varying perceptions of how to improve their lives and these are not always necessarily in opposition to the interests of the host state.

⁷⁹ White (1986) makes a similar point in her study of peasant resistance in Vietnam.

8. Conclusion

This thesis aims to provide insights into how deportation and deportability translate into social reality and the lives of those whom it affects the most. It shows that the experience of deportation cannot be looked at in isolation – it is part of a wider process that entails state surveillance and control, chronic uncertainty, and limited scope for political action. Three key elements have emerged from this examination: that deportation is a process, not an event; that deportability is lived as a legal category, a socio-political condition and as a state of mind (De Genova 2002, Willen 2007); and that deportation affects and re-shapes perceptions of justice and entitlement. Whilst not speaking directly to the issue of the moral or political justification for deportation as a policy, these elements have implications for the way deportation is viewed by academia and others directly involved in it. This chapter re-examines each of these three elements, before reflecting on possible avenues of future research and the wider significance of this anthropological study of the removal process.

SUMMARY OF FINDINGS

Deportation as a process

As noted in Chapter 1, deportation studies are a growing field of enquiry within and beyond the discipline of anthropology. This study is located at a juncture often overlooked - the intersection between deportation and deportability, that is, the stage when the state has already wielded its power in seeking to deport but is not yet able to remove the unwanted migrant who is appealing against deportation. This is a stage wrought with uncertainty and the suspension of lives, where migrants' deportability is not experienced in relation to illegality, as before criminal conviction most were living legally in UK for a number of years. As such, most research participants did not have

the memory of living in the fear of being caught by immigration officials prior to their first time in detention. Their deportability was nevertheless an embodied experience: one expressed not in relation to ‘being caught’ but in appealing at the AIT and performing a good case, in complying with state orders, and enduring uncertainty. In this sense, deportation was experienced as a process, not as an event.

The findings presented in this thesis suggest that for research participants, whether 1.5 or first-generation, deportation is tantamount to exile. The way they see it, they are being banished from their residence of choice. They are being removed not just from their homes and families but also from the lives they have built and the future lives that they had planned. Considering departure from the UK as an alternative to deportation was presented as a coping strategy – one that prevented research participants from directly facing a dreaded reality and allowed them to focus instead on better futures. It is also testament to the fact that, for research participants, deportation meant above all ‘leaving the UK’, rather than ‘returning home’, again reinforcing the parallel between deportation and exile.

The narratives of deportation present throughout the above chapters also highlight how the interruption of migrants’ existence in the UK is effected long before their actual removal from the territory. It is a process developing from the embodiment of their deportability, as their present and future lives become suspended by the threat of expulsion from their residence of choice. Unwanted in their country of residence, prevented from working and supporting their families, and feeling responsible for the impact of their own deportability on their relatives, the everyday lives of research participants became marked with extreme nervousness, anxiety, irritation, guilt, fear, anger and suspicion.

Their lives became suspended from the moment they realised exactly what it meant to receive notice of deportation. They become absent, not when they leave UK soil through removal, but long before through their deportability – their absence is not an event, but a process that develops through the embodiment of their deportability and the ensuing chronic stress and long-term uncertainty. Enduring uncertainty is extremely tiring and exhausting. In enduring it, appellants and relatives navigate through the appeals system in the hope that it brings a positive outcome. As long-term waiting produces an intense desire for closure (be it deportation or leave to remain), migrants

feel their will to endure dwindling. Yet even George who claimed he could not take another period in detention (see Chapter 5), has found the strength and will to endure not one, but two more episodes of detention since his last interview with me.

The experience of deportation cannot be separated from the experience of state surveillance over deportable migrants - they are intertwined and embedded in each other. Migrants find themselves in detention or in queues to report due to their deportability. Foreign-national offenders are thus not just imprisoned and deported. Between one and the other they are often stripped of their right to work (and support their families), to travel and even of their freedom of movement, when placed under detention. Between imprisonment and deportation, migrants and their families live in a limbo where their lives are unsettled, ungrounded and uncertain. Family members are not just affected by the prospect of family separation. They are involved in the making of the appeal, they provide statements, and attend court hearings whether or not they are giving evidence. They fill in the migrant's tasks and role when they are in detention, and together they share the material and emotional burden of the deportation process.

