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IMMIGRATION DETENTION CENTERS

Immigration inmates live life of limbo, at officials' whim

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FEB 28, 2012

Abubakar Awudu Suraj spent 20 months in an Immigration Bureau detention center before being manhandled onto a jetliner at Narita airport for deportation back to Ghana in March 2010.

He died in handcuffs on the plane. Immigration authorities allegedly used “excessive force” to restrain him.

Authorities have a right to hold foreigners, like Suraj, who violate immigration law. And what happens to them once they are locked up is for many a mystery.

How many immigration detention facilities are there?

The 700-inmate Higashi-Nihon Immigration Center in Ibaraki Prefecture, the 300-inmate Nishi-Nihon Immigration Center in Osaka and the 800-inmate Omura Immigration Center in Nagasaki are the main facilities.

There are also 17 regional branches, and Sapporo, Sendai, Hiroshima, Fukuoka and Narita and Kansai airports also have holding facilities.

Who can be held and for how long?

Any foreign national who violates the Immigration Control and Refugee Recognition Law can be locked up, including visa overstayers, illegal entrants and asylum-seekers lacking legal status.

There were 1,119 detainees nationwide at the end of 2010. Chinese accounted for most of them, followed by Filipinos, South Koreans and Thais. Inmates numbered 1,621 at the end of 2009.

The term is determined on an individual basis, but by law, detention initially lasts 30 days but can be extended by 30-day increments if necessary.

What about family members?

A Justice Ministry official said that in principle, authorities refrain from taking into custody children and their mothers, if the assumption is the male head of the household is the primary violator.

If it is further assumed that the family poses a flight risk, the mother may also be taken into custody and children placed in the care of child-welfare consultation centers, the official added.

In 2010, the Japan Federation of Bar Associations issued a warning to then Justice Minister Yoshito Sengoku after a Philippine couple were detained while their children were forced into welfare care.

“By robbing them of their freedom, their right to stay together as a family and the children’s right to education were violated — this is a clear violation of human rights,” the bar said.

Have the indefinite detention periods ever been criticized?

Yes. According to legal experts, once deportation orders have been issued, detainees can be held as long as authorities see fit.

For some it may be a few days or weeks, for others it could be months or a couple of years.

There is no official public data on length of detentions, but an immigration official confirmed to The Japan Times that there were 167 foreigners who had been held longer than six months as of last August, and that those in custody at least a year fell sharply to 47 in 2011 from 115 in 2009.

Japan has been the target of domestic and international criticism for its treatment of detainees, including the lengthy stints behind bars.

Inmates have staged hunger strikes and some have committed suicide when their demands for release were rebuffed.

In 2007, the United Nations Committee Against Torture recommended that Japan “should establish limits to the length of the detention period for persons awaiting deportation.”

Why are asylum-seekers treated the same way?

By law, people who seek refugee status within six months of arrival or those who arrive directly from the country from which they fear persecution are granted a provisional stay, with deportation orders suspended while their asylum applications are studied.

But applicants without legal status are treated the same way as any other illegal foreign resident.

“Everyone is in agreement, including the Immigration Bureau, that real refugees need great protection. But the truth is, there are some who try and abuse the system,” an official at the Justice Ministry’s Immigration Bureau said. “It is very difficult to ascertain whether they (qualify as) refugees.”

In early February, the ministry, the JFBA and Forum for Refugees Japan, a nonprofit group, signed an agreement to hold trilateral consultations to improve the overall refugee recognition system.

What is daily life like for an inmate?

In general, detainees get three meals a day, and in the morning and afternoon they are free to socialize in their cellblock, shower, do their laundry or play pingpong, the Immigration Bureau official said.

Foreigners with special dietary needs for example can have vegetarian meals, or dishes without pork or other kinds of meat, but Halal food is not available.

They are also allowed to make phone calls and have visitors during visiting hours.

In principle, each visit is 30 minutes but supporters says that on average the visits only last 10 to 15 minutes.

How can an inmate be released?

A provisional temporary release may be granted under certain conditions, and usually requires restricted movement, including not straying beyond the prefecture of residence, and routine appearances before the Immigration Bureau.

But lawyer Koichi Kodama, an expert on immigration and refugee issues, noted there are no clear criteria for when a provisional release is granted or refused.

“The Immigration Bureau must have some sort of internal standard, but officials won’t tell us . . . detainees can reapply if their bids are rejected, but without knowing why they were turned down in the first place, they don’t know what sort of information is necessary,” Kodama said.

A detainee may also be granted a special residency permit, and hence gain release.

The justice minister must weigh various factors in granting such status, including the applicant's family and lifestyle situation as well as humanitarian considerations.

Like the provisional release, there are no concrete reasons for why applications are approved or rejected, but they are often granted to foreigners who happen to have Japanese spouses.

Despite also having a Japanese wife, Ghanian Suraj's application was rejected.

Is legal action being taken on behalf of Suraj?

Yes. His wife, whom he married in 2006 and with whom he was with for 22 years before his death, and his mother are seeking ¥136 million in damages against the government. Kodama is one of the lawyers representing the family and the case is currently before the Tokyo District Court.

According to evidence provided by the Justice Ministry to the court, Suraj's feet were bound, his hands were in plastic cuffs and a towel covered his mouth when nine officials carried him onto the airliner at Narita. Prosecutors have yet to charge any of the immigration officers for allegedly causing Suraj's death.

What medical care is provided at the detention centers?

Each center has a doctor present.

The doctor in Ibaraki, besides speaking Japanese, can also speak Chinese and English. But the physicians at the other two centers speak only Japanese. For detainees who cannot communicate in those languages, interpreters are provided, according to the Immigration Bureau.

Supporters and legal experts say, however, that one of the most serious problems the inmates face is poor medical care.

Kodama denounced the detention center doctors, saying they don't provide fundamental treatment, just prescriptions to temporarily ease their pain or other discomfort.

"These doctors have no intention to provide true medical treatment to the detainees, and instead merely take stopgap measures," Kodama said.

"It is wrong — these detainees end up just being narcotized."

Have detainees been subjected to physical violence?

Yes. Various abuses have been reported, including a criminal complaint filed in 2004 against officials at the Higashi-Nihon Immigration Center for allegedly assaulting and injuring detainees.

In 2007, the U.N. Committee Against Torture also expressed concern over the "numerous allegations of violence, unlawful use of restraining devices during deportation, abuse, sexual harassment, lack of access to proper health care" in the immigration detention centers.

In 2009, a legal revision led to the creation of a third-party group made up of academics, nongovernmental organization staff and medical and legal experts tasked with inspecting the 20 nationwide detention facilities and issue remedial recommendations to the Justice Ministry.

While calling the inspection panel a step in the right direction, Kodama meanwhile noted it lacks independence and the Immigration Bureau controls its visits, including which detainees it can interview. Everything is planned in advance. There are no surprise visits.

"There was nothing before, so (the panel) is better than (nothing)," Kodama said. "But there is the danger of

the committee just being a decoration and nothing more . . . realistically, I think it has a long way to go before it can actually meet the expectations of the U.N.”

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