



Jan Doerfel

Direct Public Access Barrister

Mr Felipe Gonzales Morales, Special Rapporteur on the rights of migrants
migrant@ohchr.org

UN Working Group on Arbitrary Detention
wgad@ohchr.org

Ms E. Tendayi Achiume, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
racism@ohchr.org

Ms Irene Khan, Special Rapporteur on the promotion and protection the right to freedom of opinion and expression
freedex@ohchr.org

Mr Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association
freeassembly@ohchr.org

Ms Mary Lawlor, Special Rapporteur on the situation of human rights defenders
defenders@ohchr.org

Mr Nils Melzer, UN Special Rapporteur on Torture
sr-torture@ohchr.org

Mr. Fernand De Varennes, Special Rapporteur on minority issues
minorityissues@ohchr.org

Mr Gerard Quinn, Special Rapporteur on the rights of persons with disabilities
sr.disability@ohchr.org

Ms Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
srhealth@ohchr.org

Mr Balakrishnan Rajagopal, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
srhousing@ohchr.org

Mr Obiora C. Okafor, Independent Expert on human rights and international solidarity
iesolidarity@ohchr.org

Mr Joseph Cannataci, Special Rapporteur on the right to privacy
srprivacy@ohchr.org

Ms Siobhán Mullally, Rapporteur on trafficking in persons, especially women and children
srtrafficking@ohchr.org

Mr Michael Fakhri, Special Rapporteur on the right to food
srfood@ohchr.org

Mr Pedro Arrojo-Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation
srwatsan@ohchr.org

4th February 2021

REQUEST FOR JOINT URGENT APPEAL

Dear Sirs/Madams,

I am writing to you in relation to the situation at a former disused WW2 army barracks in Kent/UK (**Napier barracks near Folkestone**) that is currently used to house several hundred asylum seekers (around 400 asylum seekers as of 1st February 2021).

I believe that the facts relayed in this submission and in the articles/links enclosed below span across your respective mandates and would respectfully request you to send a joint urgent appeal to the UK Government to ensure that the UK's international obligations are complied with, that asylum seekers currently detained in both Napier barracks and Penally barracks are transferred out of the army barracks with immediate effect and that Napier barracks and Penally barracks are closed as accommodation for asylum seekers.

Introduction

The UK Government has decided to use disused army barracks as “initial accommodation” to hold asylum seekers whilst these await a decision on their asylum and human rights claims. The Home Office started housing asylum seekers at Napier barracks and at Penally barracks in Pembrokeshire (Wales) in September 2020 despite warnings from humanitarian organisations and healthcare professionals over significant risks posed by Covid-19 at the sites as well as allegations of overcrowding and poor conditions.

Despite the sites being defined as temporary accommodation, the Home Office announced that the sites will be used for 12 months.

Detention

Whilst the UK Government asserts that accommodation at the Napier army barracks does not

amount to detention, the camp has been locked since mid-January 2021 (a decision apparently taken after at least 120 men tested positive for Covid-19).

Furthermore, video footage has emerged that confirmed that individuals are not allowed to leave the barracks. The video shows police officers using force by carrying an asylum seeker against his will into Napier barracks after he attempted to leave yesterday.¹ It is understood that the man in video left the barracks on Wednesday morning (3rd February 2021) by jumping the perimeter fence and demanded a transfer. According to the witness who filmed the incident, after having been brought back in, the man jumped over the fence again and was then detained and taken away in a police car. According to the Guardian newspaper, Kent police stated that he was returned to the barracks for a “Covid breach” but lawyers have questioned their legal authority to do this.²

In a recent High Court challenge on 2nd February 2021 brought by Deighton Pierce Glynn solicitors, the Court heard how residents at the barracks had been told they were not permitted to leave the barracks under any circumstance. The judge (Clive Sheldon QC sitting as a deputy high court judge) described the conditions as “prison-like”.³

An increased police presence at the site has also been reported since Friday 29th January when a fire broke out in one of the housing blocks at the Napier barracks. Kent police is reported to have arrested 14 men in connection with the incident.

Conditions

It is submitted that the conditions of de facto detention are breaching the detainees’ right to the highest attainable standard of **health, privacy**, right to **food**, clean **drinking water** and adequate sanitation.

The accommodation has been criticized by NGOs and migrant rights groups, as well as some of the migrants themselves who have spoken to journalists about inadequate washing facilities, "freezing cold" conditions, a lack of hot water and paltry food supplies of low quality.

