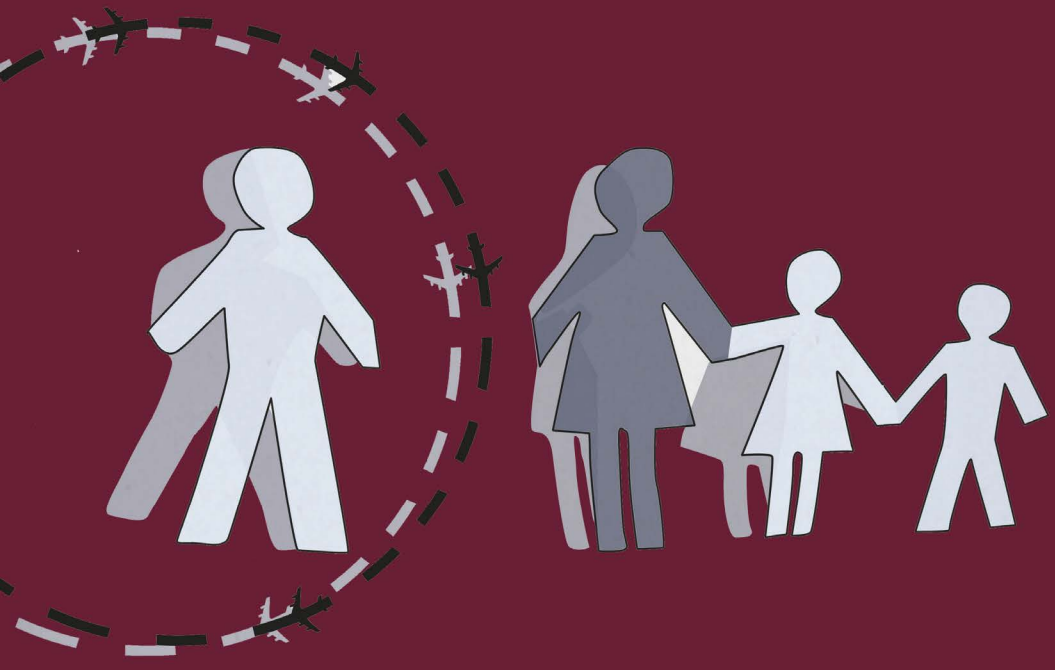
# Enduring Uncertainty

## Deportation, Punishment and Everyday Life



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Ines Hasselberg

# Enduring Uncertainty

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Ines Hasselberg

# Enduring Uncertainty

## Deportation, Punishment and Everyday Life

Ines Hasselberg

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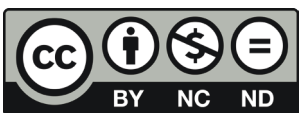




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To Richard and Mark

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# Preface

**Subject:** RE:
**Date:** Wednesday, 14 April 2010 17:05
**From:** Name and email deleted
**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 losing 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 ourselfs into E1000'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 nowhere 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 completly 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 ongoing 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. I've 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 phyically 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 too long and i hope this information helps you out. Many Thanks

J.

# ACKNOWLEDGEMENTS

This book has relied on the input, guidance and support of numerous people and institutions. I start by showing my appreciation to Fundação para a Ciência e Tecnologia, which sponsored this research through a generous scholarship; to the University of Sussex for all the institutional support provided during the research years; and to the European Research Council for funding my current work at the Centre for Criminology at the University of Oxford as part of a research endeavour entitled 'Subjectivity, Identity and Penal Power: Incarceration in a Global Age', led by Professor Mary Bosworth.

I could not be more grateful to Professor Richard Black and Dr Mark Leopold, who have been extremely supportive and dedicated. They encouraged me to pursue my research project, challenged me to think ahead, and gave me much appreciated motivation to pursue my writing whenever I found myself lost in the data and began considering alternative careers. They were patient with my progress, constructive with feedback and discussions of my tentative chapters and available when I needed them. I am grateful to Fran Meissner and Linnet Taylor, Dorothea Mueller and Christina Oelgemoller, all of whom have been amazing friends and colleagues.

The preparation of the manuscript was completed while I was (as I still am) a postdoctoral research fellow at the Centre for Criminology, University of Oxford. At Oxford I am fortunate to be working with Professor Mary Bosworth and Dr Sarah Turnbull. Mary and Sarah not only encouraged me to develop my work for publication, and afforded me the time to work on it, but have also become good friends and are both, albeit in different ways, a great source of inspiration. With them I am learning to be a better researcher, a better academic and a better person. I am also extremely grateful to Carolyn Hoyle, Rachel Condry, Julia Viebach, Ambrose Lee and everyone at the Centre for Criminology for welcoming me warmly when I first arrived, for providing me with such a stimulating and engaging

work environment and for all the support they have given me when I most needed it. I could not have asked for a better place to work.

Dr Fran Meissner, Dr Linnet Taylor, Professor Marie-Benedicte Dembour and Dr Nicholas de Genova have all commented on earlier drafts of this book. Their discussions of my work have been immensely useful, and their input informs the pages of this book. The three anonymous reviewers who also commented on an earlier draft have greatly contributed to its improvement, and I am grateful for the time they put in. I am also grateful to the editors of 'Dislocations' and to Berghahn, in particular to Molly Mosher who has been by main contact point and was always patient with my delays.

My friends Nick Perkins, Sara Biscaya, Anja Fischer, Catarina Frois, Christina Christoforou, Juliana Mimoso and Joana Gafeira have also been part of this book through their presence in my life and their unconditional understanding of my anxieties and frustrations.

I am grateful to my mother, my brothers and sisters, my grandmother. To Jorge, Manhinha, Rita and Zé, Mafalda and Lino and the kids. I couldn't have asked for a better family. They have always believed in me and have been an invaluable support in raising my daughters and in making their lives wonderfully happy. To my husband João, who endured two years of separation over this research project and who then put up with my crankiness, stress and untidiness for the remaining writing period. He encouraged me to aim higher, to do better and be more demanding of my work. To my daughters, Teresa and Isabel, for their unconditional love. Teresa, Isabel and João have the ability to turn a frustrating day into bliss upon returning home. Without them this would have been a very difficult journey.

Above all, I am thankful to all the staff of the institutions and organisations that I volunteered with in London, who pointed me in new directions and were so enthusiastic about this project. Most importantly, it would not have been possible without the people who agreed to meet me, who again and again made time to see me and patiently answered my questions and shared with me their thoughts, concerns and anxieties. As I promised them anonymity I cannot here express my appreciation individually, but I am truly grateful to them, and it is for them, and with them in mind, that I wrote this book.

Chapter 3 is based upon an article entitled 'Coerced to Leave: Punishment and the Surveillance of Foreign-national Offenders in the UK', *Surveillance and Society* (2014). Parts of Chapter 5 are based on

the article 'Balancing Legitimacy, Exceptionality and Accountability: On Foreign-national Offenders' Reluctance to Engage in Anti-deportation Campaigns in the UK', *Journal of Ethnic and Migration Studies* (Taylor & Francis, 2015).

# ABBREVIATIONS

| | |
|---|---|
| ADC | Anti-deportation Campaign |
| AIT | Asylum and Immigration Tribunal |
| ECHR | European Convention on Human Rights |
| EEA | European Economic Area |
| ERS | Early Removal Scheme |
| 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 |
| NGO | Non-governmental Organisation |
| NOII | No One Is Illegal |
| SIAC | Special Immigration Appeals Commission |
| UKBA | UK Border Agency |

Introduction

# AN ETHNOGRAPHY OF DEPORTATION FROM THE UK

> 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.
>
> — Margaret Randall, 'Threatened with Deportation'

Over the last few decades, immigration procedures and policies have been increasingly refined worldwide to broaden eligibility to deportation and allow the 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 e-mail from Jen reproduced in the Preface attests, deportation is not an event but a process that begins long before a migrant is forcibly removed from one country and sent to another. Two years after Jen first e-mailed me, her circumstances had not changed. Her partner remained in the UK under immigration detention, they were fighting his case and their lives were 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 book I address these questions through an examination of the deportation and deportability of foreign nationals convicted of one or more criminal offences in the UK.[1] Taking London as the site of my field research, I explore the way foreign nationals' 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 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 the problem can be addressed through immigration policy. Whilst I do not accept either of these points, this book does not seek to justify this position. Rather, it 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. In a scenario where foreign-national offenders are increasingly subjected to deportation and related practices of state surveillance at the end of their sentence, it becomes relevant to examine the impact that these policies have 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; see also Shore and Wright 1997, 2011).

Foreign nationals convicted of criminal offences draw little sympathy from the public at large, and they are seldom the focus of scholarly attention in the UK,[3] which is surprising 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 foreign nationals 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 5. Their deportability is not enacted in anticipation nor translated into active invisibility and evasion strategies as emphasised in most illegality studies (Castañeda 2010; Lucht 2012; Talavera, Nunez-Mchiri and Heyman 2010; Wicker 2010; Willen 2007). Rather, it is experienced only once deportation proceedings against them are initiated (see also Achermann 2012).

British immigration legislation distinguishes administrative removal from deportation.[4] 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 foreign nationals 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 n.d.a). Deportations, on the other hand, refer to individuals whose expulsion from the UK is deemed to be conducive to the public good by the Secretary of State, whether or not they hold leave to remain – in the UK this generally means those who have been sentenced to twelve months imprisonment or more for a criminal offence.

Deportation thus is 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. This is of particular importance to foreign nationals 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. At the time of research, deportation could be appealed in-country if there was a human rights claim under Article 3 and Article 8 of European Convention on Human Rights (ECHR) and the Refugee Convention. While an appeal on human rights was ongoing, the migrant could not be removed from the country. (However, following the passing of the new Immigration Act 2014, the Home Office may require that any appeal against deportation be filed only from abroad.) As explored in Chapter 4, this was an extended period that marked 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 European Economic Area (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 twelve 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 twelve months or more for drug, violent or sex crimes, or twenty-four 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.[5]

- 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 ECHR 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.

Statistics on deportations (that is, 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 report of the Independent Chief Inspector of Borders and Immigration (ICIBI 2011). A freedom of information request for such statistics revealed that between 2007 and 2010 the UK Border Agency (UKBA) deported over 20,000 people, averaging 5,000 a year.[6] Of these, a considerable percentage (49 per cent in 2010; 30 per cent 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 per cent in 2007 to 38 per cent 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 the success of ERS and FRS in encouraging departure, and increasing limitations in legal aid available to foreign nationals which has forced legal-aid caseworkers to only take on cases that have a good chance of success (see James and Killick 2010).

## Migration and Transnationalism

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 banishment, developing their own strategies, (re)formulating their own aspirations and carrying their own cultural agency and identity. This book is intended as a contribution to an interdisciplinary field of studies that can benefit much from anthropologists' engagement. Anthropologists are well situated to introduce ground-breaking perspectives into this field by following the trajectories of deportees and narrating experiences of deportation while also critically examining the socio-cultural and political implications of all involved (De Genova 2002; Moniz 2004; Peutz 2006).

Even if, for the state that deports, the removal of undesirables ends when they leave their territory, for deportable migrants, their families and communities, deportation exerts its power long before and long after removal (Peutz 2006). 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). 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.

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, and so on. 'Us' and 'them', 'home' and 'abroad' are increasingly difficult to distinguish – the 'other' is among 'us' and the difference is not grounded in geographical location (Eriksen 2001; Gupta and Fergusson 1992).

Recognising that cultures are no longer territorialised 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. Where this book is concerned, a transnational approach is relevant (cf. Basch, Glick Schiller and Szanton Blanc 1994), as deportation is in itself a form of 'forced transnationality' where 'home' and 'away' become unsettled locations (Peutz 2006; Yngvesson and Coutin 2006; Zilberg 2004).

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.[8] Onward migration is in fact an option for many sustaining transnational ties elsewhere (as explored in Chapter 4), 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 person 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 retire as I had planned, because I must work to support him there' (quoted 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' (Malkki 1995: 515–16).

Deportation seriously hinders and reshapes the mobility of those involved. Malkki (1995) and to a certain extent Wilding (2007) question 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?' (Malkki 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: 344). 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 4, 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 this. 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 Bhui 2007; Burman 2006; Willen 2007).

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. 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 vein as Coutin's 'resident non-citizens' (Coutin 2011). The advantage of Coutin's approach 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 unauthorised migrants enjoy certain rights due to the fact that they are within a given territory (Coutin 2010).[9] Underlying this choice was the assumption that the impact and experience of deportation (and administrative removal) of such individuals, no matter what 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 foreign nationals 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 foreign nationals 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 from the country into a somewhat permanent, and not temporary, event. For instance, I once observed at the Asylum and Immigration Tribunal (AIT) a self-represented appellant pleading to the panel of judges not against his deportation but that he be allowed to return to the UK for family visits while his deportation order remained active. He made the case that he was ready to move to his country of origin – he had indeed

provided the AIT 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. Although this was not a common approach, the ban to return was a particularly troublesome element of deportation.

Second, foreign nationals face deportation because they have been convicted of one or more criminal offences. This, as will be made clear throughout this book, contributed to their isolation, as foreign-national offenders have little or no public support, and it 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 to their country of origin. As such, from the very early stages of my fieldwork, this research project focused on the experiences of foreign-national offenders and, unless stated otherwise, does not concern the experiences of administrative removal.

Labels such as refugees, second-generation migrants, internally displaced people and so on have become commonly accepted in academic and policy jargon. Yet many have questioned their development and use (Couper and Santamaria 1984; Kunz 1981; Malkki 1995; 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 the assumption made by many authors that being uprooted is tantamount to a loss of culture and identity (Malkki 1995). Underlying this is the assumption of 'home' as a territorialised place, 'the ideal habitat for any person' (Malkki 1995: 509). Such assumptions often lead to essentialised notions of 'the refugee' and 'the refugee experience'. While this book focuses not on asylum but on another aspect 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 in this research project were all settled migrants, even if some did not possess leave to remain. Yet this does not necessarily mean that they form a group or a community, or that they 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 below.

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.[10] They all felt their lives were, at the time of conviction, grounded in the UK, independently of any plans to return to their countries of origin in the long term. The importance of long-term (legal) residence is in fact increasingly acknowledged through ever more protection and the 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 – or 'crimmigration' (Stumpf 2006), the securitisation of immigration, where foreign nationals are increasingly perceived as a risk and, perhaps more specific to the US, entails a rescaling of immigration policy from national to local level (Coutin 2011).

This book 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.

## Book Overview

The book is divided into seven chapters. The remainder of the Introduction will address the methodological and ethical concerns inherent to this research project. Chapter 1 is concerned with providing the socio-political, theoretical and conceptual background to the issues explored. Concurring with De Genova (2002), I recognise that an examination the socio-political processes that historically produce

migrant illegality and deportability is of importance, especially in a context where up until 2006 foreign-national offenders were not systematically considered for deportation. In Chapter 1, following a review of recent scholarship on deportation studies, I thus also provide a sketch of the major political and legal developments that placed the deportation of foreign-national offenders on the public and political agenda, and culminated in the introduction of automatic deportation from the UK.

