

Book Review

Rich Furman, Douglas Epps and Greg Lamphear (eds),
Detaining the Immigrant Other: Global and Transnational Issues
(Oxford: Oxford University Press, 2016) 220 pages.

Jenny Poon[†]

An extraordinarily timely contribution to literature, *Detaining the Immigrant Other*¹ is a rich collection of chapters on the issue of administrative, or immigration, detention – an important subject that is often neglected. An important distinction between immigration detention and detention in the criminal context is that individuals detained under administrative procedures are not afforded the safeguards available in the criminal context.² The title of the book highlights the predominant narrative surrounding the criminalization and marginalization of migrants as the “the other.”³

The edited collection contains analyses on immigration detention in a variety of contexts and jurisdictions, including: The Netherlands, Malaysia, United States, Mexico, Greece, United Kingdom, Indonesia, Hong Kong, Europe, France, Australia, Turkey, Afghanistan, South Africa and Canada. The book fills the gap in existing literature by examining the issue of immigration detention through global and transnational perspectives, while incorporating research findings from a variety of disciplines with the central aim of answering the main research question: what is the situation of immigration detention, and how does it situate in the increasingly globalized world of migration? This interdisciplinary work examines the topic of immigration detention through a variety of different lenses such as political science, international relations, law, sociology and gender studies, by using both empirical methods and qualitative analyses.

Several underlying themes are enumerated. First, states use immigration detention as a deterrence method to discourage undocumented migrants and asylum seekers from entering their territories. While not necessarily

[†] Doctor of Philosophy in Law Candidate, University of Western Ontario, Faculty of Law.

¹ Rich Furman, Douglas Epps & Greg Lamphear, eds, *Detaining the Immigrant Other: Global and Transnational Issues* (Oxford: Oxford University Press, 2016).

² These safeguards include possibilities of challenging detention through legal means and limitations on the duration of detention, which are not generally available to administrative or immigration detainees.

³ Furman, Epps & Lamphear, *supra* note 1 at 1.

“punishment,” immigration detention has become a tool for governments in their larger political agenda to deter unwanted migrants. Second, the use of immigration detention by states has curtailed the human rights of migrants in the name of securitization of national borders. For example, the human rights of those migrants who experience multiple victimization as a result of their sexual orientation, gender identity or expression have been expressly denied as a result of these migration policies. Third, migrants are not a homogenous group. They include women, LGBTQ persons, children, those living with mental illness, survivors of sexual violence - each of whom experience detention differently and require tailored protections.

The labeling of migrants as “the others,” “illegals,” and “irregular” by states reveals government policies which aim to criminalize undocumented migrants in the name of national security. These policies have the (un)intended effect of segregating migrant communities further and may potentially trigger anti-immigrant sentiments, exacerbate stigmatization of immigrants and obscure their rights. The Malaysian and Australian examples show how policies and legislation that criminalize undocumented migration and the use of offshore detention facilities as security responses to migrant influx are costly, and their success as a deterrence measure is contested.⁴ The American privatization of immigration detention centres for profit-making purposes has also had detrimental effects, and circumvents the state’s international human rights obligations such as due process.⁵

The authors reveal several trends regarding the practice of immigration detention in various jurisdictions including structural deficiencies within agencies tasked with administering migrant detention centres,⁶ a lack of certainty surrounding many aspects of detention,⁷ the hardship experienced by detainees,⁸ as well as the divergence in methods used by states as migration control. For instance, there are structural deficiencies in Mexican detention centres including wide discretion for officials exercising interpretive powers while administering migrant detention centres, a lack of training among staff, and a lack of a proper sanction system for staff misconduct.⁹ In Greek and British detention centres, there are instances of uncertainty around identity of the detainees themselves, duration of detention and the perception of detainees by the public.¹⁰ In Indonesian detention centres, examples of hardship experienced by detainees include mistreatment by migrant detention centre staff, overcrowding, poor hygienic conditions, poor quality,

⁴ *Ibid* at 43, 147-50.

⁵ *Ibid* at 58-61.

⁶ *Ibid* at 69-71.

⁷ *Ibid* at 82-85.

⁸ *Ibid* at 96-99.

