

LIFE IN ‘PUNITIVE PROTECTION’: THE PARADOX OF IMMIGRATION DETENTION IN ESTONIA

ABSTRACT

The detention of irregular migrants in the European Union has increased in scope and intensity in the years following the 2016 ‘refugee crisis’. Detention is usually codified as an administrative practice, a neutral routine necessary for the surveillance of irregular migrants and the enforcement of immigration laws. However, this formally ‘administrative’ process belies a unique contradiction: although cast as a benign procedure, detention is often experienced by detainees as a form of punishment and incarceration in the absence of criminal charges. Drawing upon ethnographic fieldwork from the Metsa Detention Centre in Estonia, I argue that this paradox—what I term *punitive protection*—can make detention a disorienting and uncanny institution for migrants. Detainees experience ‘punitive protection’ as the tension between what they are *told* is real and what they are *certain* is real. For my informants, Metsa was not just a space of confinement, but an alternate reality where their beliefs, hopes, and struggles were denied by state practice.

Keywords: migration, detention, agency, refugee studies, criminology

INTRODUCTION

They have me do the court visit online, on Skype. But it’s just a screen. How do I know it’s real? It could be like a play. This is a prison, after all—I don’t trust them!

Omar’s eyes darted back and forth between me and the guard seated near the door, as if waiting for a reaction. The officer glared back, yet remained silent. Omar leaned forward and continued:

You know, things are bad here. But, I tell myself, ‘See, many famous people have been in prison for unfair reasons. I can be like them. Like Mandela!’

The guard snapped her pen on the table. ‘*Omaaar...*’ She inflected her voice upwards in pitch. ‘What did I tell you about this? We discussed this! This is *not* a prison.’ Her voice was quiet, but sharp, as if scolding a misbehaving child.

Omar sat back in his chair and glowered at the door. He let his head droop and muttered

under his breath: ‘Yeah, OK, whatever. Not a prison, OK?’ The guard crossed her arms and softened her expression.

Scenes like this played out regularly during my visits to Omar at the Metsa Detention Centre. He seemed to find vindication in getting under the skin of his supervisors, one of the few ways he was able to assert himself while in detention. Every time we spoke, Omar was keen to show me what he believed was an absurdity: the way guards recoiled and protested whenever Metsa was referenced as a ‘prison’ during conversations. Why should they be so sensitive to this labelling, he wondered? Omar spoke of feeling imprisoned, constrained, and abused; the technicality that he was in ‘administrative detention’—and not prison—made no difference.

Omar was not the only individual in Metsa who found the distinction between ‘prison’ and ‘detention’ absurd. The disorientation he described was also felt by my other informants in the facility. The reassurances of guards—who insisted that detainees were not being punished, imprisoned, and treated like criminals—only served to further upset and demoralise the detainees with whom I spoke. In fact, guards depicted detention in terms that were confounding for my informants; officers spoke of assisting migrants, protecting them from outside threats, and ‘fixing’ their mistakes. Metsa resembled an institution that served incompatible functions, simultaneously serving as a space of criminalisation, care, and paternalistic discipline. As my fieldwork advanced, I began to feel a similar sense of confusion and paranoia. Who could I trust? What was really going on behind the scenes?

In this article, I attempt to conceptualise and explain the contradictions I encountered in Metsa. The text is informed by the narratives of detainees, the rationalisations of state officials,

and the challenges I faced as a student trying to advocate for change. I propose a term that articulates this uncanny experience of immigration detention: *punitive protection*. Detainees experience ‘punitive protection’ as the tension between what they are *told* is real and what they are *certain* is real. Guards cultivate punitive protection—whether intentionally or not—by crafting an alternate reality, closing Metsa off from the outside world, and denying the validity of detainee knowledge, emotion, and experience. I argue that this process is made possible by the idiosyncrasy of detention law, which fuses the terms and technologies of criminal punishment with the benign framing of civil custody.