Living the law

A second key element highlighted in this thesis is how, in the course of their deportation, research participants began considering themselves as "rights-bearing subjects" (Peutz 2007). Unlike prior to conviction, where family was a social and personal matter dependent on one's personal choices and social relationships, they now take family life as a human right, as something they are entitled to as recognised in international law. Finding themselves in this ordeal, migrants soon learn the importance of 'learning the law', of understanding as much as possible how they can appeal against deportation, what is going on in their cases and how to better their chances. For many the 'learning of the law' translates into 'speaking the law' – they have appropriated a rule-oriented narrative to their case, often sounding like legal caseworkers. They do so without discarding a relational-orientation that is structured nevertheless within a framework of rights and entitlement, as explored below. This is particularly visible in the efforts appellants deployed in making their case and their own understandings and readings of procedures. Appellants may adopt a rule-oriented approach in court, but they still read the faces of Immigration Judges to infer what the determination will be

and they still perceive as unreasonable the idea that ‘broken’ families have better chances than traditional family units.

Furthermore, both appellants and their families emphasise getting legal representation from someone who cares for them and knows them well, much the same way that the importance of voicing regrets and concerns in court - and being heard - is seen as a vital element in their efforts to make the tribunal see that they are sincere and deserving of a second chance. That appellants feel a need to be seen as persons, and not merely appellants/criminals, by both their legal representatives and the Tribunal, is testament to their relational-orientation.

In adopting or furthering behaviour and activities that strengthen their case and in complying with their conditions of bail appellants are also ‘living the law’ in some sense - they are not only bearing the impact of deportation policies on them but are also living their lives in accordance with their cases and the restrictions set on them by the Home Office, and are experiencing on a daily basis the anxiety, uncertainty and distress attached to their case and their will to stay.

Deportation is thus a state of mind as much as a legal procedure, where the embodied experiences pervade everyday life and impact their sense of time and space, social relations and sense of self (Willen 2007). In his discussion of border politics, Khosravi (2011) addresses the process of making borders out of people. As states reinforce border-control and implement increasingly restrictive migration policies, unwanted migrants are excluded, penalised and regulated. They are forced to live with 1) immobility through detention or reporting, 2) the pervading threat of deportation, and 3) racialised border controls. Through these everyday experiences, the border is dislocated from its geographical and political spaces: “... undesirable people are not expelled by the border, they are forced to *be* border” (Khosravi 2011: 99). As the chapters of this thesis show, deportability intrudes into migrants’ lives in pervasive and overpowering ways. My research participants may not feel that they are the border as such, but they do nevertheless feel the border in their everyday lives: when they cannot work, when they cannot enrol in university because they can not afford overseas fees and are no longer entitled to home fees, when they report to the UKBA, when they are detained, when they cannot join their families on holiday, when they can not provide for their families, when they meet with their representatives, when they are in court.

Furthermore, they feel the border every time they spot white vans, hear the sound of keys or aeroplanes going by, and when the post comes through the door.

The right to stay

The chapters of this thesis also collectively reveal how deportation affects and re-shapes perceptions of justice and entitlement. I have shown for instance how migrants feel they are being punished for having successful family units, which hinder their appeal; how conditions of bail and forms of state surveillance are taken too as punishments for wanting to stay; how they feel it is not right that they cannot appeal against deportation on their own merit but must involve their families in the process; how the strong element of arbitrariness to appeals (in particular bail applications) reinforces their vulnerability; and how they feel rehabilitated and deserving of a second chance that is being denied to them.

In the UK, migrants' deportability is a direct consequence of their criminal convictions, for which they have already been punished with custodial sentences. As much as deportation and related state practices of surveillance are justified at the policy level as administrative practices, they are nevertheless experienced as (undeserved) consecutive punishments. The feeling research participants had that wrong was being done to them, and that there was little to protect them from it, should not be underestimated. It instilled in them a consuming sense of vulnerability, powerlessness and injustice. This is exacerbated by the lack of public support towards them, as foreign-national offenders.