⁹ *Ibid* at 69-71.

¹⁰ *Ibid* at 82-88.

and insufficient food and water.¹¹ As a matter of using immigration detention as a migration control mechanism, Hong Kong uses imprisonment to restrict migration flows, while Malta uses migration policies as a broader technique of curtailing mobility in the Mediterranean region and to contain migratory patterns in North Africa.¹² Turkey, on the other hand, uses immigration detention policies as a method of social marginalization and deterrence through legal and administrative practices and performance.¹³

The strength of methodology in *Detaining the Immigrant Other* is in part due to the combination of gathered fieldwork data, interviews, and reviews of literature and case law, all of which enrich the conversation surrounding immigration detention and the need to enhance protection for migrant detainees. Each contribution within the edited collection creatively highlights the unique struggles and challenges experienced by migrant detainees affected by different immigration regimes. For example, as Shahram Khosravi explains in her chapter, the “warehousing” of those detained awaiting deportation “reduce[s] the deportees to merely body-objects, thinglike, ‘maintained’ as transportable.”¹⁴ And, as Rachel Kronick, Cécile Rousseau and Janet Cleveland explain, “the difficulties of daily living, combined with pervasive understimulation and lack of freedom of movement, make life in immigration detention feel degrading, overwhelming, and distressing for children and their parents.”¹⁵

According to the *Convention Relating to the Status of Refugees*, asylum seekers and refugees are not to be penalized for their “illegal” presence within a territory of a State as long as they present themselves before authorities as soon as they are reasonably able and can show, with good cause, reasons for their illegal entry or presence.¹⁶ Despite this prohibition, as this contribution illustrates, states are increasingly using immigration detention as a method to deter migrant flows. Further, and as reiterated by both the United Nations High Commissioner for Refugees (UNHCR) and non-governmental watchdogs such as the International Detention Coalition, asylum seekers and refugees must be detained separately from criminals and be given, at a minimum, an opportunity to seek asylum and gain access to asylum procedures.¹⁷ As this

¹¹ *Ibid* at 95–98.

¹² *Ibid* at 105–107, 124.

¹³ *Ibid* at 163.

¹⁴ *Ibid* at 173.

¹⁵ *Ibid* at 199.

¹⁶ *Convention Relating to the Status of Refugees*, 28 July 1951, 189 UNTS 137 art 31(1) (entered into force 22 April 1954).

¹⁷ See e.g. United Nations High Commissioner for Refugees, “Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention” (2012) at 12, 19, 29, online: <www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html>. See also International Detention Coalition, “Legal Framework and Standards Relating to the Detention of Refugees, Asylum Seekers and Migrants: A Guide” (2011) at 3, online: <idcoalition.org/wp-content/uploads/2011/07/IDC-Legal-Detention-Framework-Guide_Final.pdf>.

book shows, despite repeated calls from the UNHCR, non-governmental organizations and scholars to comply with relevant international human rights law, the curtailment of the human rights of migrants through the use of detention facilities is ongoing and is often part of a state's larger political agenda to maintain control of its borders. While migration control and border securitization are matters conventionally left for states, this contribution makes a strong case for the need to reform migration control policies, especially with regards to detention, to bring state practice into compliance with international human rights standards.

Instead of a traditional analysis of immigration detention through a literature review or an examination of case law, the authors add to existing literature by incorporating empirical data gathered through fieldwork and in-person interviews from the perspective of multiple countries and state practices on immigration detention. By using quotations from first-hand testimonies in the analysis, the contribution critically reflects upon the deficiencies of each state's immigration detention policies while highlighting the human side of the stories of detainees.

The influx of migrants, asylum seekers and refugees through Europe and other countries calls for renewed efforts to safeguard the human rights of these vulnerable individuals. Now more than ever the fundamental rights of migrants, asylum seekers and refugees must be protected. Overall, this work provides a striking overview of the immigration detention practices of various countries and provides compelling reasons for giving more urgent attention to the vulnerable situation of migrant detainees. *Detaining the Immigrant Other* will be of particular interest to practitioners, scholars and students interested in migration issues and enhancing the human rights of migrant detainees.