I do not intend ‘punitive protection’ to be read as an all-encompassing explanation for detainee suffering or frustration. Rather, it represents one critical dimension of life in detention, a paradox underpinning many of the interactions I observed between guards and detainees. In the following sections, I build a case for *punitive protection* through an analysis of my fieldwork among detainees, a tense interview with police officers, and the ambiguous legal framework for detention practice in Estonia.

BETWEEN IMMIGRANTS AND ‘CRIMMIGRANTS’: FRAMING ‘PUNITIVE PROTECTION’

A substantial body of literature within the social sciences has critiqued the *criminalisation* of migration by high-income countries like the United States and the United Kingdom (see Kramo 2014; Stumpf 2016; De Genova 2002). By ‘criminalisation’, these authors refer to the strengthening of penalties like the detention and deportation of irregular migrants, penalties that have become more prominent over the last

decade. Mary Bosworth, for example, notes an ‘increasing convergence between criminal and immigration law as economically developed states have erected and enforced tougher visa requirements, instituted innovative forms of border policing, and adopted new sanctions against irregular entry’ (Bosworth 2017: 52). In stressing this ‘convergence’, Bosworth does not mean that entering irregularly has become a crime *per se*; she is instead arguing that many of the terms and technologies of criminal justice (incarceration, surveillance, punishment, etc.) are now used in the ‘management’ of asylum seekers and undocumented migrants. In this way, the realms of criminal management and migration management overlap, sometimes in contradictory or ironic ways.

The detention of undocumented and irregular migrants is one of the key ways in which cross-border movement has been informally criminalised (Bosworth and Turnbull 2014; Lindberg 2022). Immigration detention resists easy definition, encompassing a broad array of regulations and practices around the world. Migrants may be held for hours, months, or years for unspecified reasons, and they can face widely varying material conditions while detained. In many cases, immigration detention is an informal, loosely regulated procedure, often carried out by private security contractors and invisible to the public eye. For this piece, I reference the approach suggested by Silverman and Massa (2012: 679), who contend that immigration detention can be defined as:

[T]he holding of foreign nationals, or noncitizens, for the purposes of realising an immigration-related goal. This definition is characterised by three central elements: first, detention represents a deprivation of liberty; second, it takes place in a designated facility in the custody of an

immigration official; and, third, it is being carried out in the service of an immigration-related goal.

This definition is useful because it highlights the ‘quasi-punitive’ nature of immigration detention, an experience that ‘approximates imprisonment’ despite its origins in civil and administrative law (Kalhan 2011: 42; Puthooppambal et al. 2015). In other words, immigration detention centres use the technologies and practices of criminal incarceration under the ‘seemingly innocuous fiat of immigration administration’ (Silverman and Massa 2012: 678). There is an ambiguity and obscurity to immigration detention, which is both a service carried out by the state and a form of involuntary—often highly afflictive—confinement. Silverman and Massa (2012: 677) argue that these particularities make immigration detention a ‘unique’ practice that ‘warrants special critical attention’ from migration scholars.

Melanie Griffiths (2013) provides an example of the distinctive psychological toll that detention incurs upon migrants. Reflecting upon ethnographic fieldwork she conducted in a UK detention centre, she argues that immigration detention ‘operates on the basis of instability and uncertainty, characterised by the unexpected’ (Griffiths 2013: 279). This instability is linked to its status as an administrative, bureaucratic institution that is nonetheless ‘prison-like’ in experience and aesthetic (Griffiths 2013: 265). These tensions are further exacerbated by the UK’s use of ‘indefinite’ detention, meaning that there is no maximum amount of time for which a noncitizen can be detained. For detainees, this means life is governed by a ‘dual temporal uncertainty’: ‘people are simultaneously afraid that their detention will end at any moment without warning, and that they will remain forgotten in detention forever’ (Griffiths 2013:

271). Forced to live with minimum information and maximum precarity, Griffiths' informants struggled to establish routines or find purpose.