I have shown in Chapters 5 and 7 how migrants consider legitimate the policies of deportation, contesting only that these are so broadly applied (as opposed to being restricted to serious repeat offenders and terrorists), and how in parallel none could conceive of a reasonable justification to detain people or submit them to continual reporting appointments. The same process that has made them aware of themselves as subjects of rights, has also made them feel deprived of humanity and of those rights. I have shown how surveillance narratives in particular were marked by concerns that detainees were no longer people, "they were just there", to put it in George's words. This was counterbalanced with constant reassertions that migrants and detainees are in fact people, with their own history, regrets, hopes and ambitions. Fischer (2012b)

argued that it is of concern when we reach a point where it is not the political agency or identity of migrants that is being reclaimed, but rather their human essence. In fact, migrants' human essence is reclaimed not just in narratives of surveillance but also in their court narratives where emphasis was placed on being seen as a person, and not just as an appellant/offender. I have shown in Chapter 4 how this was vital in migrants' understanding of the appeal hearing, where the perception of a fair hearing was not determined by its outcome (whether the appeal was allowed or denied) but rather by its process. Particularly important for migrants in this sense was whether they not only had a chance to voice their concerns and anxieties, hopes and regrets, but also, and most importantly, a chance of actually being heard.

Living in a liberal democracy this was hardly an experience migrants were expecting. Prior to deportation, they believed Britain to be protective of human rights and devoted to Justice. The experience of deportation and deportability has impacted greatly on migrants' perception of the UK as a country of opportunities and protection. They felt disenchanted with the UK to the extent that, even if the appeal was allowed and they were able to remain, many were now reconsidering their long-term residency in the country (see Chapter 6).

As Coutin argues, "the stripping away of a prior legal identity is a violent act" (2010: 205). Most migrants participating in this research project had leave to remain prior to conviction and they felt that their criminal conviction in particular was not serious enough to warrant the cancellation of their right to reside in the UK. Although acknowledging that a criminal offence is a serious matter, migrants also emphasised their conduct as good working tax-paying residents prior to conviction, and their conduct following release from prison, as testament that their record as residents in the UK should not be reduced to the particular moment of their criminal conviction (cf Stumpf 2011).

Narratives of belonging were seldom reported though. Rather what was present was a strong sense of entitlement to reside in the UK not only framed within the 'good citizen' arguments above but also through having their lives and families established in the country, through thriving and having successfully built a life despite the many difficulties faced upon arrival, and through having had a legal identity before - of having been worthy of an existence in the UK prior to conviction. Their narratives were

focused both on their rejection as a danger to society, and a constant reinforcement that they were acting as good citizens prior to their conviction, and after release. Experiences and feelings of belonging or identification with British ways of being and seeing and of shared values were not present in these narratives. Maria and Samuel were the only exceptions to this, as they had arrived in the UK under the age of five and the UK was the only reality they knew - as Maria said, “everything that is relative to who I am, is going to be left here.” Research participants also felt entitled to remain in the UK because they rejected the notion that they were a threat to society hence, as shown in Chapter 7, they were not resisting the policies of deportation, which they agreed with, but through compliance were resisting the very notion that they were a danger to the public and hence had no entitlement to stay. They also strongly felt the weight of their new label as “offenders” undeserving of second chances. As Maria said “When does a person stop being an ex-offender? I mean, please, somebody let me know. How many good deeds do I have to do to make up for my one bad deed?”

As seen in Chapter 7, research participants resist deportation by acknowledging and accepting state power over them. While they consider legitimate the power to deport, they do not consider legitimate the restrictions and control ensuing from deportation, because they see them as strategies to render their lives impossible to the point of acquiescence in leaving the country. They thus resist that goal by complying with those state restrictions and control and not agreeing to removal. Arguing that compliance can be a form of resistance reveals how resistance is linked to perceptions of legitimacy and how it can be acted in counter-intuitive ways even when political action is seriously constrained. In complying with state orders that research participants consider illegitimate they seek to earn once more their right to stay.