How migrant deportability stands in relation to official bodies, social relations and political action is addressed in the four empirical chapters of the book. The first two of these look at the encounter between foreign nationals and official institutions. In Chapter 2 I examine the experiences of foreign nationals, as lay people, when appealing against deportation at the Asylum and Immigration Tribunal (AIT) in London. Appealing against a deportation order is one of the few options available to a person 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 AIT as the adjudicator of the dispute. The AIT 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 has termed the 'struggle over exclusion' (Achermann 2012: 93), that is, 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 latter's 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 foreign nationals are subject to deportation or removal, they become subjects who are kept under surveillance, controlled and detained. Immigration Removal Centres (IRCs) and reporting centres thus become arenas of state control. In Chapter 3, drawing on retrospective accounts of detention by foreign nationals that had been granted bail from detention, I explore the ways these institutions become part of foreign nationals' 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 4, 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 foreign nationals deploy to deal with their own deportability or that of a close relative; these include enduring uncertainty, withdrawal and refraining from showing concern, constantly assessing one's circumstances, and re-imagining possible futures. All but the latter are observed in another example of chronic anxiety, the intensive care unit (Ågård and Harder 2007).

In Chapter 5 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 deportation, 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.

The last chapter concludes the book, bringing together the arguments set forth in the previous empirical chapters and reflecting on the wider significance of this anthropological study of removal.

## Finding the Field

The study of non-spatially bounded social phenomena is being increasingly better addressed within anthropology, and other disciplinary fields. Yet ethnographies of deportation and removal present a methodological and epistemological challenge to anthropology. Experiencing deportability often renders foreign nationals immobile and invisible. On the one hand, deportable migrants might develop strategies of active invisibility (see Talavera, Nunez-Mchiri and Heyman 2010; Willen 2007) in an effort to avoid the authorities. On the other, the increasing use of administrative detention and the criminalisation of immigration offences results in an ever-growing number of foreign nationals under penal or administrative incarceration – sites that are difficult for researchers to access. Further, not only are deportees hard to locate and deportation sites difficult to access, but the nature of this phenomenon means that often there is little available to observe and participate in.

Identifying and accessing informants was predictably a major challenge for my research. 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, first, they were not identifiable or accessed through any available databases or institutions; second, they were geographically scattered, and third, their circumstances were highly stigmatised. Where, then, could I conduct research when the population to be studied was not only geographically scattered but could also 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? This question raises issues concerning the assumptions and expectations regarding 'the field' in an anthropological research project. These issues 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 and Ferguson 1997).

Research on hard-to-reach populations tends to rely on gatekeepers and snowballing (Atkinson and Flint 2001; Singer 1999). In this project neither approach was successful, although tremendous efforts were put into building trust. There was a general unwillingness to establish contact with potential research participants on the part of trusted (and trusting) gatekeepers, be they legal representatives, staff from migrant support groups or my own informants. Perhaps more surprisingly, such hesitation was also present 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 in the end they 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 the reluctance of gatekeepers to open the gates or facilitate snowballing (Bilger and Van Liempt 2009; Burgess 1991; Rossman and Rallis 1998; Singer 1999). After all, deportation is a very sensitive matter entailing issues of legal convictions, legal status and family relations. Moreover, the increasing securitisation of borders and the criminalisation of migrants (Peutz and De Genova 2010, see also Chapter 1

below) may lead to higher levels of stigmatisation (Dahinden and Efionayi-Mader 2009), exacerbating migrants' mistrust of strangers (Bilger and Van Liempt 2009). Yet some gatekeepers and informants became my close acquaintances and trusted my judgment and work conduct. Trust (or lack thereof) cannot in itself account for their disinclination to introduce people to me after demonstrating such enthusiasm for my work.

The vulnerability of informants might better 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. For gatekeepers, to facilitate contact with me meant submitting them to further questioning, retelling their stories yet another time. This, understandably, may be too much to ask of an acquaintance, even a close one. Snowballing from research participants themselves failed for the same reason, and possibly because of the added concern that I would accidentally leak information about their own cases to their acquaintances, despite my reassurance that confidentiality would not be breached (cf. Jacobsen and Landau 2003).

I have discussed elsewhere the failure of these approaches in more detail (Meissner and Hasselberg 2012). Of concern here is that the reluctance of gatekeepers to establish contact, and of research participants to facilitate snowballing, led me to broaden the spectrum of field locations where I could directly identify and access research participants, and to adopt different positionalities vis-à-vis deportable migrants. For what else can a researcher do when snowballing fails, gatekeepers refuse to grant access and the research population remains hidden, scattered and highly immobile?

Even though the failure of snowballing is now more commonly admitted in studies conducted among hard-to-reach populations (see e.g. Bilger and Van Liempt 2009; Staring 2009), there is still little work published on alternative approaches. The site-oriented approach (Singer 1999; Staring 2009) is a common alternative, consisting of identifying sites where the research population is expected to go and finding ways to access them. As Fran Meissner and myself have argued (Meissner and Hasselberg 2012), 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.

## Expanding Research Locations, Diversifying Research Positionalities

When I realised a few months into my fieldwork that 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. I had to spend more time in sites where possible informants were bound to go. Here I took guidance from Joanne Passaro's work with homeless people in the US, where she opted 'to choose sites that would afford … positionalities at varying points along a participant-observer continuum' (Passaro 1997: 156). Adopting flexible and creative ethnographic approaches, Passaro volunteered and got involved in a series of different campaigns and organisations that allowed her to study homelessness from different perspectives. With her experience in mind, I sought additional sites for research.

Broadly speaking, in the UK, a foreign national with leave to remain is deportable if convicted to a twelve-month month sentence, or longer. After the sentence is served, the immigration services might detain the migrant at an Immigration Removal Centre (also known as Detention Centres) while the deportation file is processed. Deportation may be appealed at the AIT. 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 the deportation appeal granted. Thus prisons, detention centres, reporting centres and AITs – sites that Barthia (2010) calls the theatres of state power over foreign-nationals' bodies – are all locations where one is likely to find people facing deportation, as are migrant support centres run by various NGOs. The problem with seeking out such 'likely' locations concerns those who remain outside them, and are thus excluded from the research (Singer 1999; Staring 2009; Wimmer 2008). 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*

The AIT 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 that I engaged with other stakeholders such as solicitors, barristers and judges. It was also a site where rich data was obtained from observation. I attended forty-nine full deportation hearings at Taylor House, Field House and the Court of Appeal in London.[11]

Access to reporting centres is limited to those reporting and their legal representatives, but because the queues and the long times spent waiting in them I was able to 'hang out' by the entrance door of Communications House, in north London, and observe foreign nationals 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 foreign-nationals that I had at this location were very informative. I visited these locations in my capacity as a researcher, and informed consent was achieved. At 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 significant.

### *The Volunteer*

Permission to conduct research in detention centres and prisons may be granted, but the process is long and the time allocated for field research was limited. In detention centres, detainees are allowed to have mobile phones. I was told by two migrant rights activists, on 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 e.g. LDSG 2009). When I argued that the Ethics Review Committee at my university was unlikely to allow me to do this, 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 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 (NCPHSBBR 1979) discusses this dilemma. The Ethical Guidelines of the Social Research Association (SRA 2003) also state that researchers should make efforts in order to avoid excluding certain groups. Yet, interviewing immigration detainees

over the phone presented other challenges with regards to identifying participants without the help of gatekeepers, in establishing trust and rapport, and in ensuring the interview would not cause additional stress to detainees. The experiences of prison and detention were not excluded from my project, as my informants, out on bail, discussed them with me. So, 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 foreign nationals in detention centres and prisons by volunteering with different organisations. 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 about whatever the inmate wants to talk about. I visited prisons and detention centres in my capacity as a 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 organisations that work with migrants to provide support and services (legal advice, benefits advice and so on). Neither organisation 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 and so forth. At 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.

### *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.

Managing informants' expectations was an ongoing process. There was a constant need to clearly inform my subjects about what I could and could not do for them in order not to 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.

Managing expectations becomes of even greater importance when the researcher accumulates different roles, as it may interfere with informants' free will. For instance, is the informant aware that they are speaking to both their social worker and a researcher? Are they aware that the information they are divulging will be used for the purposes of this or that? Or, is the informant participating in the research only because they believe the researcher, being a legal worker for instance, might give them a hand with their case? Does the informant feel that their legal representative will do less for them should they 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 which I conducted research. At migrant support centres I wore the two hats at the same time. The people I engaged with were fully aware both of my role as a 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 the issue of 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 wore my volunteer hat alone. I never pushed my research agenda, nor consulted 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 analysis, or the writing-up of the results. But of course, while one can change hats, the person wearing them remains the same, and the knowledge I gathered wearing 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 that I posed to my actual informants about the role of prison and detention in their experience of deportation. It led me to formulate questions that I put to my informants that otherwise I would not have known to ask. However, this by no means infringed on 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.

## Fieldwork Details

Fieldwork was conducted in London for a period of twelve months in 2009. In addition to volunteering at different sites involved in the deportation process, I conducted semi-structured interviews with key stakeholders and a focus group with migrants facing deportation, and carried out observation of deportation appeals at the AIT in London.

In total, I followed eighteen deportation cases, eleven from the perspective of the appellant (ten male and one female) and seven from the perspective of a family member, whether spouse or parent (five female and two male). The home country in 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 person from the Middle East. All were facing deportation following criminal conviction over drug-related charges (eight cases), assault (three cases), fraud (two cases), robbery (one case) and immigration related offences (four cases), such as the use of false documents or working without a license.

Research participants did not form a homogeneous group. They came from different countries, and varied greatly in cultural and religious background and in terms of age, ranging from eighteen years old to their late sixties. Whereas most research participants were struggling financially at the time of my field research, mostly due to their deportability, prior to conviction their financial situations varied considerably, ranging from some relying on benefits to others being clearly located in the middle class. Some arrived at a young age, most of the others in their early adulthood, and they had been resident in the UK from between four and fifty years.

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 foresaw 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.[12] 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 I conducted 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, and consequently more open to discussing 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 expressing a greater understanding of why he ran away following his final (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 and so on. These locations, where informants felt comfortable, formed part of their daily lives and gave me a further insight into 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.[13]

I also conducted semi-structured interviews with legal caseworkers, NGO staff and other removable migrants (such as asylum seekers, undocumented people, overstayers). Additionally I had one-off conversations with many others facing deportation, as well as with solicitors, caseworkers, judges and non-legal members at the AIT, court clerks and other stakeholders. Over the course of field research I also attended forty-nine 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: those who had not appealed their deportation, and were hence not identifiable; those who I thought were too distressed to be approached; Home Office Presenting Officers (HOPOs), who I failed to get to talk to me despite my many efforts;[14] and others who, when approached, 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.[15]

In short, I have detailed here some of the challenges and opportunities that arose during fieldwork and how I responded to them. In particular, adopting the role of volunteer in several different organisations was instrumental in gathering data and accessing informants. 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 bound by the ethical imperatives that guided me as a 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 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 I was able to obtain the necessary data to pursue the project.

As mentioned above, foreign nationals are increasingly immobile through restrictive immigration policies, whether as the direct result of these policies (as when incarcerated under penal or administrative powers) or as a response to them (as when developing their own evasion strategies). In such contexts, in order to reach the kind of insights that participant observation traditionally offered, ethnographic research demands a creative use of a combination of different methods and positionalities to identify and access both the research population and the institutional sites that form part of their experiences.

## Notes

1. Whereas 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.
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.
3. The work of Bhui (2007) and Bosworth (2008, 2011) are notable exceptions (see Chapter 1).
4. Immigration policy and legislation has changed in many significant ways since the time of my fieldwork in 2009, and more changes are likely to come about with the new Immigration Bill. These changes have sought to both curtail appeal rights (and access to legal aid) and increase state powers regarding deporting people. This book discusses policy and law as enforced at the time of the field research.
5. 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 e.g. Crowther (2010), Justice (2009) and Liberty (2011).
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, last accessed 28 September 2015.
7. Under the ERS, foreign-national prisoners may be deported up to 270 days before the end of their sentence. The FRS provides financial support to foreign-national prisoners (accessible only after they have left the UK) to aid their reintegration upon return. Both schemes are intended to reduce the cost of imprisonment and encourage foreign-national prisoners to leave the UK as soon as possible.
8. Schuster and Majidi (2013) also found when examining the post-deportation experiences of Afghans that onward migration is often the outcome of deportation, made possible by transnational social networks.
9. In the UK, for example, unauthorised migrants are entitled to legal aid.

10. 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 for British citizenship, 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. 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 it 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.
11. This figure includes only those 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 on which I had other research commitments (hence causing me to leave the hearing before its end).
12. 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.
13. 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 book have been translated into English by me.
14. The difficulties in accessing the Home Office for research purposes, as well as of formally interviewing judges and others at AITs is documented by White (2012).
15. I was open to including all those who wished to participate no matter how 'shocking' their crimes might appear in 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 someone 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 at policy level).

– Chapter 1 –

# THE POLITICS OF DEPORTATION

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 (Allegro 2006; Bosniak 1998; De Genova 2002; Peutz 2006). While an examination of practices of deportation is thus located at the intersection of several oppositions – such as citizen/foreigner, home/away, mobility/emplacement, inclusion/exclusion and deserving/undeserving – these are uneasy binaries, constantly challenged and reshaped by different actors. In this chapter I discuss these issues while providing an overview of existing scholarship relevant to the study of the deportation of foreign-national offenders. I then consider the major political and legal developments that brought the deportation of foreign-national offenders onto the public and political agenda, and culminated in the introduction of automatic deportations from the UK. Finally, I will discuss the policy imperatives to deportation in this context.

## Membership, Contestation and the Criminalisation of Foreign Nationals

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 to US immigration policies in 1996, which led to the deportation of thousands of legal permanent

citizens to their countries of origin after being convicted of criminal charges.[1] Indeed, the majority of these early ethnographies of deportation dealt with deportations of long-term residents in the United States (Moniz 2004; Peutz 2006; Yngvesson and Coutin 2006; Zilberg 2004).

The Soviet forced population movements generated an earlier literature on deportation, dating back to the 1960s. As Walters (2002) notes, deportation is but one form of expulsion. Others include religious expulsion, the transportation of criminals, political exile and population transfers. However, these are not necessarily neatly bounded concepts, and at times they may be overlapping categories. Soviet forced population transfers removed people from their place of birth and relocated them to a designated area. Their removability was grounded on who they were (such as Chechens, Polish, Ingush). Deportation, on the other hand, is intended to forcibly remove a person from their place of residence to their purported country of origin. Here, deportability tends to be grounded on lack of legal immigration status or the undesirable actions of the individual – such as moral behaviour, political ideology, criminal conviction. However, these are not neat categories. 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 displaced 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 by Bullard (1997), Cohen (2006), Gabriel (1987), Maira (2007) and Moloney (2006), among others.