The theme of 'temporal uncertainty' in detention has also been explored by other scholars, notably Jukka Könönen (2021), Nicolas DeGenova (2021), and Shahram Khosravi (2021). Könönen (2021: 721), reflecting upon fieldwork in the Finnish detention system, describes immigration detention as the 'waiting room of immigration law'. Nicolas DeGenova, similarly, highlights the power of the state to 'discipline' through time in detention centres. De Genova further argues that migrants, especially those with an insecure legal status, are characterised by a 'detainability'—'the unpredictable susceptibility to detection, arrest, and detention that is lived as a protracted socio-political condition in everyday life' (De Genova 2021: 192). Once in detention, De Genova contends that migrants are faced with a 'deeply ambiguous and profoundly punitive dimension of temporal indeterminacy' (De Genova 2021: 190). He clarifies:

Time spent in detention is not an anticipatory waiting towards a projected future; rather, it is commonly experienced as a compulsory waiting with no definite horizon... commonly perceived to be irredeemably wasted and lost. (De Genova 2021:191)

Griffiths (2013), De Genova (2021), and Könönen (2021) all show that detention is commonly experienced by migrants as a form of criminalisation, punishment, and space of overwhelming stress—despite its putatively bureaucratic legal context. I found the same conditions present in Metsa. However, my fieldwork also uncovered another aspect of the detention experience, an irony that

operated alongside the ambiguity and temporal uncertainty described above: the confinement of migrants is sometimes justified by state actors as a practice intended to serve migrants' interests. In these cases, detention is not only framed as a necessary administrative routine, but also as a paternalistic form of *protection* of migrants.

One striking example of this irony comes from the UK, where state officials have agreed to forcibly 'relocate' registered asylum seekers to facilities in Rwanda for detention, processing, and possible resettlement (Chaloner et al. 2022: 1). This decision was met with a wave of searing critiques from British migration scholars and nongovernmental organisations (NGOs), who described the relocation as an egregious affront to human rights (Beirens and Davidoff-Gore 2022; O'Connor 2022; Sen et al. 2022). The decision to pursue this plan also prompted protests (including a coordinated hunger strike) at detention centres around the UK (Shalaby and Nader 2022). One asylum seeker interviewed by the BBC viewed this relocation as the ultimate denial of his dignity and humanity; he was 'ready to die, but not to be moved to Rwanda' (Shalaby and Nader 2022).

The implications of this relocation policy are harrowing. Yet, a close reading of the UK government memorandum on the topic reveals something curious. Relocating to and detaining asylum seekers in Rwanda is not justified as a punitive or security-oriented measure, but rather as an act of generosity that protects asylum seekers:

[We acknowledge] the need to provide better international protection for refugees and... provide protection and a durable solution to those in need whilst preventing abuse.

[We wish] to develop new ways of addressing the irregular migration

challenge... in order to counter the business model of the human smugglers, protect the most vulnerable, manage flows of asylum seekers and refugees, and promote durable solutions. (UK Home Office 2022)

In this memorandum, the antagonists are not asylum seekers, but ‘human smugglers’ (UK Home Office 2022). Yet, the UK government is not combating smuggling by, for example, providing safer pathways into Britain. Instead, the government aims to counter smuggling by punishing the migrants who do make it across UK borders. Paradoxically, the Rwanda agreement appears intended as both a deterrent to seeking asylum in the UK and an act of ‘care’ towards asylum seekers. The subtext is surreal: if asylum seekers resist this new policy, it is because they are irrational and do not understand what is ‘best’ for them.

While occurring in a different context, the UK–Rwanda deal provides an example of the ‘punitive protection’ I observed with the confines of Metsa. The claims of the UK government, in both their absurdity and their repetition, engender an alternate reality where migrants cannot ‘really’ be harmed by British state practices. In Metsa, my informants highlighted their experiences of abuse, oppression, and manipulation, only to be contradicted again and again by the claims of institutional officers. Instead, police spoke of Metsa as categorically benign—that is, as a space of migrant accommodation, protection, and discipline. The resulting tension was profound, in some cases bringing my informants to the brink of an ontological crisis.