IMPLICATIONS FOR EXTERNAL AUDIENCES

The findings presented in this thesis, and summarised above, elucidate both the period of uncertainty and the experience of anxiety that is lived by both appellants and their families while deportation is being appealed at the Tribunal, and its impact on their perceptions of justice. These elements have significant implications for the way deportation is viewed, by academia, and also by those – judges, lawyers, NGO workers, human rights activists, family members, and deportees themselves – directly involved in

it. Of particular relevance is a need for further debate on legal interpretations of what disruption of family life entails. This thesis has emphasised that for research participants the disruption of family life runs deeper than the AIT envisages, as not one considered the relocation of the family outside the UK (see Chapter 6), and in fact, none did relocate the family. For all, deportation meant family separation or even termination.

Chapter 4, on experiences of appeal hearings, highlights some central findings. For immigration Judges, it reveals the importance of being heard in court and how perceiving the panel of Judges as interested in what they have to say was vital for both appellants and their families when giving evidence. Providing a relaxing atmosphere where the case is being examined, in opposition to only enquiring into facts that justify deportation, was vital for research participants' perception of a fair chance even when the appeal was dismissed. For legal representatives, the findings show how important it is for appellants and family members to know what to expect and to feel prepared. Whereas it is clear that legal representatives cannot coach their witnesses, they may ease their anxiety and facilitate their experiences by letting the appellant and other witnesses know how the hearing will proceed and informing them that the HOPO may cross-examine them in a hostile manner.

This thesis also underlines the importance of making clear to foreign nationals that they are deportable even if they have leave to remain in order to eliminate the element of surprise and, in particular, to ensure that foreign nationals understand the immigration consequences of a guilty plea on a criminal charge. This is particularly relevant both to legal representatives and migrant support groups who are well positioned to inform migrants about this.

The findings presented throughout this thesis, and in particular in Chapter 7, suggest that foreign national offenders have conflicting notions about their removal and their 'right' to protest and campaign against it. This is of particular relevance to ADC support groups. Emphasizing, especially in their written materials, their will to assist foreign national offenders in campaigning against their deportation and fighting to stay, may in itself be a much needed encouragement. ADC support groups are unlikely to change their premises, which as seen in Chapter 7 are incompatible with the way research participants understood their own removal. Yet, reinforcing their right to

campaign alongside other deportable migrants might challenge foreign-national offenders to rethink the exceptionality of, and the accountability for their removal. Understanding how foreign-national offenders perceive their own deportation may assist ADC support groups in devising other means to cater for this segment of the deportable population and show their support.

AVENUES FOR FUTURE RESEARCH

With reference to the above summarised points, the present work contributes to the academic as well as wider debate about deportation and its consequences ‘on the ground’. Yet, this thesis with its inevitable limits in scope could only address a cluster of aspects associated with this. In fact it exposes a number of additional areas of research that to date remain underexplored. One such area concerns the long-term effects of winning an appeal and being allowed to stay in the UK. Here my two respondents in this position already show an interesting pattern of heightened awareness of their deportability. Closure was certainly the end of extreme uncertainty for Hamid and Samuel, whose appeals were allowed. Even so, their deportation experiences have made them all too aware that their lives in the UK are not to be taken for granted. In our last interviews, they both stated feeling vulnerable to deportation even though they now had leave to remain. Their deportation experience made them realise that they are in fact deportable. Samuel told me how he was a man of peace, but what if something happened and he was caught up in a fight and accused of assault? The end of the deportation process meant that both Hamid and Samuel could move on with their lives, but obtaining citizenship to secure their stay in the UK was now a main concern. Of relevance here would be a further examination of the legacy of deportation for those who won their appeals and ‘recovered’ their leave to remain. Another related point concerns the post-deportation experiences of both appellants whose appeal was dismissed and their relatives who remained in the UK upon their deportation. The end of the deportation process is far from being the closure that research participants longed for. For Tania, Louise, George and Andre closure did not mean the end of uncertainty. Whereas they, or their relatives, have left the UK they all seek to return and their lives are now structured around that eventuality.

In a scenario where foreign-national offenders are increasingly subjected to deportation and related practices of state surveillance after serving their sentence, it becomes relevant to examine the impact that these policies are having on the ground. In this thesis I have examined how people responded to policies of deportation, and how these are interpreted, understood and experienced. However, my research was limited by time and funding considerations which resulted in difficulties in obtaining access to certain locations and groups of people. It is thus limited to a) a specific segment of foreign-national offenders: those who were appealing against their deportation, b) a particular moment in the deportation process: that of appealing against deportation, and c) a particular geographical location: London.