¹ <https://www.theguardian.com/uk-news/2021/feb/03/police-filmed-carrying-asylum-seeker-into-kent-barracks-against-his-will>

² <https://www.theguardian.com/uk-news/2021/feb/03/police-filmed-carrying-asylum-seeker-into-kent-barracks-against-his-will>

³ <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>

The charity Care4Calais, which mostly operates in northern France, through where many of those staying at the barracks apparently came before arriving in the UK, tweeted on Sunday 31st January 2021 that "Napier Barracks residents have been without adequate healthcare, mental health support and COVID safety for months".

Since a fire at the barracks on Friday 29th January 2021, the detainees are said to have had no heating or electricity and no hot water and limited food.

Already in October last year, Kent Live had reported that 28 people had to share 2 toilets, that showers were not sufficient for the number in the camp and that toilet floors were soaked in water all day. Issues were raised that toilet paper would run out and that there were no doors blocking the showers depriving vulnerable asylum seekers of any **privacy**.⁴

According to Freedom from Torture, at least 120 people have COVID-19, and there is no medical staff onsite to provide support nor access to GPs or proper healthcare provision and no possibility to self-isolate or distance.

It is understood that the rooms are overcrowded with accounts of between 14 to over 20 in a room, sleeping in bunk beds with nothing but a thin sheet to separate them for "social distancing".

In a judicial review hearing on 2nd February, the Court heard evidence "about the unsafe and insanitary conditions at the barracks, with 14 men sharing a room, lack of heating, poor sanitary conditions, and risk of COVID-19 infection, and about the impact of a recent serious fire, which has forced the Claimant to sleep on a mattress on the floor of another shared dormitory and left the barracks for a number of days with very limited electricity, no hot water or heating despite freezing temperatures and limited food and drinking water."⁵

A doctor with the medical charity Doctors of the World, Claire van Nispen tot Pannerden said the government's decision to keep asylum seekers in the barracks during a pandemic was "beyond negligent," according to the Independent newspaper.

Naomi Phillips, director of policy and advocacy at the British Red Cross, told the Independent that the sites were "completely inappropriate and inhumane." She claimed that

⁴ <https://www.kentlive.news/news/kent-news/inside-napier-barracks-refugee-lifts-4618126>

⁵ <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>

residents told them they had received "no health screenings, were given little or no information about what was happening to them, and simply do not feel safe in the barracks".

Inhumane detention conditions & risk of retraumatisation of victims of torture & trafficking and other vulnerable asylum seekers

There are serious concerns that the accommodation is entirely inappropriate for vulnerable asylum seekers and would constitute a breach of the prohibition against **inhuman and degrading treatment**.

Amongst those detained at the barracks is the reported case of a potential victim of **trafficking** who was seeking asylum and who had arrived in the UK in August 2020. He has been accommodated in Napier barracks since September 2020. Although the Home Office had agreed to transfer him to alternative accommodation on 19 January 2021, he had still not been transferred two weeks' later so his legal representatives Deighton Pierce Glynn solicitors brought an urgent judicial review.

The High Court (Clive Sheldon QC sitting as a deputy high court judge) heard the case on 2nd February this year. The Court ruled that the Claimant had presented a strong prima facie case that the accommodation at Napier Barracks was wholly inadequate for him and highlighted the "prison-like" conditions at Napier and the risk of COVID-19 infection. The Court also referred to psychiatric evidence which showed that the Claimant's mental health "appears to have significantly worsened since being placed at Napier Barracks and that prolonged indefinite accommodation at Napier Barracks has injuriously affected his **mental health**".⁶

The concerns to the mental health of those detained has also been expressed by Freedom from Torture. According to Freedom from Torture, "the **mental health** of residents is deteriorating too and there have been a number of suicide attempts. Recently there have been hunger strikes and residents have refused to sleep indoors in protest at the conditions and the risk of Covid to which they are subjected. The Home Office states that survivors of torture and victims of trafficking will not be accommodated on these sites but has no effective way to identify such vulnerabilities - so they continue to be housed in the camps."

⁶ <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>

According to Kolbassia Haoussou from Freedom from Torture, many of the asylum seekers detained at the barracks “suffer from severe mental health issues and low immune systems linked to the abuse they have fled”.⁷

Since asylum seekers are housed in the barracks during to the determination of their claims and have no access to medical experts that could assist them in corroborating or proving prior experiences of torture, combined with a generally adverse “culture of disbelief” or “refusal culture” within the Home Office, claims by those accommodated that they have been affected by experiences of torture and other human rights violations and – for these reasons alone - are unfit to be detained in the barracks are unlikely to be treated with the necessary respect and urgency by the Home Office (as indeed indicated by the 14 day delay in the case of the Claimant referred to in the Court case above⁸).