Anderson, Gibney and Paoletti (2011) make the case that deportation is constitutive of deservedness of membership (see also Anderson 2013; Gibney 2013). 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, Gibney and Paoletti 2011: 548). Deportation policies comply with public expectations and electoral politics; they assure the voting public that the problem has been identified, and is being addressed through state power (Bosworth 2008; Gibney and Hansen 2003; Leerkes and Broeders 2010). 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, Gibney and Paoletti 2011: 548). Deportation thus has the potential to be divisive (Anderson, Gibney and Paoletti 2011; Freedman 2011; McGregor 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; Freedman 2011): a person may vote for restrictionist policies while also campaign against the deportation of their neighbours. Where people may in general and abstract terms want stricter immigration 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 foreign nationals to their community and the society at large. As ADCs emphasise normative identification and relegate human rights considerations to second place, foreign-national offenders may be left out of their reach. In fact, as explored in Chapter 5, foreign-national offenders with no asylum claim seldom campaign against their deportation. Society's normative behaviour deems them less worthy than others (Anderson, Gibney and Paoletti 2011), and 'the good citizen' argument is hardly convincing.

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 (Aas 2013; Bosworth 2011, 2012; 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 allows for the close monitoring of foreign nationals but also reinforces the notion that the public needs protection from them. The policing and criminalisation of foreign nationals 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 and Broeders 2010).

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 foreign nationals participating in this study, for instance, had been appealing their deportation for over two years. The Home Office also faces financial and administrative constraints (Paoletti 2010). The non-deportability of some foreign nationals (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 4. 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 (Aas and Bosworth 2013; Bhabha 1998, 1999; Cohen 1997; Cohen 2006; De Genova 2002; Hayter 2003; Kanstroom 2000, 2007, 2012; Maira 2007; Morawetz 2000; Nyers 2003). These debates are again intrinsically connected with notions of citizenship, entitlement 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 a 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 Asylum and Immigration Tribunal (AIT) does bear in mind the 'circumstances, conduct, experiences, or relationships that tell a different story about

the individual' of which Stumpf writes (see also Chapter 2). 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 3) but also prevented them from openly resisting and protesting for their rights (see Chapter 5).

## 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's study of the deportation of Claudia Jones from the US in 1953 on the grounds of allegiance to communist political ideology (Davies 2002). 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 their 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' (Davies 2002: 963).

In fact, many authors use the words 'deportation' and 'exile' interchangeably (e.g. Bullard 1997; Comins-Richmond 2002; Pohl 2002). It is argued here, however, that the words connote different meanings, and it is indeed this 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 their home as opposed to being forced to leave it. The title of Moniz's work on the forced return of foreign-national offenders of Azorean origin – *Exiled Home* (Moniz 2004) – reflects this paradigm. My own findings also suggest that for settled migrants, whether 1.5 or first generation, deportation may indeed be experienced as exile, as deportees are being expelled from their residence of choice, separated from their families and everything they have worked for – their lives in the UK remain suspended and interrupted. As Yngvesson and Coutin put it so well,

'deportation interrupts what would presumably otherwise have been the migrant's continued existence' in the country of residence (Yngvesson and Coutin 2006: 181).

'Deportation' is a strong word. It may invoke images of the Second World War, 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).

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, elicit different public opinions. 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, are 'sent home' (and what harm can come from returning home?); 'foreign criminals', meanwhile, are '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 2000s to call for a shift of focus away from the illegal migrant and the deportee 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 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 (Aas and Bosworth 2013; De Genova and 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 (Drotbohm 2011; Moniz 2004; Peutz 2006; Schuster and Majidi 2013; Zilberg 2004). The latter focus tends to emphasise the removal of second-generation migrants – people who 'are returned "home" to a place where, in their memory, they have never been' (Zilberg 2004: 761). Issues of identity formation and alienation have been central in these studies. Studies of deportability on the other hand, have underlined questions of exclusion, entitlement, human rights and the foreigner/citizen divide. Here deportation is most evident as a disciplinary tool of social control (Kanstroom 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 emphasise, as does this book, is that deportation is not merely an event that forcibly relocates foreign nationals 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, 2007) explores the embodied and chronotopic experiences created by the 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 criminalisation and transnationalisation 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 who have been deported from the US, and 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, 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. Like Peutz (2007), she also 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 has not been 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, 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' (Bhabha 1998: 615). Here again, lived concepts of citizenship and justice are at play, and stand in opposition to legal and institutionalised 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 (Gabriel 1987; Gardner 2010; Lesch 1979; Taagepera 1980). In illegality studies, deportability is constructed as inherently tied to illegality. Deportability is a means of guaranteeing a vulnerable and cheap pool of 'disposable' labour were '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. set out to examine how 'immigration policies shape identities through both their texts and their effects' (Mountz et al. 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 the impact of illegality on migrants' sense of embodiment and experiences of time and place in Israel. 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 criminalise undocumented migrants, and how the 'newly intensified threat of arrest and deportation began to reverberate into every corner

of migrants' complicated lives' (Willen 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' (Burman 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 (Castañeda 2010; Talavera, Nunez-Mchiri and Heyman 2010; Wicker 2010; Willen 2007). In this study however, research participants were experiencing their deportability only after deportation action was taken against them, as prior to criminal conviction most had been living legally in the UK for a number of years. Most did 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 4).

Margaret Randall addresses these issues when narrating 'the relentless experience of living with the daily threat of physical removal' (Randall 1987: 465) and the aggressiveness of court hearings where it is decided whether or not she is desirable to the US. Although born a US citizen, in 1966 Randall adopted her husband's citizenship and became a Mexican national. 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 of making basic decisions and what she calls the 'imposition of false guilt' (Randall 1987: 466) – 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 foreign nationals facing deportation from the UK. Their narratives, as shown in this book, 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 begun to wield its power by seeking to deport, but at a point when it 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 book also acknowledges that experiences of deportation and deportability affect not only those the state seeks to deport but also their immediate family and close relatives, who here express their concerns and anxieties over it.

## The Politics of Exclusion in the UK

International law generally holds that sovereign states have the right to regulate and control the entrance, permanence and expulsion of foreign nationals in their territories (Dembour 2003; Hammar 1990). Immigration legislation therefore has always included clauses allowing for the deportation of foreigners on national security grounds – such clauses have been in British legislation throughout the twentieth century, though they tended to be used to exclude people at particular times of crises, such as the two world wars, or in the odd case of espionage (Bloch and Schuster 2005; Cohen 1997; Dummett 1994; Schuster 2005). With the Commonwealth Immigrants Act 1962, deportation was decoupled from war and emergency scenarios, and it became available as a broader migration control tool (Bailkin 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 into the Commonwealth Immigrants Act 1962. Here deportation was dependent on the judiciary to initiate deportation proceedings (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 (Bailkin 2008). It was not until the Immigration Appeals Act 1969 that deportations were no longer dependent on the judiciary (Bailkin 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 Immigration Appeals Act 1969 also obliterated the distinction between Commonwealth citizens and other foreign nationals for the purposes of deportation. The only distinction in place today concerns European Economic Area (EEA) nationals exercising treaty rights.

Subsequent legislation has worked to expand deportation eligibility, yet it was not until the end of the twentieth century that deportation, along with detention and dispersal, became normalised tools, deemed necessary to control and manage immigration (Bloch and Schuster 2005; Fekete 2006; Gibney and Hansen 2003; Nyers 2003; Schuster 2005) – a trend that has been amplified since the events of the 11 September 2001. 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 (Allegro 2006; De Genova 2002; HRW 2007; Moniz 2004; Peutz 2006; Zilberg 2004).

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 foreign nationals seeking asylum in the country. When New Labour won the election in 1997, the issue was immediately placed on the public and political agenda by the Conservatives, then finding themselves in opposition (Gibney 2008). Detention and deportation came to be seen as the answer to managing such anxieties. Although at first glance these practices seem incompatible with liberal democratic rule, Matthew Gibney (2008) argues that it was actually through a discourse of human rights protection that the Labour party managed to enforce such polices. By advocating the need to protect the asylum system from 'bogus' refugees, the government was able to enact harsh measures with little opposition. 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 have not been formally accused or convicted of terrorist acts (Bhabha 1999; Fekete 2006). 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, Charles Clarke, the then 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). A list of 'unacceptable behaviours' inserted in the document (HOCD 2005) included:

> 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.
> - ad 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 rights to free speech (see Article 19 2005; Justice 2005; Liberty 2005; MCB 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, the public confronted the news that over the previous seven years 1,023 foreign-national prisoners had been released after completing their sentences without being

considered for deportation (Anon. 2006; Bhui 2007; Macdonald and Toal 2006). This information generated much polemic, ultimately leading to the resignation of Charles Clarke. 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. Embedded in the discussions were both an underlying prejudice against foreign nationals and a concern on the part of politicians to restore public confidence in migration management (Bhui 2007: 370). Foreign-national offenders thus appeared in 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 also 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 caseworkers 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. New Labour thus created legal intersections between criminal justice and migration control, and spoke of crime and immigration in political discourse as inseparable phenomena (Bosworth 2011: 587).

The process of the criminalisation of immigration in the UK resonates with the transformation of immigration management and control in many liberal democracies (Bosworth 2011; Bosworth and Guild 2008; Ellermann 2009; Gibney 2008). The deportation of foreign-national offenders has become a symbol of both border control and governance in the UK, visible in the adoption and promotion of annual targets for deportations (Bosworth 2011). An official post on

the Home Office webpage proudly announced 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 per cent increase on 2007 figures. The Home Office was also proud to claim that removals of failed asylum seekers had risen by 127 per cent between 1997 and 2006, with 18,235 individuals removed in 2006 alone (HOCD 2007). By 2009, three years later, Home Secretary Jacky Smith was no longer setting numerical targets but rather expressing them as headline-like goals – for example, 'a record number of foreign prisoners' (Bosworth 2011: 587).

In 2007, Hindpal Bhui challenged the supposed dangers posed by foreign-national offenders, arguing that the dangers 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' (Bhui 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 re-offending (UKBA n.d.a). Yet, a recent report by the Independent Chief Inspector of Borders and Immigration noted a culture of detention where 'a decision to deport equals a decision to detain' (ICIBI 2011: 22). Moreover:

> 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. (ICIBI 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 them (ICIBI 2011).

Another result of the 2006 media scandal has been increasing interdependence between the UK Border Agency (UKBA) and Her Majesty's Prison Service (HMPS) in the management of

foreign-national prisoners (Bosworth 2011; Kaufman 2012). 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 restructure the penal estate in order to facilitate the deportation of foreign-national prisoners. In line with this, a hubs-and-spokes system was devised to concentrate foreign-national prisoners in designated prisons to facilitate their removal. Hub prisons are exclusive to foreign-national prisoners and have UKBA staff on-site. Prisons acting as spokes house a significant proportion of foreign-national prisoners that are to be directed to the hub prison. Included in the rationale for this segregation is the realisation that this particular section of the prison population has its own needs and challenges (Bhui 2007). They all face immigration issues, some might have recently arrived in UK and hence face language barriers and isolation. In this sense, these prison facilities may provide better cultural support to foreign-national prisoners – many provide classes in English as a second language, for instance.

However, concerns have been raised over this segregation, especially regarding the quality of care and support provided to the foreign-national prisoner population and the need to ensure that rehabilitation and reintegration initiatives are as equally accessible to them as they are to the British prisoners (Clinks 2010; ILPA 2011; Webber 2009). Transfer to open prisons, home detention curfews and other parole arrangements are not made available to foreign-national prisoners, 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: 586) argues that the 'hub and spokes' system focuses on deportation at the expense of addressing the rehabilitation and preparation of prisoners for their lives upon release. In short, the development of policies regarding foreign-national offenders has thus resulted in the portrayal of foreign-national offenders as a risk to (British) society. A risk to be controlled through operational procedures that impact on all foreign-national offenders independently of the risk they were assessed as posing to society, and a risk ultimately dealt with by deportation.

## 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 of 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' (Kanstroom 2000: 1898). These laws cover foreign nationals who enter the country illegally or under false pretence, who fail to comply with a condition of entry (for example, 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 the category of border-control laws.

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' (Kanstroom 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' (Kanstroom 2000: 1898). It resonates with what British immigration law terms 'deportation' – a tactic of social control discussed herein. Of course, Kanstroom acknowledges that this division is uneasy as 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 consists of three imperatives: the protection of the public from possible future offences by deportees; deterrence of crime; and demonstration of society's revulsion (such as in cases of incest and paedophilia). As a protection measure, deportation appears as a successful strategy only if the deportee is likely to re-offend. 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. Furthermore, 'risk is framed in relative terms … 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 (Clayton 2008; Kanstroom 2000). But, as Kanstroom adds, 'efficiency is not justice' (Kanstroom 2000: 1898). What of those who have been 'rehabilitated', present a low-risk of re-offending, 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 Clayton argues that the deportation of foreign nationals and the harm it inflicts on their families and social networks, as illustrated in the narratives below, '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, the effectiveness of deportation 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 foreign nationals 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 did 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 and Toal 2009: 373). However, the validity of these imperatives can be contested. Firstly, 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?' (Grewcock 2011: 61). If one believes that the public needs protection from the individuals who are being deported, then deportation becomes but a means of the 'exporting and circulating of crime – "not in my back yard" – you can have them' (Macdonald and Toal 2009: 374).

Indeed, 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' (Clayton 2008: 573). The author goes further, stating, 'if deportation is not a punishment, the philosophical basis for it is hard to find' (Clayton 2008: 573). It cannot be seen as a breach of hospitality when deportees have often spent most of their adult lives as 'contributing' citizens (Clayton 2008). Ironically, deportation can hinder the efforts of rehabilitation developed by both HMPS and foreign-national offenders themselves, as they are prevented from moving on with their lives (such as furthering their education, obtaining employment) after serving their sentences. An idle rehabilitated convict is hardly in the best interests of the public good.

Grewcock argues that deportation and the 'routine imposition of multiple punishments' inherent to the system – detention, reporting and so on – '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 into society and their communities. This is, in fact, a perception reflected throughout the empirical chapters of this book. Deportation is a practice of state power embedded in anxiety, uncertainty and unrest that elicits different perceptions of (un)justice and deservedness. 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 book provide insights into how deportation and deportability translate into social reality, and the lives of the people they affect the most.

## Notes

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

– Chapter 2 –

# Living the Law

This chapter is centred on the encounter of foreign nationals, as lay people, with legal institutions, drawing on ethnographic research conducted at the then Asylum and Immigration Tribunal (AIT) in London. It examines hearing 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.

Looking at appeal hearings is a vital component in understanding the effect of deportation policies in the UK. Appealing against deportation was 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 hearing room 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 tribunal 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 (2012) has termed the 'struggle over exclusion', that is, the decision-making process in which foreign-national offenders and their host state dispute whether the former ought to be excluded or not from

the latter's territory. I first review the grounds available to contest deportation at the time of my research and provide an overall view of the appeal system, and then detail 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

Immigration policy and legislation in the UK has changed significantly since field research in 2009. These changes have sought to curtail appeal rights, reduce access to legal aid and increase state powers with respect to deporting people. At the time of writing, the latest development concerned the Immigration Act 2014. Among its many provisions, and of particular importance to foreign-national offenders, the Immigration Act stipulates that 'harmful' individuals may be deported prior to their appeal unless their removal results in serious harm such as death and torture. Such individuals may still file for an appeal, but only from abroad. The act aims, in the Home Office's words, to 'end the abuse of Article 8 of the European Convention on Human Rights – the right to respect for family and private life'.[1]

The immigration tribunal system too has seen multiple reforms.[2] At the time of research, immigration appeals were heard at the single-tier Asylum and Immigration Tribunal (AIT),[3] but this subsequently reverted to a two-tier system in February 2010. It is important to note that the process here described refers to policy and the appeals system as it stood in 2009, which differs in many respects from current procedures.