Other anthropologists have proposed similar concepts regarding marginalising state practices towards migrants. For example, Menjívar and Abrego (2012) referred to the ‘legal violence’ inflicted upon undocumented

migrants within the United States. As such, they approach legal violence as ‘the harmful consequences of implementing a restrictive body of law that criminalises individuals’ (Menjívar and Abrego 2012: 1413). This violence manifests as structural disadvantage, exclusion, and abuse, which become ‘normalised’ and ‘legitimated’ for both migrants and public officials (Menjívar and Abrego 2012: 1413).

While detention can be approached as a form of legal violence, my writing on punitive protection attempts to capture a different dynamic of the detainee experience. In my fieldwork, detainees explicitly *rejected* the state logic of detention practice, openly mocking and excoriating guards who refused to acknowledge their treatment as ‘punishment’. My informants did not internalise this symbolic violence; rather, they resisted it, arguing that Estonian police were misappropriating the human rights discourse and acting in unlawful ways. The conflict between police rhetoric and detainee experience persisted.

Furthermore, Garnier et al. (2018: 2), drawing from Agier (2011), utilised the term ‘humanitarian governance’ to describe the genre of bureaucratic practices towards migrants that [involve] care *and* control’. These authors focused on refugee resettlement, a practice they argue is simultaneously ‘an important tool for protecting vulnerable civilians’ and ‘an unaccountable, costly process permeated by inequality’ (Garnier et al. 2018: 2). In effect, humanitarian governance strips away migrant agency, as states and NGOs speak ‘for’ these individuals by making choices on their behalf.

There is much overlap between ‘humanitarian governance’ and ‘punitive protection’. Indeed, in detention, the state professes to protect migrants while isolating them and speaking on their behalf. Ultimately, detainees are rendered invisible as wards of the

state. However, detention is also—at least, in Estonia—not framed as a humanitarian practice legally, nor does it involve collaboration with NGOs or human rights organisations. Moreover, detention is not a response to a specific migrant need or request. Instead, detention in Estonia functions as an appendage of national security, embodying an uneasy fusion of law enforcement and asylum management.

LEGAL CONTEXT

In the Republic of Estonia, entering the country without a valid document is not a crime, but an administrative violation handled outside the criminal justice system (Riigikogu 2014; Estonian Ministry of the Interior 2015).¹ Detainees have the right to appeal their detention with a state-provided lawyer after 48 hours, in line with the European Union (EU) Reception Conditions Directive. However, by this point, detainees have already been forcibly separated from most forms of communication, are under constant surveillance, and have limited access to outside aid. It can be difficult for detainees to know their rights and understand how to pursue them.

Estonia, like most EU member states, has agreed to the Returns Directive, a document that stipulates ‘common standards and procedures for returning illegally staying third-country nationals’ (Council of the European Union 2018). In other words, this agreement sets the framework for the detention and deportation of migrants within the EU. The Returns Directive limits detention terms to a maximum of 18 months. Estonia opted to adopt this maximum limit, and in some cases allows for two detention sentences of up to 18 months each.²

In contrast to nearby EU countries like Finland, Sweden, and Latvia, Estonia does not have a separate agency or civilian organisation

that receives migrants and evaluates asylum claims. For example, *Migrationsverket* in Sweden is the national agency that examines asylum and residence permit applications. Although they cooperate with the police, *Migrationsverket* is a distinct entity trained to provide counselling, housing, and financial support to migrants who need it (Migrationsverket 2019). In Estonia, all migration policy is enforced by the *Politsei-ja Piirivalveamet* (PPA), an agency under the Ministry of the Interior which oversees security and crime prevention. The PPA includes police officers, border guards, and migration officials together under one umbrella. In Metsa, the guards are specialised police officers, trained in law enforcement and criminal punishment.