This thesis has not addressed deportation from the point of view of the state, its institutions and officials working on its behalf, nor did it focus on public perceptions and the media. Equally important in future studies of deportation in the UK is a thorough examination of the processes that constructed, and maintain, foreign-national offenders as a danger to society that can only be addressed through immigration policy. Looking at strategies of control and governance in sites of immigration control (Home Office, UKBA, AIT, IRCs, Reporting Centres, etc) is likely to offer a better understanding of the processes that produce securitised border controls. The work of Alexandra Hall (2012) on the daily operation of a detention centre in the UK reveals the value of such approaches. Of interest too would be an examination of the circumstances, experiences and decision-making process of those foreign national offenders who chose not to appeal against their deportation and were thus deported or left the UK under the ERS and FRS.

AN ANTHROPOLOGICAL STUDY OF REMOVAL

In 2006 Peutz made a call for an anthropology of removal, that is, an anthropology that would “make its contribution to the endless but vital interrogation of the ‘natural’ order of things” (2006: 231). Anthropologists, in her words, “are well placed for locating deportees, witnessing their ordeal, and finally, translating their narratives for an audience of citizens who may not view these punishments as arbitrary” (2006: 231). Such ethnographies, or translations as Peutz calls them, can reveal how

deportation goes beyond the removal of individuals from one nation to another, how it is lived continuously.

Yet ethnographies of removal present a methodological and epistemological challenge to anthropology. Not only are deportees hard to locate and deportation sites difficult to access, as Peutz herself admits, but the nature of this phenomenon means that often there is little available to observe and participate in. In Chapter 3 I have detailed how I had to expand the boundaries of the field in order to both identify and access foreign national offenders and to obtain data about the institutional sites that form part of this experience. Studying a phenomenon where participant observation was not viable, demanded a creative use of a combination of different methods and positionalities that allowed me to reach the kind of insights that participant observation traditionally offered. Yet, as I explored in Chapter 3, the study of non-spatially bound social phenomena is being increasingly better addressed within anthropology, and other disciplinary fields.

This study is grounded in Anthropology, as my fieldwork and analysis were heavily informed by the theoretical and methodological imperatives of the discipline. Specifically concerning the study of removal, the work of anthropologists such as Peutz (2006 and 2007), De Genova (2002, 2009 and 2010), Willen (2007) and Coutin (2003, 2010 and 2011) was vital in understanding deportation as more than an event and deportability as more than a juridical status. But, to make sense of the data collected, I also drew on the work of political scientists (Gibeny 2008, Ellermann 2009 and 2010, Vigneswaran and Sutton 2011), sociologists (Anderson et al 2011, Leerks & Broeders 2010), geographers (McGregor 2011 and 2012), criminologists (Bosworth 2008 and 2011, Bhui 2007, Grewcock 2011) the law (Clayton 2008, Macdonald & Toal 2008 and 2009, Bhabha 1998 and 1999, Kanstroom 2000 and 2007), activists (Dow 2007, Fekete 2006) and health scientists (Ågård & Harder 2007). The study of deportation and removal crosses disciplinary boundaries and my analysis would not have the required depth had I not relied also on these wider sets of literature.

Answering the call for anthropological examinations of removal, this thesis set out to examine the experiences of deportation and deportability of migrants convicted of a criminal offence in Britain. Empirically its original contribution lies in the case study examined, that of foreign national offenders in the UK, seldom explored before, and its

particular location within the deportation process - the point when the state has acted to remove a particular migrant but is not yet able to do so – which has highlighted that deportation is a long and distressing process, even before removal takes place. Furthermore, in not limiting my research and analysis to deportable migrants but including their close relatives, I have also emphasised how deportation and deportability affect the whole family, even if they are British citizens and thus protected from deportation themselves. Overall, this thesis portrays deportation as a process developing from the embodiment of migrants deportability as their present and future lives become suspended by the threat of expulsion from their residence of choice.

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