Rights to freedom of peaceful assembly, association and expression

RT news reports of today (4th February 2021) showed asylum seekers being told that they were not allowed to speak to journalists.

As reported by the Independent on 1st February 2021⁹, 46-year-old freelance journalist and photographer **Andy Aitchison** was arrested on Thursday 28th February 2021 after taking and sharing photographs of activists **protesting** against the conditions at Napier Barracks.

The peaceful protest, which saw demonstrators holding signs reading: “Close Napier now” and “There will be blood on your hands”, came in response to mounting concerns about the living conditions in the barracks.

More than six hours after the demonstration, five police officers reportedly arrived at the home of Mr Aitchison (who had not participated in the protest) and arrested him under suspicion of criminal damage of a dwelling. They are said to have seized his mobile phone and the memory card from his camera, and instructed him to accompany them to the local police station where was held in a police cell for over five hours before being released on bail

⁷ <https://metro.co.uk/2021/01/30/priti-patel-slammed-for-sweeping-accusations-over-deliberate-fire-at-asylum-site-13991083/?ito=cshare>

⁸ <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>

⁹ It’s censorship’: Journalist arrested after photographing protest outside controversial asylum camp (1/2/21) <https://www.independent.co.uk/news/uk/home-news/journalist-photographer-asylum-camp-napier-barracks-andy-aitchison-b1794907.html>

at around 10pm. Mr Aitchison has been granted bail until 22 February 2021, **and has been instructed not to attend Napier Barracks** until the case has been concluded.

Police also **arrested one of the protesters**, a 36-year-old man, at the scene of the demonstration. He was arrested on suspicion of the same offence and has also been released on bail until 22 February.

According to Mr Aitchison, the **protest** had only lasted “10 minutes max” and was non-violent: “All [the protesters] did was throw buckets of food colouring, water and shampoo or conditioner at the gate and on the ground in front of the gate,” he said. “As far as I know the only possible damage could be the netting on the fence might be slightly stained and there might be a puddle of red liquid in front of the gate.”¹⁰

Mr Aitchison told The Independent that he was shocked by his arrest and stated: “It’s such a bizarre thing, getting arrested for the work I do. I’ve never had anything like this before, and I’ve photographed many, many a protest. It feels like a light has been shone on them and they’ve got the sledgehammer out. It’s **censorship**: if you don’t toe the line, we shut you down. ... It does seem like a political thing. People have highlighted how bad things are there, and I’ve shared that with the world, and because of that I’ve been hit. It’s going to have an impact on me for the rest of my life, and for work”.

Mr Aitchison also expressed frustration at being banned from attending the site of Napier Barracks where he had apparently photographed a number of demonstrations since September.

The National Union of Journalists (NUJ) said it was “extremely concerned” by Mr Aitchison’s arrest.

As reported in the article by the Independent, a spokesperson for Kent Police reportedly confirmed that the force was called following a report of a protest in Shorncliffe, Folkestone, at around 8am on Thursday and that a 36-year-old man was arrested on suspicion of causing criminal damage, and that “further enquiries” led to a second man being arrested at around 3pm the same day.¹¹

¹⁰ It’s censorship’: Journalist arrested after photographing protest outside controversial asylum camp (1/2/21) <https://www.independent.co.uk/news/uk/home-news/journalist-photographer-asylum-camp-napier-barracks-andy-aitchison-b1794907.html>

¹¹ It’s censorship’: Journalist arrested after photographing protest outside controversial asylum camp (1/2/21)

Other protesters at the facility at previously been confronted, questioned and filmed by police which they experienced as an interference with their right to peaceful association and assembly (please see video link).¹²

Human Rights defenders

One person housed in the accommodation for 2 months was himself a human rights defender from the Middle East who had fled to the UK (according to Freedom from Torture).

When local **human rights defenders** attempted to deliver 250 meals and blankets after the fire, they were turned away by staff.

Racisms and Xenophobia

Already in October last year, there had been considerable concern that the location of the barracks would expose asylum seekers to racism and xenophobic attacks by right wing groups and that the grounds outside the site “have been patrolled by far right activists who have filmed and harassed residents”.¹³

The current Home Secretary herself, Ms Priti Patel, has been accused of inflammatory and political statements following the fire at the barracks.¹⁴

A former Conservative immigration minister accused the Home Office of using barracks accommodation for asylum seekers to make the country appear to them “as difficult and inhospitable as possible” and stated that asylum seekers should not be “segregated into a ghetto” in barracks accommodation, but instead placed in supported accommodation where they have access to a range of facilities.¹⁵

Film footage

<https://www.independent.co.uk/news/uk/home-news/journalist-photographer-asylum-camp-napier-barracks-andy-aitchison-b1794907.html>