All migrants arriving to Estonia, including asylum seekers, can be detained for the following reasons:

- 1) identification of the person or verification of the identity;
- 2) verification or identification of the citizenship of the person;
- 3) verification of the legal bases of the entry into and the stay in the state of a person;
- 4) identification of the circumstances relevant to the proceedings of the application for international protection, primarily in the case when there is a risk of escape;
- 5) there is a reason to believe that the person has submitted an application for international protection to postpone the obligation to leave or prevent expulsion;
- 6) protection of the security of state or public order;
- 7) transfer of a person in the procedure provided for in Regulation (EU) No 604/2013 of the European Parliament

and of the Council, if there is a risk of escape of a person [this is often referred to as ‘flight risk’] (Riigikogu 2019: 361)

I draw attention here to numbers 5 and 6, the grounds for detention which are open to a large degree of interpretation by the PPA. In court, these claims do not require proof—they are based on the suspicion of police officials who need only provide a compelling ‘reason to believe’. The enforcement of security and public order overlaps with criminal law and antiterrorism legislation, granting the PPA explicit power to detain potential noncitizen criminals as a preventive measure.

ENCOUNTERING METSA

I first became aware of Metsa during fieldwork at an asylum accommodation centre in central Estonia, a facility where I conducted the majority of my PhD fieldwork. At this centre, I met several asylum seekers who had previously been held in Metsa. They painted a bleak picture of detention in Metsa, describing an institution shrouded in paranoia and severed from the outside world. One of these asylum seekers claimed that he had been held in Metsa—a facility he described as a ‘prison’—for over a year after entering Estonia. These descriptions surprised me, and I began to investigate how to visit detainees in Metsa.

The process of arranging these visits was indirect. Before each visit, I had to call a central phone line to the detention centre, which was located in a common hallway. Once a detainee picked up the phone, I introduced myself and asked if anyone was interested in receiving a visit or sharing their story for my research. The interested detainee(s) then had to submit an application for a social visit, which included

my name and national ID number. Once the guards approved the application, I received a confirmation email from the staff. This process limited my selection of informants, since they had to individually request my visit and be comfortable communicating in English. While the detainees discussed in this article were undocumented migrants or asylum seekers, the facility also held a significant number of Estonian residents awaiting deportation to their country of citizenship following a criminal charge. This distinct group did not feature in my fieldwork.

The Metsa detention centre sits on the western edge of Tallinn, surrounded by forests and sparsely populated suburbs. While the facility is only a 40-minute bus ride from the city centre, it feels remote and detached from the nearby urban environment. The walk to the detention centre from its closest bus stop is eerily quiet, only punctuated by occasional passing vehicles. During the time of my fieldwork (October 2017–April 2018), the centre housed approximately 20 to 25 detainees, although I was only able to meet with a few of them.

During each visit to Metsa, I had to go through a brief security ‘ritual’. I was led through the front gate and to the front door of the centre by an officer, who instructed me to empty my pockets and to store any nonessential items in a locker and examined any items I brought for detainees. I was never allowed to bring an electronic device (including my phone) into the facility. The staff at the centre carefully recorded my name, ID number, address, and phone number during each visit, also logging any items I brought for detainees (anything containing glass, food, or metal was strictly forbidden).

As a further precaution, I was not allowed to directly hand any items to detainees. Direct physical contact with detainees was prohibited.

All gifts I brought (clothes, toiletries, USB sticks, or books) during my fieldwork were first given to Metsa staff, who inspected the items and only delivered them after I left the facility following a visit. All communication with detainees took place in a designated meeting room near the building's front entrance. My meetings were limited to two-hour time slots, and I was only allowed to speak with two detainees per visit. I was not given permission to see any other rooms or living quarters. During each meeting, we were monitored by a guard who sat at a nearby desk in the same room. On several occasions, guards stressed that I should 'be careful', advising me not to trust what detainees shared about their cases and conditions.