Prior to the passing of the Immigration Act 2014, whether before or after being served with a notice of decision to deport by the immigration authorities, foreign-national offenders liable to deportation were faced with four options: leave voluntarily; appeal the decision to deport; go underground; or, not act on it and wait until eventually being removed under deportation provisions (or not). These four options were not necessarily mutually exclusive actions. A foreign national could choose to appeal only to subsequently go underground when the appeal was dismissed and there were no further appeal rights, or they could abandon the appeal and leave voluntarily before the deportation order was signed. Leaving the country voluntarily, at their own expense, would ensure that they were not restrained by a ban on re-entry to the UK, as long as a deportation order had 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 and Toal 2008). As such this was not an option legal representatives were likely to recommend when there were grounds for appeal. Further, if the decision to deport was made under the provisions for automatic deportation, a deportation order could be signed while the appeal was pending, thus negating the 'advantage' of leaving voluntarily for, if nothing else, foreign nationals save the plane fare if deported under removal directions.

A decision to deport could be appealed in-country when there was an asylum or human rights claim. An appeal is a public hearing for foreign nationals at which they can 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 had suspensive effects, meaning that they entailed a prohibition on the removal of the appellant from the UK until all rights to appeal had been exhausted.[4] Immigration appeals were also subject to the one-stop appeal principle, which ensured that all grounds of appeal were heard in a single appeal. In a deportation appeal, for instance, it was not uncommon for foreign nationals to include an asylum claim based on Article 3 of the European Convention on Human Rights (ECHR) along with Article 8 on the right to respect for private and family life. Both issues were dealt with simultaneously.

The immigration tribunal system is administered by the Tribunals Service, an agency of the Ministry of Justice. The AIT had 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 centre in London dealing with reconsideration hearings.

## *The Immigration Appeals System*

The immigration appeals system was hardly simple to understand and navigate. As Macdonald and 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. (Macdonald and Toal 2008: 1341)

When deciding to deport a migrant, the Secretary of State for the Home Office, through the appropriate immigration authority, had to serve a notice of decision to deport. This notice included the reasons for the decision, the country where the migrant was 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.

When his mother passed away in Uganda, Tony came to the UK at the age of 10 to live with his father. He was granted indefinite leave to remain and had lived in the country ever since, never returning to Uganda. Having spent most of his formative years in UK, Tony felt at home there. When aged 19 he was convicted of robbery and spent eighteen months in prison. Upon the end of his sentence Tony was not released from prison. Instead he was served with a notice to deport. He was shocked at being kept in prison and confused about what was going on:

> 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.

For Maria, receiving notice of deportation was even more surprising. Maria had arrived in the UK with her parents and siblings at the age of four, fleeing their war torn country in Latin America. In her thirties Maria served a four-year sentence for a drug-related offence. In prison, she fought her addiction and 'straightened' her life, to use her words. Upon release from prison she reconnected with her child and family, and volunteered in a community organisation that provided support to female prisoners. Eight years after her release, at the age of 47, she was puzzled when the notice to deport came through her door.

A foreign national had ten business days (five, if in detention) to serve a notice of appeal to the AIT. The notice of appeal included the personal and contact details of the appellant, the details of their legal representative, the grounds for appeal (which could be amended at a later stage subject to the AIT's permission), the reasons in support of those grounds, a list of the documents the appellant would rely on during the appeal, and a copy of the notice of decision to deport. The AIT then served a copy of the notice of appeal on the respondent – the Home Office – who in turn had to serve the AIT and the

appellant and their representative with all the documentation related to the case in hand. At this point the AIT could 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, the type of evidence accepted (oral and/or documentary), the issues to be addressed, the time parties needed to prepare for the full hearing (Clayton 2008; Macdonald and Toal 2008).

A notice of hearing would 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 had to provide the AIT and the opposing party with the documentation that was to be relied on during the appeal. At the hearing, both parties had the opportunity to present a claim and give evidence in support of that claim. The findings of the AIT and its decision to allow or dismiss the appeal are called a determination. The determination was served to both parties in writing within ten days of the hearing (this period was extended if there was an asylum claim) and included a statement of the issues that were addressed, what the AIT decided about them and the evidence that led to that decision. Either party could then apply to the High Court for a reconsideration order on an error of law.[5] This application was documentary in nature only. If successful, the High Court would instruct the AIT to hold a reconsideration hearing, at which it heard the appeal again, or it could refer the case directly to the Court of Appeal for a substantive hearing. The outcome of the reconsideration hearing could in turn be appealed on a point of law to the Court of Appeal. When appeal rights were exhausted, either party could file for a judicial review on an error of law to the Administrative Court.

The appeals could thus span a long period of time. Tony navigated this maze of appeals for eight years before he won his case – almost a decade spent waiting for a decision. This was the better part of his twenties, where he was not given permission to work and could not enrol at university as, with his passport confiscated, he could not show evidence of having indefinite leave to remain, meaning he would have to pay overseas student fees which he could not afford.

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 AIT expects – it is thus in their best interests to secure legal representation (Clayton 2008; Wight 2004). Although many eventually represented themselves, it was rare not to have legal representation at some point during the appeal process. Securing representation was thus one of the first tasks of appellants, and one they would not have much time

to contemplate if the representative was to put together the notice of appeal.

### *Grounds for Appeal: Deportation and Article 8*

Mostly, decisions to deport were challenged based on Article 8 of the European Convention on Human Rights (ECHR), regarding the right to respect for private and family life. When appropriate, the appeal could also include an asylum claim, citing Article 3 of the ECHR on the prohibition of torture. Article 8 of the 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.

An appeal was thus a balancing act between the appellant's right to private and/or family life (point 1) and the government's interests in removing them (point 2). This means that in a deportation appeal based on Article 8, the AIT had to first establish if there was private and/or family life, and if removal would interfere with it. If that was the case, assuming interference was in accordance with the law, the AIT had to then determine whether that interference was proportionate or not to the state's legitimate desire for the prevention of disorder or crime.[6]

There was no detailed definition of what constituted private life in the ECHR or relevant case law. The concept was 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 could 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 bore no importance for Article 8 purposes). Wider family relations – like grandparents, grandchildren, aunts, uncles, nephews, nieces, adult siblings and adult children – also formed part of family life if the appellant's representative successfully proved there was a reasonable level of dependency and emotional connection. This was particularly important in cases involving young adults with no children of their own – like Tony – but it was not easily achieved.[7] Cohabitation was not a necessary element in establishing family life.

Proportionality had to be decided on a case-by-case basis, considering all the facts and circumstances of a particular case. There was 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 was proportionate or not.[8] These include:

- the nature and seriousness of the offence;
- the length of the applicant's stay in the country from which they are 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 they 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 had re-created their lives to make a good case, ensuring they scored well in all ten criteria. Further, they had to produce appropriate evidence to back up their claims, as the burden of proof lied with the appellant. The standard of proof in immigration cases was lower than in criminal cases, and amounted to the balance of probabilities, meaning that the AIT only had to be satisfied that a claim was more likely to be true than not.

## The Making of a Case

When foreign nationals appealed against deportation, their circumstances became a 'case' – their lives were shaped to fit the parameters of good legal arguments. 'Facts about the circumstances of a particular family', Wight says, 'are not just there to be discovered. They must be created and translated in documents and "credible"

testimony' (Wight 2004: 21). This is done with the guidance of legal representatives, crucial insiders to the court system (Conley and O'Barr 1990; Wight 2004). But representatives alone were not enough to make a good case. Appealing at the AIT on Article 8 grounds demanded 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 focused much of their attention on the relationships, feelings, ambitions and regrets of the appellant and their family. It was thus a very emotional process, as Maria makes clear:

> it's 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 expose your whole family, because you can't even go [to the AIT] on your own merit!

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

### *Securing Legal Representation*

Legal representatives are crucial in translating the appellant's circumstances into a legal language that is accessible to the AIT. 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 and O'Barr 1990; Wight 2004). Legal 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, as Samuel, David and George respectively explain:

> 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 mum what to bring in the first hearing … I like these ones now, they put a lot of effort into me.

> 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.

> 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.

Research participants were not seeking merely a qualified representative that could argue their case; they wished to have one that cared, that knew them and their case well, and that was unmistakably working in their best interests. Appellants also expected their representatives to inspire confidence and hope, even if that entailed different things for each person. Tania's partner and Naomi's son had the same legal representative, and yet the two women felt very differently about her. Naomi did not find it comforting when the legal representative said, 'if anything goes wrong with the case we just appeal it'. Naomi lacked confidence in the legal representative's work because she was already thinking about what to do if things went wrong. For Tania, the same statement was reassuring – she felt safe knowing there was a back-up plan, 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 [a meeting with an 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 legal representatives this can be highly problematic as they have to carefully balance the merits of the case with their clients' expectations. Legal aid was 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 were 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 can also be a strain on the financial situation of the family.[9] Moreover, legal aid could allow for evidence that otherwise the appellant could not afford. As a senior immigration caseworker put it:

> 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 a 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 a 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: the existence of family life; the disruption of family life by the appellant's deportation; and, 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, Jerome, was appealing deportation. Her narrative shows both her embarrassment at not having a family that is there for her, as expected by the AIT, and the strategy she deployed to get 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 in any way, so it's hard … My mum 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 it's embarrassing when you got them saying, 'Look, you got no one to come to court'. And my mum 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 first hearing was jeopardised by the absence of his father, the one who could really show the AIT 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, and the hearing was already in progress. Shy of entering the room he waited by the door. Inside, the Home Office Presenting Officer (HOPO) was arguing 'if family is so important for the appellant, why is there no one 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 to Family Life*

The AIT makes a decision that goes beyond the removal of a person, and this is acknowledged. That is why hearings seek to ascertain the extent of disruption to family life and counterbalance this with concerns 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.[10] This means that great effort is deployed in convincing the AIT that this is indeed not an option, and a big part of casework goes in to establishing exactly why the family cannot relocate. The spouse's professional obligations, language barriers for spouses 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 of the appellant or the spouse, are a strong element in this regard: the AIT 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, as George, married to a British citizen and father of four children, remarks:

> 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 two-and-a-half years. But he was okay, the judge said to him 'Okay, I won't break your family, I know you love your daughter, you can go now, give him back the indefinite [leave to remain]. 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.

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 AIT 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.

### *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 of false documents with intent), 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. Legal 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 thus not credible – that is, that they have learnt nothing from their time

in prison and are not rehabilitated. This is, in fact, a common point of contention between appellants and legal representatives, as explained here by a legal caseworker:

> 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, it's 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 okay, 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.

The crime for which the appellant was convicted and the length of the sentence are but two criteria the AIT 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, uncharacteristic of an otherwise good record. On the other hand, if the sentencing judge recommended deportation, the respondent could use the remarks as evidence. A parole report might also be produced in support of the appellant if it attests to the unlikelihood of re-offending. The conduct of the appellant in prison and after their 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,[11] the importance of which is clear to most appellants. David was going through his second round of appeals:

> 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.

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 had experience of appeals over a long time, 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 legal representatives, as exemplified in the case of Tony:

> 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 stepmum 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.

Witness statements are of course a form of evidence, reliant on the witness's credibility. But documentary evidence is considered more authoritative (Conley and O'Barr 1990; Scheffer 2005; Wight 2004). Thus, building a case involves gathering all sorts of documentation in support of an appellant's claims. The sentencing judge's remarks and parole reports have already been mentioned. Other relevant documentation may include letters from teachers of the appellant's children, health documentation, bank statements, slips from visits paid to the appellant while they were in prison and/or detention, phone records and so on.

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 reports are the most common expert evidence provided in deportation appeals. These reports examine the emotional ties and links of dependency among the appellant's closest family and attest to the disruption that the absence of the appellant may cause to the family.[12] However, getting appellants to agree to a social worker's report may test the legal 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, appellants also adopted or further developed forms of behaviour that were likely to strengthen their cases. Not being able to work or study, Tony opted to get involved with different community groups:

> It's been one year [and] two 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 four or five 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.

Volunteering with different organisations, in particular if one is not allowed to work, shows commitment to the community and responsibility. In cases of addiction, unfailingly attending Alcoholics Anonymous or Narcotics Anonymous meetings and volunteering for drug and/or 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 and so on.

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 work', 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 self-worth that is constantly being challenged by the state's intention to deport them. Being involved in school activities may serve the purpose of obtaining a written statement attesting to the appellant's commitment, but spending more time with their children also means making the most of the time the appellant and his family have for now in view of a future about which they 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, north London. As hearings are usually scheduled for 10 A.M. there is a small queue leading into the building early in the morning. Following a security check, people are instructed to take the lift to the second floor. The lift opens directly on to the reception and waiting area. On the wall, court listings inform parties which hearing room will hold their appeal and the panel that will hear it. Just before 10 A.M. the waiting lounge is full of the sound of different languages being whispered at the same time, children playing at the back, the sighs of long waits, foot and pen tapping due to people's 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, okay? Don't exaggerate. You understand what I'm saying?' Court clerks run around making sure all the parties involved in their listings are present: appellants, witnesses, legal representatives and sureties. At 9.50 A.M. a clerk comes around, urging people to make their way to the court where their hearing is to be held, and the lounge empties.

Inside, the courtrooms are divided lengthwise by the tribunal's desk. The appellant and interpreter sit side by side at a desk facing the tribunal, with the legal representative to their left (if there is one present) 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 piece of 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 contains the doors. At the back of the room a few chairs are laid out for witnesses and observers. All the courtrooms at Taylor House are similar, varying only in size with the exception of rooms 12 and 26, which have a third door connecting them to the security room

where appellants in detention are held prior to a hearing. This security door is an automatic 'lift-style' door, parting in 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 mean much of the hierarchy and formality of a courthouse are retained. 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 members of the tribunal nor legal representatives wear robes or wigs, but are instead dressed in formal business attire. Those present in the room are asked to rise when the judges enter or leave, but they 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) if they were 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 similar room, this setting is indeed less formal and less intimidating. I met Jamal just before the first appeal hearing of his son – a hearing at which the legal representative failed to show up, and Jamal had to 'take the lead'. Later he told me:

> 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.

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 judges and a non-legal member. Non-legal members of the panel do not have legal qualifications but derive their expertise from experience and knowledge of the immigration services. Their role in the tribunal is contentious, and not all judges and solicitors appreciate their involvement.[13] Present too are the appellant and legal 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 specifics 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 room 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 and Toal 2008). These 'interruptions' however can increase witnesses' anxiety, who 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 and who the parties present are, and how the hearing will proceed. It often also reasserts that the panel is independent and not aimed at 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 welcome to appellants and their families, who are thus guided through the hearing and can better understand what is happening.