¹² https://www.youtube.com/watch?v=j4_IVAL-VO8

¹³ Inside Napier Barracks: Refugee lifts lid on conditions inside asylum seeker centre,

<https://www.kentlive.news/news/kent-news/inside-napier-barracks-refugee-lifts-4618126>

¹⁴ Metro: [Priti Patel slammed for 'sweeping accusations' over 'deliberate' fire at asylum site,](https://metro.co.uk/2021/01/30/priti-patel-slammed-for-sweeping-accusations-over-deliberate-fire-at-asylum-site-13991083/)

<https://metro.co.uk/2021/01/30/priti-patel-slammed-for-sweeping-accusations-over-deliberate-fire-at-asylum-site-13991083/>

¹⁵ Guardian: Former immigration minister criticises use of barracks to house asylum seekers,

<https://www.theguardian.com/uk-news/2021/feb/02/former-immigration-minister-criticises-use-of-barracks-to-house-asylum-seekers>

There is considerable footage on the situation at Napier barracks on youtube which can be accessed here: https://www.youtube.com/results?search_query=napier+barracks

I would be extremely grateful if you could kindly take this matter up with the British government as a matter of urgency.

Please do not hesitate to contact me if you have any queries.

Yours sincerely,

Jan Doerfel

Barrister

Chambers of Jan Doerfel

www.jandoerfel.com

Tel: +44-203-0701234

Fax: +44-203-0700606

Email address: info@jandoerfel.com

References:

[1] Guardian: [Asylum seekers tell of dire conditions at Kent barracks after fire](https://www.theguardian.com/uk-news/2021/jan/31/asylum-seekers-dire-conditions-kent-napier-barracks-fire)
<https://www.theguardian.com/uk-news/2021/jan/31/asylum-seekers-dire-conditions-kent-napier-barracks-fire>

[2] Sky News: [Kent: Arson investigation launched after fire breaks out at former army barracks housing asylum seekers](https://news.sky.com/story/fire-breaks-out-at-former-army-barracks-housing-asylum-seekers-in-kent-12202560)
<https://news.sky.com/story/fire-breaks-out-at-former-army-barracks-housing-asylum-seekers-in-kent-12202560>

[3] Metro: [Priti Patel slammed for 'sweeping accusations' over 'deliberate' fire at asylum site](https://metro.co.uk/2021/01/30/priti-patel-slammed-for-sweeping-accusations-over-deliberate-fire-at-asylum-site-13991083/)
<https://metro.co.uk/2021/01/30/priti-patel-slammed-for-sweeping-accusations-over-deliberate-fire-at-asylum-site-13991083/>

[4] The Guardian: [Former immigration minister criticises use of barracks to house asylum seekers](https://www.theguardian.com/uk-news/2021/feb/02/former-immigration-minister-criticises-use-of-barracks-to-house-asylum-seekers), <https://www.theguardian.com/uk-news/2021/feb/02/former-immigration-minister-criticises-use-of-barracks-to-house-asylum-seekers>

[5] Info migrants (1/2/21) '14 asylum seekers arrested in UK following fire at former army barracks' <https://www.infomigrants.net/en/post/29997/14-asylum-seekers-arrested-in-uk-following-fire-at-former-army-barracks>

[6] Guardian, 'Asylum seeker cannot remain at Kent army barracks, court says' (3/2/21) <https://www.theguardian.com/uk-news/2021/feb/03/asylum-seeker-cannot-remain-at-kent-army-barracks-court-says>

[7] Guardian: Police filmed carrying asylum seeker into Kent barracks against his will
Legal experts question officers' authority to return man to site government says is not a
detention centre (3/2/21)
<https://www.theguardian.com/uk-news/2021/feb/03/police-filmed-carrying-asylum-seeker-into-kent-barracks-against-his-will>

[8] Independent: 'It's censorship': Journalist arrested after photographing protest outside
controversial asylum camp (1/2/21)
<https://www.independent.co.uk/news/uk/home-news/journalist-photographer-asylum-camp-napier-barracks-andy-aitchison-b1794907.html>

[9] Inside Napier Barracks: Refugee lifts lid on conditions inside asylum seeker centre,
<https://www.kentlive.news/news/kent-news/inside-napier-barracks-refugee-lifts-4618126>

[10] Deighton Pierce Glynn: 'Asylum Seeker at Napier Barracks Obtains Court Injunction
that he must be re-housed' (2/2/21) <https://dpglaw.co.uk/asylum-seeker-at-napier-barracks-obtains-court-injunction-that-he-must-be-re-housed/>