Anthropological fieldwork involving detainees is a challenging task, often requiring the researcher to balance opposing interests, negotiate with gatekeepers, and avoid re-traumatising informants. I faced numerous ethical dilemmas during my research given that I received differing accounts of detention conditions and risks from police and detainees. In general, I have made the choice here to represent my informants' experiences in their own words as much as possible, taking their claims and desires at face value. The detainees discussed here were aware of my status as a researcher and agreed to share their experiences in an academic context. All of them encouraged me to publicise their stories and advocate for their release. One of these informants, Khaled, also directly collaborated with me on this article following my fieldwork. He offered feedback on my arguments and provided additional details on his detention conditions.

To protect the privacy of those involved, I have changed or omitted all of the names of detainees, police officers, and other visitors to the centre. I also use a pseudonym for the detention centre itself: 'Metsa' (*forest* in

Estonian) was not the official name of the facility. I have further obscured or altered other identifying information, including certain countries of origin, personal background information, and case details. As a final note, I should note that the Metsa Detention Centre closed in late 2018—detainees and staff have since been moved to a new facility elsewhere in Estonia. All of the cases discussed in this article have since been resolved (either through deportation or formalisation), and I have taken care not to include information that could harm anyone involved.

OMAR

Omar came to Estonia in 2017. After being apprehended at the Estonian border, Omar was transferred to Metsa, where he registered his case as an asylum seeker. While living in his country of citizenship, Omar had converted from Islam to Christianity. This made him an apostate, a crime punishable by execution in his theocratic birthplace. Omar thus predicated his asylum case on religious persecution, something he expected would be received warmly by Estonian authorities. By the time I met him in Metsa in late 2017, his initial asylum application had been rejected by the PPA. He was frustrated, cynical, and disillusioned with the notion of 'freedom' in Europe.

During my first meeting with Omar, he showed me a printed copy of his negative asylum decision. The decision had come as a shock to Omar, leaving him incredulous and confused. He claimed that Estonian authorities did not believe that he would face persecution in his home country, even asking him why he could not simply 'convert back' to Islam. Omar was indignant at this trivialising of his religious belief. He bitterly commented that Estonians 'must really like Islamic law' if they saw no

problem with his state's ultra-conservative regime. He struggled to believe the rationale for his negative decision; surely, Omar told me, a real court would see the validity of his asylum claim and reverse his detention.

Various verbal clashes with guards resulted in Omar receiving a reputation as a 'troublemaker' among staff. He openly expressed his disdain for the detention process, and was known for his provocative behaviour when receiving visitors. Omar wanted me to understand the mismatch between the guard's words and his experiences; he aimed to peel back the veneer of professionalism he believed was hiding nefarious practices. During our meetings, Omar was talkative and intense, having little patience for what he perceived as ignorance or dishonesty among staff and fellow detainees.

The social isolation and constant surveillance of his private life in Metsa put Omar under significant psychological strain. Omar's court appointments and meetings with his Estonian state-provided lawyer, often conducted via Skype, were alienating and surreal for him. During one fieldwork meeting quoted at the beginning of this article, Omar wondered aloud if the court appointments were at all real. He contended that they could be easily faked over video, and he had no way of verifying what was happening outside of Metsa. He viewed the guards as performers, thespians who carefully choreographed and rehearsed their interactions with detainees. Omar refused to be 'helped' by state actors; he regarded their speech as euphemistic and fallacious. If the guards were truly interested in his wellbeing, why was deportation the only option being offered? Why constrain his communication and interaction to such an extreme degree? Omar's musings sometimes veered into existential crises, during which he doubted his memories, senses, and

the ontology of his experiences. Given Omar's penchant for provocation and his ironic sense of humour, it was sometimes difficult for me to tell if he was being earnest or simply presenting a thought experiment.

Omar's playful language and keen understanding of the absurdity had its roots in his educational background. Omar had studied sociology in his home country, but he fled before completing his undergraduate degree. He shared his dreams of starting a new degree programme in Europe, perhaps focusing on philosophy or economic theory. He was a particular fan of Marx and Sartre, crediting them with sparking his interest in reading and academia. Despite the austere conditions of detention, I always saw Omar in colourful jeans and a crisp leather jacket, a style that popped against the dreary greyscale of the meeting room. He wanted to look good, he told me, even if there were few people to notice.