The bundles of documentation submitted by each party to be relied on during the hearing are generally quite large.[14] Before hearing evidence, the tribunal makes sure everyone has all the necessary documentation and that all copies of the bundles are equally organised and numbered so that parties can refer to paragraphs and page numbers during examination and submission, so ensuring that all are literally on the same page. 'Bundle talk' can take anything between five minutes and an 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 the 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.[15] The legal representative will ask the appellant to state their name, date of birth and address. They are then asked if they wish to rely on their statement. The representative may pose further questions to emphasise 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 relatives. 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 who calls in 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 finally pronounce that the hearing has come to an end.

### *The Build-up to the Hearing*

Appealing deportation is a long process. At any given point there are short time limits to serve notices and to prepare and provide the parties with all the 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, Fletcher and Goodall 2008). These in-between periods more often than not last weeks or months, and are marked with extreme nervousness, anxiety, lack of sleep, irritation and lack of patience. For Naomi, whose nineteen-year-old son was appealing deportation, this period was particularly intense:

> 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. It's like I am I tired, am I ran down, am I exhausted? What's going on? It's 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.

But as nerve-racking as it may be to contemplate the approaching hearing day, having the hearing postponed to a later date is an unwelcome and unforeseen anti-climax.[16] 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 hearing room, shaking his head and mumbling words neither his wife nor legal 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 keep close contact with this son, as that was the strongest element in his case's favour – the children from his current marriage and his wife can all be expected to move with him to Central Africa, but the son would not be expected to separate 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 support of his appeal. 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:

> The Home Office didn't produce what they call the bundles. They should have done it a few weeks or, you know, sometime 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 they had expected some level of closure on the day of the hearing. Overall, the build-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 from person to person not only 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 of each one. Hamid, for instance, had had two deportation appeal hearings. At the first, at 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 I 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.

At the very last hearing, on the other hand, Hamid believes the judges were sincerely interested in finding the truth. At the time of the interview he had not yet received his determination, so he did not know whether the appeal would be 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 found that the first and second hearings were very different experiences, even though both appeals were denied:

> Louise: 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 I said I would go out there with him for like three 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.
>
> I.H.: Were you not being represented?

> Louise: 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 it's only now that I got a new solicitor that I got to 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 three 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 it's demoralising. It's heartbreaking. Sorry [*cries*]. 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: how prepared people felt for the hearing; whether or not they had a chance to voice their concerns; and 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 the case of Louise shows, 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 legal 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 and so on. 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, such as 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 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 that legal representatives are not allowed to do.[17]

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, as seen here in the words of Louise, whose husband was appealing deportation:

> the man from the Home Office said that Ellis [her son] is so young and three years isn't long, that it shouldn't matter that my husband is gone for three 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 [the HOPO] 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.

A similar sentiment was expressed by Trude with regards to her son-in-law's hearing:

> The Home Office bloke was awful […] He just ran rings around them [the 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, 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.

Naomi, meanwhile, was outraged that the HOPO assumed she was lying by saying that she did not know 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, nineteen? Popping out children. So he can say whatever he wants to say.

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

### *On Giving Evidence*

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.[18] 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 being a witness as 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, even though they spoke English fluently, felt safer using an interpreter: this way they were sure to understand the questions and answer without any of the ambiguity that might arise from using the wrong word.[19]

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. Samuel had this to say:

> 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.

Being prevented from speaking can thus be problematic, as Andre made clear. He was upset that his representative did not allow him to speak to the judges:

> 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'.

In fact, the importance of giving oral evidence was well engrained in research participants who often 'complained' about what others said during examination. Jamal for instance, was very unhappy with his son's performance at the hearing:

> And in the court, when it was finished, the judge talked to him [Jamal's son, the 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.

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

Just prior to her husband's deportation hearing, Claire hoped that 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 legal 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 she claimed that they could not maintain contact through modern technologies, such as e-mail 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 twenty-five 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 son'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 might be 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 [the 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 three times I went before the crown, the tribunal and then after that it's all just a paper exercise. But if it's 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'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 took from the judge's 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 [i.e. that his appeal would be granted. 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 as well, she just has to balance it out.

In fact, appellants and family members read so much into judges' 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, as Louise found out:

> 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, it's hard. I don't understand, why was he nice if he knew he was going to decide against us?

## *The Aftermath of the Hearing*

The end of the hearing does not mean 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 visited Naomi at home a few days after her teenage son's hearing:

> 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 okay? That is why I am going through my mail now, because I can't see a letter reaching and it's over two weeks now, right? So you are actually sitting down at home wondering, 'Okay, when is this letter going to be here?' I'm making him feel okay and safe, and then – *bang*! You get bad results and then his whole life falls apart.

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 he believed the Home Office would not appeal the decision because the determination made it clear, in his reading of it, that they would not stand a chance. In fact, the Home Office did not appeal the decision. Jamal was not so lucky: his son's first appeal was allowed. He was happy and joyous when he heard the news, although he could not quite understand why his son was not immediately released from detention. A few days later, the Home Office contested the decision, taking it to another round of appeals that kept his son 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, waiting until the expiry of the period that the Home Office had 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, as George found out:

> 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.

It is also an experience that forces appellants to rethink their options, as in Andre's case:

> When I got the letter I couldn't even read it right so I gave it 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 it's hard.

For most, a dismissed appeal means another visit to their legal representative and, if there is agreement between them and the appellant, 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. In their study of asylum appeals in Scotland, Craig, Fletcher and Goodall (2008) also found 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, as explained by a legal caseworker:

> 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 per cent 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 funded, 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.

Recent legal-aid reform has limited and restricted funding in a way that has forced legal caseworkers to take on the role of judges (James and Killick 2010) or border officials (Fischer 2012) 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 and 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), represent themselves 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. Three years later all the others continue to be 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 understanding 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 could not say where his case was when we met – it was somehow lost in a maze of notices and appeals. By the time I met him Tony was well versed in these issues:

> 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 [leave to remain], 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 is not alone. David and many others 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'.

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 and 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, 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 people's narratives should be translated into legal facts.[20] 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 and 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, siblings and so forth – 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, like Naomi, 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 and 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 to the judges. In this sense, one may say they are taking a rule-oriented approach in court. During interviews with me, 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 discusses how it was through imprisonment that her informants 'learned the law' and began considering themselves as 'rights-bearing subjects' (Peutz 2007: 184). The ability to perform a rule-oriented approach in court without discarding a relational orientation is testament to the appellants' learning of the law in the effort to increase their chances and by playing the game by its rules.[21]

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 improve their chances. For many, the 'learning of the law' translates into 'speaking the law' – they have appropriated a rule-oriented narrative for their case, often sounding like legal caseworkers. They do so without discarding a relational orientation, but one that is structured nevertheless within a framework of rights and entitlements. 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 correlate a 'nice judge' with a favourable determination, and they still perceive as unreasonable the idea that 'broken' families have better chances than traditional family units.

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 desire 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.

## Notes

1. Available at: https: //www.gov.uk/government/collections/immigration-bill, accessed 21 May 2014.
2. For critical reviews of these reforms, see Clayton (2008), Macdonald and Toal (2008) and Thomas (2005).
3. If the decision to deport was taken on national security grounds, the appeal was heard at the Special Immigration Appeals Commission (SIAC).
4. 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. Under the Immigration Act 2014, however, deportation appeals are not necessarily any longer suspensive.
5. 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 came across a panel with more than two legally qualified members in the hearings I observed.
6. For a detailed discussion of issues relating to jurisdiction and proportionality arising from Article 8 cases, see Clayton (2008: 122–35, 611–18).
7. For a discussion of such cases and difficulties arising in establishing family life with siblings and parents, see Peroni (2011).
8. These factors were outlined in *Boultif v. Switzerland* [2001] ECHR 497, and expanded in *Üner v. Netherlands* [2006] ECHR 873. See Clayton (2008) and Macdonald and Toal (2008).
9. George paid £600 for his second appeal. Some paid far more, spending up to £3,000 depending on the work needed.

10. In fact, for research participants, deportation meant family separation (or even termination), but never family relocation. See Chapter 4 for more on this issue.
11. 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.
12. 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 unnoticed by researchers (see e.g. Good 2004; Thomas 2009).
13. As revealed to me in informal conversations both with immigration judges and legal caseworkers.
14. 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.
15. Some judges also warn other people present in the court that if they choose to stay they may not leave the room until all the evidence has been heard.
16. At the hearing, 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.
17. 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, Fletcher and Goodall 2008).
18. Albeit in a different context, Dembour and 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.
19. In all instances the judge clarified that the use of interpreters could not be used as evidence by the panel to the detriment of the appellant. 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 could not speak the language). Andre's legal representative argued with the judge over the matter, evoking the procedural rules of the tribunal to establish that using an interpreter cannot jeopardise an appellant's case.
20. Conley and O'Barr (1994) used speech analysis. Although this study does not follow the same methodology, Conley and O'Barr's findings are mirrored to an extent.
21. See also White (2012) on immigration bail hearings in the UK, which documents similar issues.

– Chapter 3 –

# Surveillance and Control

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 the resulting consequences are addressed in this book. The previous chapter dealt with the Asylum and Immigration Tribunal (AIT) and the experience of legally challenging one's deportation. Immigration tribunals however are but one theatre in which the state exercises power (Bhartia 2010) over migrants' bodies. When foreign nationals are subject to deportation or removal, they become subjects to be placed under surveillance, 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 migrants' daily lives and how these encounters are experienced. I did not interview immigration detainees. Rather, the narratives presented here are retrospective accounts of the experience of detention by foreign nationals that had been granted bail from immigration detention. These narratives work to reveal how the memory of detention affects experiences of deportability.

Forms of state surveillance over deportable foreign nationals in the UK, and elsewhere, are conceived legally as administrative practices necessary for the enforcement of the removal process. For my research participants, however, these forms of state surveillance are understood as punishment and a strategy for rendering their lives in the UK impossible to the point at which they will acquiesce to deportation. This chapter focuses on the punitive and coercive effects of state surveillance on deportable foreign nationals, and their own understandings of such practices. Although other forms of migrant surveillance are being tested and used in the UK, such as biometric

resident permits (Warren and Mavroudi 2011), in this chapter attention focuses 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 field research, the UK Border Agency (UKBA) had thirteen Immigration Removal Centres (IRCs) with an overall capacity for 3,000 foreign nationals on any given day. Some were managed by Her Majesty's Prison Service (HMPS), others by private contractors. According to the Independent Chief Inspector of Borders and Immigration (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 four months), and by January 2012 this had risen to 190 days (over six months). By 2011, 27 per cent had been in detention for more than twelve 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 1).

The grounds to detain foreign nationals were established in the Immigration Act 1971 and developed in subsequent legislation. A migrant facing deportation from the UK may be detained at any point of the process if there is reason to believe the migrant will abscond, or if the migrant, having exhausted all appeal rights, is about to be deported. Only one of the deportable migrants that I came across during fieldwork 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, rather than the merits of it. More than a perception, this is a tendency that has since been documented in different studies (BID 2010; CCC 2011; White 2012). Reporting is usually required as a condition of bail from detention.[1] 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, foreign nationals must go to the reporting centre so that their presence can be checked. Although in certain cases this is a monthly or daily appointment, depending on the level of risk of the migrant absconding, all but one of my research participants were reporting weekly. There were fourteen UKBA reporting centres at the time of research, four of which were 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 foreign nationals 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), and is used 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 their 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', the UKBA's web site read:

> 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. (UKBA n.d.b)

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.[2] The text is in fact geared to present detainees as deviants: people actively and intentionally failing to comply with the law, whose action – 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 (Feldman 2011; Malloch and Stanley 2005) and will not be dealt with here. Of concern in this chapter is what the UKBA text above fails to convey: that the power to detain reaches not only those who have been denied entry or leave to remain but also others whose 'legal right to be in the UK' is still to be adjudicated, as is the case with asylum seekers and foreign nationals 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 eighteen months, there is no such limit in Britain, a fact that adds to detainees' distress. The text presents an alternative to detention: voluntary departure. In fact, the Home Office often faces serious obstacles when attempting to remove foreign nationals, either because it cannot identify their origin or the relevant consulates are not cooperative in issuing travel documents, or simply because the country of origin will not take them back – what Leerkes and Broeders call the 'undeportable deportable migrant' (Leerkes and Broeders 2010: 831) and Paoletti (2010) 'non-deportability'.

Legally, detention and reporting are administrative practices designed and practised to expedite the removal process. Their aim is thus not to punish nor to rehabilitate, but to facilitate the removal of foreign nationals who have no legal right to stay in the UK, to use UKBA's words. In practice, however, the forms of surveillance discussed here are experienced by foreign nationals as punishment and coercion to leave.

Leerkes and Broeders (2010), discussing the Netherlands, question if the administrative rationale for immigration detention is sufficient to explain actual current 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 foreign-nationals: deterrence; control of poverty (detention acting as a temporary relief from street poverty); and the symbolic assertion of state power. These informal functions are not necessarily unintended, even if they are not ratified in law. By keeping detention under administrative law, policy makers have a 'flexible instrument of control' (Leerkes and Broeders 2010: 846). Deterrence would then work not just to coerce those detained to leave or assist in their removal, but more broadly to prevent foreign nationals 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 by 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' (Leerkes and Broeders 2010: 843). In other words, the government recognises that there is a problem and that that problem is being addressed.[3]

Foucault (1991), in his examination of Jeremy Bentham's Panopticon, takes surveillance as a disciplinary practice. In the Panopticon, power is exercised through making visible those who are to be disciplined and making invisible 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 coercion, forcing 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' (Whyte 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 are more like prison facilities, and some in fact were used 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 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 the present context, this would translate into surveillance being applied not to punish or rehabilitate offenders, but to prevent or anticipate crime or unwanted behaviour; 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 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 foreign nationals' lives constantly. Foreign nationals 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 and the following chapters seek to show, heavily restrict and impact upon foreign nationals' lives and sense of self.

In the present context, Agamben's work is useful for examining migrant detention because the biopolitics of his 'state of exception' and 'the camp' (Agamben 1998, 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, conferring on it near absolute authority to rule – that is, 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 (Hall 2010; McGregor 2011; 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 coincides with Agamben's conception of spaces of exception (Richard and Fischer 2008). Furthermore, as noted above, liberal states face many constraints when pursuing such avenues of policy (Ellermann 2010; Freedman 2011), often leading to non-deportability (Leerkes and Broeders 2010; Paoletti 2010).

Isin and Rygiel (2007) conceptualise the camp as an abject space in the sense that, in the camp, people are neither disciplined, nor eliminated, but just left without a presence, invisible and inaudible. However, the camp, may also be a space of resistance. McGregor's 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' (McGregor 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 and 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 foreign nationals are detained (BID 2009; LDSG 2009). McGregor's (2009) work is a valuable contribution as it explores the legacies of detention among 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, such as attitudes towards Britain and ways of coping, are echoed here.

The practice of reporting has been largely overlooked in academic literature, with the work of Klein and Williams (2012) a remarkable exception. Migrant support groups provide some information on reporting, mostly alerting foreign nationals 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 immediately contact their legal representative, family and other advocacy groups (see NDADC 2012). Reporting to the UKBA as part of the conditions of bail from detention is a practice that has a great impact on migrants' lives and perceptions of safety. In including it in this book I show how it is also part and parcel of the experience of deportation and deportability from the UK.

## Narratives of Immigration Detention and Reporting

Narratives of detention and surveillance were remarkably similar, showing very little variation between the accounts of different research participants. The following excerpt from George's detention narrative will be used to ground many of the issues dealt with in this section. George and his wife arrived in the UK twenty years ago. He has four children, three of which were born in the UK, and held indefinite leave to remain until he was convicted of possession of false documents with intent. We always met at the hospital where his premature son was in recovery at the time:

> 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 [a 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 P.M. 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 mobile 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 [many detention facilities are located close to international airports]. 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 three kilos in eight 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 £3,000 to appeal, and he said no. He has been here for twenty years, has children, all British. His problem is his record, he has an extensive record, he was in jail for about four or five 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 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 had been reporting to the Home Office 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 any spare clothes with him, 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 illustrates how being apprehended can scupper all the plans that foreign nationals might have for the day and the immediate future – their time is interrupted.

Deportees interviewed for this study were detained either straight out of 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 foreign nationals – 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 requires adapting 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 because of the distance between the detention centre and his place of residence, and the cost of travelling there. Family members also often described themselves as 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 my 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 cover for 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, foreign nationals 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 one's 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. Like George, most took courses in prison both for education purposes and for their personal development:

> Being locked up in a place, the first few days were terrible. In the first days you spend twenty-three 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 okay. 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.

A similar experience was recounted by Andre:

> 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 mum, and getting in the gym [he was training to be a personal trainer] which is something that I like and won't pull me back to evil or dirty business.

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 the 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 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.[4] They spent less time locked up in a cell, were permitted use of a mobile phone, had more freedom to walk around the facilities as they pleased, more visiting time and so on. 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 it's like closing time.

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. The advantages were clearly stated by Tony:

> 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.

This does not mean, however, 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, the overall experience was far worse. The first thing to bear in mind is that, in IRCs, the element of rehabilitation, so appreciated in 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 life 'outside'. Two other elements were stated as contributing to detention being experienced more negatively than prison. First, in prison, foreign nationals 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 punishing them again. It felt unreasonable and unfair, and deportees carry with them the sense that wrong is being done to them. They are being 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, as expressed here by Jamal in relation to his son:

> 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 six months and he did nothing. If it takes weeks or one month I understand, but six months it's too long. So I say what is wrong with them? Why everything is like this?

Second, in detention there is no release date. Foreign nationals have no way of knowing how long they will be detained and, given that Britain does not subscribe to the EU's limit of eighteen months maximum in 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 me 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.

Detainees do not know if they will be released at all, as deportation has become an ever more real occurrence during detention. As Coutin has 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' (Coutin 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 foreign nationals, 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. Hamid spent one week in detention:

> As a prisoner you have a law to follow so you okay, 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? Huh'. Everyday come.

> 'We give you 3,500 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.

When added to worrying about such things as appeals and solicitor's fees, these elements combined – no release date, no justifiable reason for detention and a feeling that deportation is imminent – 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 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 say 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; that 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!'

George went on to state how he understood 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 up a human being 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 notion of 'bare life' (Agamben 1998, 2005) in the sense that they are stripped of all protection and exist 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 the narratives I collected is shock at detention practices and events like those narrated here by David, 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.

Because in detention foreign-nationals find many others facing deportation there is a lot of comparing of cases. 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 judge's feeling.

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

Reporting (signing-in or signing-on in foreign nationals' current language), although in theory a very quick event, entails more often than not a few hours of queuing outside the reporting centre, waiting one's turn to enter the building and presenting one's papers. For research participants, standing in line outside the reporting centre is a reassertion of their lack of status, a public display of their condition as someone who is not deemed worthy of residing in the UK and who needs to be monitored, as expressed below first by Tony and then by David:

> Now I have to do it every Monday, in Hounslow, between 9 and 4 [o'clock]. 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.

> 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.

This control is strongly felt, not only when actually going to report, but also in migrants' daily life. For Andre this meant missing a day of classes:

> It's shit, you are stuck, they are controlling you, you can't go anywhere. You have a leash, 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, passed 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.

Basem strongly felt this control too:

> 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.

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, like David, often cited reporting as the reason for their lack of work:

> 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 9 A.M.'. 'But how can I come at 9 A.M.? 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'.

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. Reporting restricts migrants' liberty not just by jeopardising their access to employment but also by reducing or even nullifying their travel opportunities. Foreign nationals cannot leave their residence area for more than a few days as they cannot miss their weekly appointment. Even for those who could afford holidays, like David, 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 holiday, 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.

As well as having an impact upon a 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 foreign nationals and families alike, especially after the first time they are detained while reporting. David, who had also been taken to detention upon reporting, told me:

> Even today I went to report and my wife called me, she always calls me, 'Are you okay? Is everything okay?' 'Cause she is scared! Because it has happened before. I went to sign up and they detained me.

The memory of detention informs the way foreign nationals 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, as Tania, whose partner is facing deportation, explains:

> 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 he 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.

Chronic uncertainty arising from facing deportation and having been in detention will be further explored in Chapter 4, as will the strategies that foreign nationals 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 migrants' choices and movement.

Detention and reporting thus impact greatly on foreign nationals' lives both directly and indirectly. Being under this kind of 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 those that were being applied to them in particular – none could conceive of a legitimate reason to hold people in detention, whatever their lack of entitlement to being in the UK.

George ended his 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 David did recognise that it would make the Home Office aware that they had absconded after a week or less:

> 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.

For research participants the rationale for detention and conditions of bail are 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 n.d.: 2)

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 of 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, as expressed here in the words of Samuel:

> 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 fifteen 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 re-offend, 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's view of things was largely shared by Tony:

> 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.

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. This perception is mentioned in many ethnographies of detention and deportation (e.g. Bosworth 2012; Moniz 2004; Peutz 2006; Zilberg 2004). Bhabha calls it 'double jeopardy', which, 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' (Bhabha 1998: 615). Dow, however, argues that, more than double jeopardy, deportation and related forms of state surveillance, such as detention and reporting, constitute a double punishment as 'double jeopardy implies being tried twice for the same crime. The immigrants have been tried only once – and punished twice' (Dow 2007: 544). Furthermore, removal 'is often not an end at all, but the start of a new and ongoing punishment' (Dow 2007: 544).

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"'.

But even though foreign nationals perceive these strategies as measures to force them to leave, these are also strategies that work to discipline them. The threat of detention and the imposition of reporting appointments act as strategies of control. For those participating in this study, defiance of reporting, for instance, was seldom enacted and often short-lived. In Chapter 5 I discuss in more detail the production of disciplined bodies. Of importance here is that the overall lived experience of surveillance and deportation examined in this chapter highlights 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 it the form of an 'unaccountable' administrative practice (Fekete and Webber 2009; Webber 2012). 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 who constantly feel vulnerable and in need of protection. Because they do not 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.

## Notes

1. Other conditions of bail from detention tend to require that the detainee live at 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.
2. It should be noted here that the composition of the government changed between 2009 (the time of my 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.

3. This is true of other forms of surveillance and state practices. Frois (2011), for instance, has examined the intention of the Portuguese government in installing CCTV in public open spaces. This is justified by its preventive role, so in that sense it is disciplining as it is aiming at a change in behaviour. However, it is not rehabilitating because it is not addressing the causes that led to a need for surveillance. Frois contends that as a line of action it is effective because it reveals that a problem has been identified and that it is being acted upon, even if the action is centred on the intention and not necessarily on practice (Frois 2011: 125).
4. Although this was not the case with any of the migrants I came across, many foreign-national prisoners are detained post-sentence in prison before removal, immigration bail or transfer to an IRC. See Bosworth (2011) for a detailed discussion of the issues.

– Chapter 4 –

# UNDECIDED PRESENT, UNCERTAIN FUTURES

The previous chapters have focused on the encounter between foreign nationals and 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 foreign nationals are confronted with the Home Office's intent to deport them, they are usually confused, surprised, some even shocked. They do not 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, foreign nationals grasp the circumstances they are in and uncertainty prevails as to whether or not they will be able to remain in the UK and the degree of damage that may ensue to their present and future life. When filing the notice of appeal, foreign nationals 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 focuses on the impact of deportability on migrants' everyday lives and the strategies they devise to cope with it.

Much of the literature on uncertainty has been developed by researchers in the field of nursing and health, focusing on patients, their relatives and caregivers (Ågård and Harder 2007; Morser and Penrod 1999; Penrod 2007). While the context here differs, this literature is nevertheless relevant. The findings of Ågård and Harder's (2007) study of the experience of uncertainty and the coping strategies employed by 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 ones 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 (that is, a process of withdrawal and refraining from showing concern); and forming personal cues (that is, constantly assessing one's case) as gathering information is vital to their ability to adapt, even if the cues might lead to misconceptions (Ågård and Harder 2007). Both appellants and relatives in this study have used these coping strategies in much the same way.

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 subject in the context of an ICU. 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 and Harder (2007) mentioned above – enduring uncertainty, putting self apart, and forming personal cues – but also a fourth: re-imagining possible futures.

## The Embodiment of Chronic Concern

When looking at the embodied and sensory experiences of undocumented migrants in Israel during a fierce campaign that led to their mass criminalisation, arrest and deportation, Willen found that illegality deeply impacted upon 'migrants' everyday, embodied experiences of being-in-the-world … profoundly shaping their subjective experiences of time, space, embodiment, sociality and self' (Willen 2007: 10). Much like Willen, 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 aeroplanes or the sound of keys, for instance, produce memories of arrest and detention, triggers that lead to a reassertion of migrants' sense of insecurity, bringing out fear and anxiety.

Hamid came from North Africa on a six-month tourist visa with no intention of staying in the UK. Back home he had a job he liked and that afforded him a good lifestyle. He was single but very close to his family. During his stay in London he met and fell in love with a British citizen, now his wife. His wife has two children from a previous (abusive) marriage, and together they have a daughter. After a minor and very unfortunate incident with the law, Hamid was served with a deportation notice. By the time I met with him, he 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. 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 reveals many of the issues that research participants identified as impacting upon 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 leaving them with little or nothing to distract them from concerns over their deportation.[1]

To Hamid, being financially dependent on his wife seriously challenged his male identity – feelings of emasculation were often described by research participants.[2] The 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 on their families. Facing deportation can also be a significant financial strain on the household. Some appellants have lost permission to work, others cannot be employed as a consequence of the conditions of bail. Some are self-employed, but their income is uncertain. 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 George and most others 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. If I want to get the things back I have to give them back [£]1,000 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.

Feeling useless is compounded by an additional sense of worthlessness due to an awareness that one's presence in the UK is undesired, an issue felt acutely by Maria:

> 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*].

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 Chapter 3, forms of state control such as detention and reporting undermine migrants' sense of self by making them feel untrustworthy, infantilised and dehumanised. Likewise, chronic stress and long-term uncertainty are internalised and become 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 afflicted many research participants, both appellants and relatives.[3] Most have gained or lost visible amounts of weight, and all described feeling that they had aged, feelings exemplified by hair loss and greying, and the appearance or intensification of wrinkles. Hamid had this to say:

'I was 78 kilos, 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'.

Research participants were well aware of how much deportation had become embodied as a corrupting agent, and many health problems experienced by appellants and their relatives were directly attributed to their deportability, as George makes clear:

> And now I have a premature baby, born at six months. And the question is why was he born at six 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 7 P.M., we went out to the park with the kids, I saw she was very pensive. At 3 A.M. 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.

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 George's words above exemplify, a direct link is established by research participants between stress derived from deportation and early births and miscarriages. It is not my place to validate or challenge these claims. The point is that appellants and families believe that one was the consequence of the other, and this belief has effects: it reasserts a sense of 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. Hamid, like 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.

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 aim of the system. Hamid met with me a few days after his last appeal at the Asylum and Immigration Tribunal (AIT). At the time he was still waiting for the determination but his mind was made up that this was it for him. He

hoped that there would be a good outcome, but should the appeal by denied he would fight no more and would return to North Africa. He felt nothing any more; he could not 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 describes 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 okay. 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.

The sense of responsibility that he feels for the well-being of others is not particular to Hamid. For George, the early birth of his son added to his guilt, as his narrative above illustrates. Randall 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 (Randall 1987: 466). This is a feeling echoed by most research participants. As David says, 'Because of my mistakes the family pays the price'. David had been appealing his deportation for two years by the time I interviewed him. He arrived in the UK with his wife and his oldest son in the 1990s, escaping the civil war that has devastated their country. His two younger children were born in the UK:

> 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 fourteen 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, it's 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 ten years. What is that? It's absurd! It doesn't make sense.

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; forming personal cues; 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 if they will 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 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 Chapter 2 showed, the long-term waiting experienced in the deportation appeals process is marked by alternations between, on the one hand, short periods of intense activity in preparing the case and meeting deadlines, and on the other, a long-lasting uneventfulness (Craig, Fletcher and Goodall 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 their appeal. Long-term waiting, however, is not necessarily a passive activity (Griffiths 2014; Turnbull 2014). Rotter (2012) and Fritsche (2012) contend that such long-term waiting for a 'normal' secure life ought to be understood as an engaged activity.[4] In fact, appellants and relatives do try to make the most out of the (now undetermined) time remaining to the appellant 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 does not 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 stands still. For most, this long-term waiting is a further punishment.[5]

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. Hamid had this to say:

> I did, you know, when I come here the first time, 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.

Like Hamid, many other research participants commented on how they felt their lives were on hold, the plans they had made before now 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 were put 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. Sometimes 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 it, and would (indeed did) provide an income source for him and his family when formal employment became unfeasible.

Many research participants described feeling as if time itself was standing still, because their lives were not moving forward. This feeling was unsettling to the point of a craving for closure, even if that meant removal. In fact, as seen in Chapter 3 many in detention are broken down into wanting to be deported. Hamid, and others I spoke to, would not go as far as 'wanting' to be deported, but he did

express reaching the point where he no longer wished to fight his deportation:

> Yeah, just fed up. I was going. One night I was going. I told my wife, 'That's it, that's it. You come once a year or two times a year and my daughter she gonna stay 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 ten years you know! Then they not gonna accept your application. I told them, 'I don't care. I'm tired'.

In fact, the waiting and uncertainty that ensues in the course of deportation is so exhausting, and the desire for 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 – a feeling David holds:

> 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.

This feeling was also prevalent in appellants' family members, as narrated here by Tania with regards to her partner's deportation:

> 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.

Of course these words cannot be taken at face value.[6] 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 the 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 worse, they just want to know what is going to happen so they can plan accordingly and proceed with their lives.[7] The pending threat of deportation hinders migrants' ability to rebuild their lives following conviction, as this extract from the focus-group discussion I ran exemplifies:

> M: When I first met Ines I was in a really bad state because I live in my flat where I live for twenty-two years, I'm still there and when I met Ines I was going through a really hard time … 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 in front of my building because I was scared that they could come anytime and take me to the detention centre or something like that.

Also clear from this extract is that living with the pending threat of deportation affects migrants' spatial and temporal constructions of risk (Khosravi 2011; Talavera, Nunez-Mchiri and Heyman 2010; Willen 2007). Risk, conceptualised here as the possibility of detention and forced removal, was remapped onto the weekly appointment at the reporting centre (see Chapter 3) and the nights at home, as shown above. In a more extreme case, for Samuel, electronic monitoring turned his home into a prison during curfew hours. Home is no longer a safe haven, but a site of imprisonment or perceived risk, particularly at night-time.[8]

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 to the AIT, as seen in Chapter 2, but also in their daily lives. Appellants tended to disclose their immigration problems only to those 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 case:

> I told the people close 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 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's words illustrate 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 the migrant's concern. Constant reassertions that 'it will all be okay', although appreciated, leave appellants with a sense of loneliness: no one but them and their families really understand 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 imposes on her. Volunteering was vital to many as a way of being active, feeling useful and being distracted from deportation concerns.

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

> But I think what's helping him [her partner, who is appealing deportation] 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.

Both Samuel and Julio had rediscovered their faith during this period of uncertainty and become more and more engaged with their religions. For most research participants, faith and religion were important for coping, even if their congregations were usually not aware of their dire situation. In fact, a renewal of religious faith 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 like Tania:

> 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.

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 desire to endure dwindling.

## Vanishing and the Death of the Self

In 1987, Margaret Randall published an article detailing the impact of her own struggle not to be deported from the US. 'Deportation', she writes, '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 … [D]eportation is then a state of mind as well as a state of the body' (Randall 1987: 479). As Randall suggests, 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 is thus felt 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 on their holidays, in the suspension of future plans, in the physical absence of the appellant when taken into detention. Here, my discussion will focus on the process of 'putting self apart' as a coping strategy in managing deportability.

Ågård and 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 and so on), they felt that their own needs and anxieties were illegitimate – care and attention should be focused exclusively on the patient (Ågård and Harder 2007). Many parallels can be drawn

here. Remember, for instance, Hamid's description of his attempts to appear happy to his 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 absence, to what Randall (1987: 479) describes as vanishing and the death of the self.

Like the relatives of ICU patients discussed by Ågård and 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. Hamid, being consumed by this concern, became unable to talk about anything else. So, like many others, he just does not talk, is 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 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's words are 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 what they are experiencing. 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 did not want to, but mostly because they do not 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 I ran 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, the conversation ran as follows:

> M: Listen guys, this was really nice to meet people like you that I can talk to about this situation and feel okay 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 anything 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 things out during interviews and the focus-group discussion was a relief, just like being heard in court was important for their sense of a 'fair trial' as seen in Chapter 2.

Appellants do not always disclose their deportability to others, sometimes not even to close family members like parents and siblings. Not disclosing this means not counting on their support and again feeling isolated. For young offenders, like Samuel and Tony, the need to avoid previous (dodgy) connections can mean 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,[9] appellants and family members do prepare as best as they can for the gap that removal will create. Maria expresses her concern thus:

> 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 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 sister's house, it's my youngest niece that's been holding me up all day today. She is seventeen 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.

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 possible removal of the appellant; appellants too make conscious efforts to protect themselves from the pain of separation. Maria goes on:

> I can't bear … [*cries*]. 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 okay 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 again*], 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.

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 with 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 ten 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 [*cries*]. Her childhood will be over, it will be very hard to keep the relationship from abroad.

What is narrated here by Maria and Tania was described by others: appellants and family members, in attempting to protect themselves against the eventual absence of their loved ones, withdraw from them – they become more distant and less available. The absence of appellants 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 discussed by Ågård and Harder (2007), to retrieve as much information as possible from everywhere possible. Ågård and Harder 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' (Ågård and Harder 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' (Ågård and Harder 2007: 174). These assessments, or personal cues, were not, however, always fully informed and often led to misconceptions on the condition of the patient. In much the same way, 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 2). 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. George, for example, e-mailed me in October 2011 in response to something he saw: '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'.

The internet is used by many too. In fact, most people who contacted me through my research web page were seeking informal legal advice – which I was in no position to offer. 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 own 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 to the desire to retrieve as much information as possible about their chances in the appeal hearing, preparations for an eventual return were seldom made, even if deportation and its implications for the family was constantly on appellants' minds. No efforts were made to retrieve information regarding housing, work opportunities and such like in their 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 influence how a person foresees deportation to their country of origin. Whereas first-generation migrants focused on the emotional pain derived from family separation and financial hardships, the 1.5 generation (that is, those who migrated to the UK as children or in their early teens) focused on incidents of displacement, ignorance and isolation. First-generation migrants were seldom capable of conveying their imaginings concerning return in the context of deportation. They just could not or did not want 'to even think about that', which can be related to their general unwillingness to make arrangements for their eventual return. The few who did manage to convey how they foresaw their 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 to begin with. 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 the 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 how they imagined their return. Not having children and spouses of their own, for most returning was a scary and unsettling prospect, but it was not a cause of despair. 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 can establish a life and how frightening that realisation is to them. Maria explains:

> 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 works, 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.

Parents of UK-raised young adults like Jamal 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.

And Naomi:

> My mum 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'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 someone with an income. This was a major concern for research participants, who felt the Home Office does not really consider how deportation impacts upon 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 four 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 mum 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, blah blah blah, and you pay the penalty'.

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. A nd other people are not. When she [daughter] is 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.

Many spouses or parents of appellants fear they might have to quit their jobs and become dependent on welfare.[10] 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. 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 might be returning soon. To prepare for return is to take deportation as certain. It was not until her case was beyond hope that preparations were made by Maria:

> Like I said I don't know anybody there, so I thought okay, 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 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 it was only a matter of time until she would be deported.[11] 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.

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 £1,000 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 he be deported, 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 to manage 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; Randall 1987; Willen 2007). 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 on 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. Take Hamid:

> 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 stays here behind me? My wife behind me? 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 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.

Tania's partner, Latrell, joined his mother in the UK in his late teens. He arrived as an asylum seeker, and the rest of his family had been killed prior to his leaving for Britain. For him, the prospect of return was dominated by a fear of violence. He absconded when his appeal was dismissed, and he was eventually caught and deported. He now 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 to his native country meant having to deal with the consequences of breaking his license and possibly spending more time in prison. Equally important for him, it also meant the cancellation of all he had accomplished through rehabilitation while in the UK penal system: it meant 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. 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 aims.[12]

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 except Latrell would agree with Hamid, that wherever they are 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 did not. 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 with their country of origin did not make their forced return a welcome development of 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 having to leave the place they consider their home. This generational group has little or no memory of living in the country of origin and their links to it differ considerably from those of their parents and the appellants that migrated as adults. Along with their parents, a few had visited the country they are to be deported too, but most had not. Some spoke their country's native language, others did not. 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 (2004) captures this feeling well in his discussion of 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 Drotbohm 2011; Moniz 2004; Ygvensson and Coutin 2006; Zilberg 2004). 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 seeing 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 prepared 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 part of 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 the fact of deportation, research participants considered all other options, including migrating to a third country. Such a third country could be one where the migrant has close family members or other support networks, that offers them better opportunities to rebuild their lives and, very important, which is closer to the UK (and thus cheaper to travel from), thus facilitating family visits. However, there are visa restrictions for many, and migrating to a third country is not always feasible, as Naomi makes clear:

> 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 mum is over here and so over here is my cousins, my uncles, most of my mum'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'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 [X, a 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 [X], so I can go there.

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 for which he was sure he would be able to obtain a visa. Tony also contemplated life in countries other than his own if he was 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 obtaining a visa and on the transnational social relations that migrants have sustained.

Experiencing deportability also impacted on migrants' sense of the future in the UK. In Chapter 3 George's 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, particularly over the way they had been treated since their conviction. Maria was very clear on this:

> 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.

McGregor (2009) also describes feelings of hate and anger among formerly detained Zimbabwean asylum seekers in the UK and details how detention has impacted upon 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 (see Chapter 5). Rather, disappointment with the UK and its justice system prompted many migrants to review their future plans of residing 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 thirty-nine years 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 for 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 leave 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 four options: first, the family unit departs; second, the appellant departs (to the country of origin or elsewhere) and the family remains in the UK; third, the appellant goes underground and the family stays; fourth, 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 arrest and deportation. Apart from Latrell, who went underground soon after his last appeal was dismissed,[13] none seriously considered these options.[14]

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 to family life runs deeper than the AIT envisages, as not one of them considered moving the family out of the UK: for them deportation meant family separation (or even termination), but never family relocation. 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 twelve months of fieldwork I never once came across a family that considered relocating themselves to the place the parent, child or spouse was deported to. 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 alone 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 West Africa once, for three weeks, during the three years of his ban on returning to the UK. 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 a pressing issue also suggests that permanent family relocation did not feature in their plans.[15] 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 (Das Gupta 2014; Drotbohm 2011; Golash-Boza 2014; Golash-Boza and Hondagneu-Sotelo 2013; Hagan, Eschbach and Rodriguez 2008; HRW 2007; Moniz 2004; PDHRP 2009; Peutz 2006; Zilberg 2004).[16] For the AIT and the Home Office, family separation brought about as a result of dismissed appeals, such as the above examples, stems from families choosing not to relocate with the appellant, as no major impediments to doing so were stipulated by the AIT. 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 (Jansen 2011; Jeffert and Murison 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 to the understanding of migrants' reluctance to relocate.

The first-generation migrants in this study migrated to the UK as young adults, either singly or jointly with newly-wed spouses. Some, like David and George, viewed their lives in the UK as settled and had no desire or intention to 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 she had the financial means to settle comfortably there. At this point in their lives, and whether or not they envisaged an eventual return home, none was ready to depart from the UK or migrate elsewhere. Now aged between thirty and fifty, they were still advancing their careers and had young children to raise. George, for instance, emphasised 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.[17] 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 lifestyles, 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 youths could hardly expect their parents and siblings to return with them. Like the first-generation migrants 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 involves 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 were they to move (Bhabha 1998; Brabeck and Xu 2010). It also involves the cancellation or deferral not just of their spouses' professional activities and 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.[18] 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 the family in general hoped for, and which was envisioned for 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 controls and implement increasingly restrictive migration policies, family separation becomes ever more common both through deportation and removal and the 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.[19]

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.

## Notes

1. It may be more than coincidence that the one appellant interviewed who was not consumed by thoughts about his deportation was Basem, a very busy businessman.
2. McGregor (2009, 2011) also found that Zimbabwean asylum seekers felt emasculated due to dependency on relatives.
3. These symptoms or expressions of concern have been documented in other studies concerning deportable migrants and their families, mostly in the US (see Brabeck and Xu 2010; Das 2008; Hagan, Eschbach and Rodriguez 2008; PDHRP 2009; Randall 1987; Talavera, Nunez-Mchiri and Heyman 2010).
4. 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 ways to occupy their time, by developing social and religious networks and social relations, strengthening their cases and so on.
5. McDonald (2012) refers to waiting as a 'time tax' that further penalises defendants) in the context of young criminal offenders.
6. Craig, Fletcher and Goodall (2008) found that asylum seekers felt similarly about their adjudication process.
7. 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 one of their main concerns. 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.
8. As mentioned in Chapter 3, 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.
9. 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 a 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.

10. Dependency on welfare is also a documented outcome of deportation in the US context (see Brabeck and Xu 2010).
11. Note, however, that, two years later, at the time of writing, Maria is still in London 'waiting' to be deported.
12. 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 period is over.
13. Perhaps not coincidently, Latrell was the only research participant who feared for his life if removed to his country of origin.
14. We saw in Chapter 3 how deportees viewed 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.
15. Tony had already filed for citizenship when he was convicted, but for others, applying for citizenship was carried out when the deportability of one family member made it all too clear that the family's ability to stay in the UK could not 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.
16. 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 to leaving the place they had made their home. Those who did try faced extreme difficulties in adjusting to life on the islands, not only 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.
17. Maria and Basem both migrated to the UK at a young age, but unlike other 1.5 generation appellants, they were in their fifties. They had children and grandchildren, had always lived in the UK and never considered migrating elsewhere.
18. 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 the 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.
19. A study of migrants from Hong Kong and Taiwan to Canada, albeit not in the context of deportation, also finds that family separation after migration (not upon migration) was preferable to the return of the whole family as it allows the family to pursue improvements in their life chances, including those of the children (Waters 2011).

– Chapter 5 –

# On Compliance and Resistance

In 2009, half way through my fieldwork, I was e-mailed a call for papers for a journal special issue on migrant protest that I immediately put aside. After all, I thought, my research participants do not 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 punished consecutively for an offence for which they had already served a sentence. 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 acquiescing to the state's attempts to force them to leave the country. By not giving into the

pressure to leave, and enduring the period of 'limbo' that becomes part of 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 movements in three European countries,[1] 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-organisation' (Laubenthal 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 and Vigneswaran 2011) and that there is in fact scope for resistance and contestation (Abu-Laban and Nath 2007; Ellermann 2009, 2010; McGregor 2011; Nyers 2008; 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 e.g. 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 on detainees, through the realisation that they are rights-bearing subjects (cf. Peutz 2007) who upon release may pursue open political action (McGregor 2011). Furthermore, the unprecedented mobilisation 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 lack of rights, 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 and so on. Equally, protest and campaigning 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 the deportation of long-term migrants following criminal convictions (Bhabha 1998; Dembour 2003; HRW 2007; Steinorth 2008). In the UK, many advocacy and migrant support groups advocate for migrants, support their campaigns and contest immigration policies (Bhattacharyya and Gabriel 2002; Sen 2000). Trade unions also 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, the Southall Black Sisters, No One Is Illegal (NOII) and Women Asylum Seekers Together, 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 of political action, such as protests and demonstrations. 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 e-mailed 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 e-mail 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 [then deputy Prime Minister] and Damian Green [then Minister of State for Immigration].

She also wanted to 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, challenging deportation policies in general. In fact, most other research participants were reluctant to consider any kind of protest, demonstration or other form of collective political action. I met David close to Communication House, where he had to report weekly on Wednesday mornings, for a follow-up interview. 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 [at the reporting centre] every day, 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 focuses 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 protests, 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 and 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 and so on. It also means actively involving 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. ADC 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 provide. Most produce brief guidelines on how to campaign and some logistical support. In 2007, NOII published a practical and political guide to fighting to remain in the UK (NOII 2007). Most advocacy groups refer migrants to it.[2] 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 action 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 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 my 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 the 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. According to them, the Home Office's stand on the matter is once a criminal, always a criminal. 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 punishment. They are fully aware that British citizens convicted of offences also face difficulties upon release from prison due to their criminal record, such as 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 the justice system, this time immigration courts, and be subjected to a whole new set of surveillance practices that again bring their lives to a halt. As Maria says, their status as foreigners becomes ever more important after criminal conviction as they have forfeited their right to stay 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? [*cries*] 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 [sic]. 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.

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 first by a sense of powerlessness to do anything about it, and second, by 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 they 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 (Bhattacharyya and Gabriel 2002; Sen 2000). For instance, individual ADCs can challenge the notion of 'public interest' by emphasising the financial independence of migrants and their many contributions to the community (Bhattacharyya and Gabriel 2002). 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: demand support – don't beg for it; don't argue your case is exceptional (NOII 2007). 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. For instance, while David may consider the Home Office's policies to be 'over the top', he is also very aware that deportation arose from his own actions – it is a direct result of his conviction, for which he is 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.

As David's comments show, even if the deportation process and its associated living conditions are deemed to be a hard and unfair second punishment, foreign-national offenders are aware that they committed an offence and they feel responsible and accountable for it. Andre commented in a similar vein:

> 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.

During the focus-group discussion, Maria wondered if the others would like 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 on the ADC support groups' approach of 'demanding' support for their cause and placing full responsibility on the Home Office for their deportation. Ultimately, they acknowledge their part in their predicament. However, acknowledging their role in the events leading to their deportation is not tantamount to considering deportation and related policies (such as detention, reporting) 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 conviction for a drug-related offence:

> 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 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.

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 asserts that all cases deserve solidarity and thus should not lead to 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, that it is the policy in itself that is failing. This allows ADCs 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 illustrated here by George, Basem and David respectively:

> 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 person 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.

> At the end of the day it is my safety and my family's safety. If you are in this country five years and you are not married, never paid taxes and always chancing criminal activities, those five 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.

> 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.

Research participants are thus not against deportation policies per se, they are just against their own deportation. And arguing that one's own 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 (that is, that they should only be applied to those committing very serious offences).

This apparent contradiction is not limited to deportable migrants. Ellermann's (2009) study reveals how the dynamics of migration control vary over the policy cycle: while people may in general and abstract terms want stricter immigration 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 Anderson, Gibney and Paoletti 2011; Freedman 2011). Relevant here are the arguments of Paoletti (2010) and Anderson, Gibney and Paoletti (2011) on deportation as a practice that not only accentuates the divide between those who belong and those who do not, but which also acts 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, Gibney and Paoletti 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, foreign-national offenders are less deserving when seen through society's lens of normative behaviour (Anderson, Gibney and Paoletti 2011; Anderson 2013). 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, placing emphasis on vulnerability and the need for protection. These petitions also used careful wording to justify or minimise the offences, which were in all cases first offences of minor severity, as exemplified in the petition for 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'.[3]

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 internalised the discourse of deportation through their own deportability. But if forms of open political action are not 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 empirical data, I conceptualise compliance as a strategy of resistance. To equate compliance with resistance is counter-intuitive, not to say paradoxical. Resistance is 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 migrants, that is, '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 [nine-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.

Yet being detained upon reporting leads to a halt in migrants' defiance. For David it brought both fear of being detained again and the clear realisation that government officials have absolute power over him:

> 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?

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 of challenging state power over their bodies and their lives, for research participants this was never a form of resistance to deportation. On the contrary, being detained upon reporting made them realise that resisting deportation could only be achieved through compliance with precisely the state powers that seek 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 as expressed here by Andre:

> It's shit! You are arrested, they are controlling you, you can't go anywhere. You have a dog leash; 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 mum 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's narrative reveals how reporting and other conditions of bail make him consider the option of absconding, something which he does not 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 to removal or falls back into crime, thus weakening one's chances of remaining in the UK. Take Ruben's words:

> 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.

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 deportability. When I asked David in what ways, other than appealing at the Asylum and Immigration Tribunal (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 a 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 on 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 twenty-six 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 and so on) 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 4, 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 and 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 accept the system with a 'fatalistic passivity' (Sutton and Vigneswaran 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' (Sutton and Vigneswaran 2011: 637). Then there are those who attempt to manipulate the system for their benefit: some hold hunger strikes to contest their status as 'illegal', get public attention and press for faster determination of their cases. Others play their identities according to the outcome they hope for: 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 a 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 power structures – to resist something one must first acknowledge and accept the existence and power of what one is resisting (Foucault 1998, 2003). In that sense, the actions of Sutton and Vigneswaran's latter group of migrants remain unclear: by 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 either struggle for power by ignoring state power over them, giving them some sense of autonomy; or they struggle for freedom when attempting to halt deportation proceedings against them. However, unlike Sutton and Vigneswaran, 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 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 own deportation.

However, before labelling people's actions as 'resistance' one should consider what it is exactly that people are resisting. In the case in hand, are migrants resisting the dominant power: 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 (Katz 2004) 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 and 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' (Sutton and Vigneswaran 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 work on dominance and resistance, mainly that of James Scott. Scott's study of the 'weapons of the weak', the everyday forms of resistance of Malaysian peasants (Scott 1985), has become acknowledged as a classic. Focusing on the 'prosaic but constant struggle between the peasantry and those who seek to extract

labour, food, taxes, rents, and interests from them' (Scott 1985: xvi), Scott argues that 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 'foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, sabotage' (Scott 1985: xvi). In the context of my own research, 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, even if there is a lack of non-compliance. These acts of resistance are individualised as opposed to collective acts of disobedience, short-term oriented as they are not undertaken to generate structural change, and indirect as they do not directly confront 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 (Jones 2012; White 1986). 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 'weapons of the weak' but did not seem to be resisting the colonial power per se. Although peasants resisted working on the land that was expropriated from them, which they saw as a tremendous injustice, they willingly worked for the French on the building of roads and other items of infrastructure.[4] They contested only the practices they considered illegitimate. Similarly, foreign-national offenders in the UK are not contesting deportation per se – a practice that 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 Ellermann, studies of compliance reflect two

trends that are not mutually exclusive. 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 trend puts the emphasis on a moral assessment: individuals comply with certain state orders because they consider them legitimate, and not just because these state orders have prevailed in a cost–benefit calculus.

Following the first approach I could say that research participants comply because abiding by the controls and conditions set by the Home Office improves their chance of being able to stay in the UK, whereas defiance may hinder their case and lead to their removal. Yet, this simple cost–benefit analysis hides the underlying perception 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 the merit of their own case, meaning that they contest only their own deportation but 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 subject to adjudication. We saw in Chapter 3 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's real intentions: coercing 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 laws and policies that in this instance provide space for individual resistance (cf. Abu-Laban and 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 of remaining 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 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', that is, more reason 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 further 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 '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 resisting the notion that they are a threat to society and hence should be removed. They are resisting the idea that they are criminals and a danger to society (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 the host state. Prior to their conviction, this project's research participants had leave to remain and enjoyed a peaceful and productive relationship with the host state.[5] 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.

## Notes

1. Broadly speaking, pro-regularisation movements are social movements that support a regularisation of the status of irregular and undocumented migrants to allow them to live legally, and permanently, in their host country.
2. At the time of writing, the National Coalition of Anti-deportation Campaigns was developing its own guide to campaigning against deportation.
3. Marika's petition is available at: http://www.gopetition.com/petitions/stop-the-deportation-of-an-ex-british-army-soldier.html, last accessed 21 May 2012.
4. However, like Scott, White (1986) 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 this perspective.
5. White (1986) makes a similar point in her study of peasant resistance in Vietnam.

# CONCLUSION

This book aims to provide insights into how deportation and deportability translate into social reality and how it impacts upon 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 reshapes 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 the wider significance of this anthropological study of the removal process.

## Deportation as a Process

As noted in the Introduction to this book, 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 someone, 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 experience living in 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 Asylum and Immigration Tribunal (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 book suggest that for research participants, whether 1.5 or first-generation migrants, 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 in the previous chapters also highlight how the interruption of migrants' existence in the UK is affected 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 ensuing chronic stress and long-term uncertainty. Enduring uncertainty is extremely tiring and exhausting. In enduring it, appellants and relatives navigate the legal appeals system in the hope that it will bring 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 3),

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 to 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 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 take on the migrant's tasks and roles 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 book is how, in the course of their deportation, research participants began considering themselves as 'rights-bearing subjects' (see Peutz 2007). Whereas prior to conviction the family was seen as a social and personal matter involving personal choices and social relationships, they now take family life as a human right, as something they are entitled to in international law. Finding themselves embroiled in the legal processes, 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, 'learning the law' translates into 'speaking the law' – they have appropriated a rule-oriented narrative for 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 evident in the efforts appellants deployed in making their cases and in their own understandings and readings of procedures. Appellants may adopt a rule-oriented approach in court (see Conley and O'Barr 1990), 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 (see Chapter 2).

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 and/or offenders, by both their legal representatives and the AIT is testament to their relational orientation.

In adopting or furthering behaviour and activities that strengthen their cases and in complying with their conditions of bail, appellants are also 'living the law' in some sense – they bear the impact of deportation polices on them but also live their lives in accordance with their cases and the restrictions set on them by the Home Office, and experience 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 embodied experiences pervade everyday life and impact upon their sense of time and space, social relations and sense of self (cf. 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 immobility through detention or reporting, the pervading threat of deportation, and 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 the border' (Khosravi 2011: 99). As this book shows, deportability intrudes on 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 at university because they cannot afford overseas fees and are no longer entitled to home fees, when they report to the UK Border Agency (UKBA), when they are detained, when they cannot join their families on holiday, when they cannot provide for their families, when they meet with their legal representatives, when they are in court. Furthermore, they feel the border every time they spot white vans, hear the sound of keys or of aeroplanes going by, and when the post comes through the door.

## The Right to Stay

This book also reveals how deportation affects and reshapes 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 also taken 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 in appeals (in particular bail applications) reinforces their vulnerability; and how they feel rehabilitated and deserving of a second chance that is denied 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 3 and 5 how migrants consider the policies of deportation legitimate, 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 for detaining people or submitting 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 (2015) 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, not just as an appellant and offender. I have shown in Chapter 2 how

this was vital in migrants' understandings 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' perceptions 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 4).

As Coutin argues, 'the stripping away of a prior legal identity is a violent act' (Coutin 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, and hence, as shown in Chapter 5, they were not resisting policies of deportation, which they agreed with, but through compliance they were resisting the very notion that they themselves 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 5, research participants resist deportation by acknowledging and accepting state power over them. While they consider the power to deport to be legitimate, they do not consider legitimate the restrictions and control ensuing from deportation because they see them as strategies for rendering their lives impossible to the point of agreeing to leave the country. Yet, the threat of deportation and detention, and the imposition of reporting appointments, also work to discipline them. Defiance of reporting, as seen in Chapter 5, was seldom enacted and often short lived, but the disciplining effect goes beyond lack of defiance. When combined with migrants' own perceptions on deportation it leads to compliance with state orders and seriously disciplined bodies. I have mentioned that research participants were in favour of deportation policies, contesting only their broad applicability (as in, they should be restricted to serious offences like terrorism, rape, murder) or the unsatisfying consideration of the merits of their own cases. In particular, migrants contested the notion that they are a danger to society. They see the harsh living conditions of deportability and conditions of bail as a trap to make them fail and turn to crime, rendering them ever more deportable. They thus resist that goal by complying with state restrictions and control and not agreeing to removal. It is important too to remember here the high stakes for migrants: deportation will mean family separation and the end of all they have accomplished since their arrival in the UK. By complying with state orders and performing a good legal case, they are able to fight to stay and resist the notion that their deportation is in the best interest of British society. It is thus precisely the punitive effect of such practices in inducing intolerable living conditions in a situation where migrants have a high stake in wanting to stay that works as an incredibly successful disciplinary tool. 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.

## Beyond an Ethnography of Deportation

The findings presented in this book, 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 AIT, 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 to family life entails. This book has emphasised that for research participants the disruption of family life runs deeper than the AIT envisages, as not one appellant considered relocating their family outside the UK (see Chapter 4), and in fact none did relocate the family. For all, deportation meant family separation, or even termination.

Chapter 2, on experiences of appeal hearings, highlights some central findings. For judges in immigration proceedings, it reveals the importance to appellants of being heard in court and how perceiving the panel of judges as interested in what they have to say is vital for both appellants and their families when giving evidence. Providing a relaxed atmosphere when the case is examined, in opposition to only enquiring into facts that justify deportation, was vital for research participants' perceptions of being given 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 Home Office Presenting Officer (HOPO) may cross-examine them in a hostile manner.

This book 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, of ensuring 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 book, and in particular in Chapter 5, 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 Anti-deportation Campaign (ADC) support groups. Emphasising, especially in their written materials, their desire to assist foreign-national offenders in campaigning against their deportation and helping them in their fight to stay may in itself be much needed encouragement. ADC support groups are unlikely to change their premises, which as seen in Chapter 5 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 their own deportation, and re-assess its accountability. Understanding how foreign-national offenders perceive their own deportation may assist ADC support groups in devising other means of catering to this segment of the deportable population and showing their support.

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 book, 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 under-explored. 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 significant 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 appeals were dismissed and their relatives who remained in the UK after their deportation. The end of the deportation process is far from being the moment of 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 prison sentences, it becomes relevant to examine the impact that these policies are having on the ground. In this book 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 specific segment of foreign-national offenders – those who were appealing against their deportation; a particular moment in the deportation process – that of appealing against deportation; and a particular geographical location – London.

This book has not addressed deportation from the point of view of the state and the institutions and officials working on its behalf, nor did it focus on public perceptions and the media. Equally important to 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 at sites of immigration control (the Home Office, UKBA, AIT, IRCs, reporting centres and so on) 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 processes of those foreign-national offenders who chose not to appeal against their deportation and were thus deported from or left the UK under the Early Removal Scheme (ERS) and Facilitated Removal Scheme (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' (Peutz 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' (Peutz 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 the Introduction to the book I 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 their experiences. 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 offers. Yet, as I explored in the Introduction, the study of non-spatially bounded social phenomena is being increasingly better addressed within anthropology, as well as other disciplinary fields.

Answering the call for anthropological examinations of removal, this book set out to examine the experiences of deportation and the 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 affects the whole family, even if they are British citizens and thus protected from deportation themselves. Overall, this book portrays deportation as a process that develops from the embodiment of migrants deportability while their present and future

lives become suspended by the threat of expulsion from their chosen country of residence.

As migration is increasingly tied to security concerns (Bigo 2008; Guild 2009; Inda 2013), it would perhaps make sense to end by asking whose security is being served by deportation policies. In this book I have sought not so much to answer this question as to formulate why we need to ask it and why it is important to reflect more on it. Despite its dubious effectiveness both in managing migration and protecting national security, deportation has come to be regarded as the unavoidable way of dealing with those foreign nationals who are deemed unwanted. This is so not just the case in the UK but also in an ever increasing number of countries across the globe (see Aas and Bosworth 2013; Anderson, Gibney and Paoletti 2012; De Genova and Peutz 2010). I have examined here how security concerns and the state's control of migration translate into migrants' everyday lives, affecting their sense of self and instilling in them an overriding sense of vulnerability. The deportation narratives presented here are illustrative of how those who are deemed a threat to security and hence are subject to surveillance and banishment constantly feel vulnerable and in need of protection, and how their sense of security is affected by such policies.

In her study of cultures of immigration detention in the UK, Hall argues that detention is not operationalised as the answer to a problem of border control, such as illegality. Rather, through detention the government has an effective tool 'through which individuals and mobile populations become managed as illegal, undesirable or threatening' (Hall 2012: 7). Much the same way, this book suggests that discourses of security in the context of deportation policies in the UK have been successful not in addressing a threat to security but in producing and managing the category of foreign-national offenders as dangerous to the public. This segment of the population has thus come to be understood as a threat to security and governed accordingly (cf. Bigo 2008). The policy imperatives to deportation are far from tested and call for further discussion, if not questioning.

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