Over successive months of meeting Omar, his personality began to shift. At first, our conversations were energetic and witty as he sparred with me over differing interpretations of Marxism, libertarianism, and religious doctrine. He insisted that he would never return to his country of citizenship and refused to cooperate with deportation procedures. Over time, however, Omar grew sullen and withdrawn, hardly speaking at all during some of my final fieldwork meetings. When he did speak, he often stared out the barred window of the meeting room, which provided a narrow view of Metsa's backyard. His voice would break, and he seemed to have trouble keeping track of our discussion topics. Omar confessed that he was having difficulty trusting anyone—he worried that other visitors were collaborating with the Estonian police to undermine his case. He suspected that his lawyer was a spy. My non-European nationality provided Omar some

level of security, and he stated that he felt more comfortable speaking to an American than to an Estonian. By early 2018, Omar admitted that he had lost all faith in the Estonian asylum procedure, describing any further appeal of his decision as ‘pointless’. He found risking death elsewhere preferable to another year of detention.

In late January, I received word from another detainee that Omar had been transferred to a psychiatric hospital following a suicide attempt. While in Metsa, Omar had been placed in solitary confinement after allegedly violating the rules in the facility. After being held in isolation for several days, he tried to kill himself and was later placed in psychiatric care. Although he preferred to remain in the hospital, Omar was forcibly taken back to Metsa later in the year.

My meeting with Omar after his suicide attempt was jarring. I was disturbed to see that he had been returned to Metsa despite his clear psychological distress and desire to remain under professional medical care. While the guards insisted that they took excellent care of detainees, it was exceedingly difficult for me to believe that Metsa was a suitable place for a suicidal person to recover. Omar never discussed the details of his suicide attempt or his time in solitary confinement, only alluding to it as a ‘dark experience’ and expressing intense anger at how the guards at Metsa had treated him. I wondered how the guards could possibly justify Omar’s treatment; I was incredulous that officials would claim any fidelity to care or professionalism. Beside us, the guard on duty remained silent.

Omar’s is one of the bleaker stories from my fieldwork, and his experiences reveal how detention practices can create a space in which asylum seekers are subject to punishment and deprivation—often with little formal recourse.

Yet, even in his darkest moments, Omar was keenly aware of the contradictions he experienced. For Omar, Metsa was a prison, and acknowledging this was a way granting legitimacy and meaning to his struggles. As a prisoner, he could connect his ‘false imprisonment’ in Metsa with the righteous suffering of the civil rights leaders and authors he admired. As someone under ‘administrative detention’, he was confused and humiliated. His feelings of deprivation and stress were denied by guards, who accused Omar of overreacting and implored him to cooperate with the deportation measures to ‘fix’ his mistakes. Officers insisted they were on Omar’s side, trying to help him out of a bad situation—if only he would be reasonable and stop making such a fuss.

While Omar’s despair was rooted in an experience of unjust punishment, another layer emerged during my interactions with him. Omar was not simply punished; he was punished *and* told it was a form of assistance. His anguish was both facilitated and denied by state officials. I contend this dissonance can be conceptualised as ‘punitive protection’; Omar was immersed in an alternate reality from which he struggled to break free, even when he was certain that facts and principles were on his side.

RANBIR

It starts here, I get pain in my shoulders, and it moves down to my hands and my chest. It is like burning.

Ranbir traced the length of his arm with his finger, trying to show me the symptoms he had experienced for months. He closed his eyes and let out a sigh before continuing. Ranbir spoke slowly, deliberating on each word.

‘The doctor... once, a doctor came in here and did some test, but I never heard back. The

people [guards] here, they don't understand. They don't care about my condition. I ask for help. They don't care. They only give me painkillers. They think I am, uh...'

He paused to think of the right word.

'...exaggerating?' I offered.

Yes, exaggerating.

The guard seated beside us cleared her throat and turned to me.

'[Detainees] here receive everything necessary under Estonian law. We can call in doctors to prepare blood tests, check-ups, look at symptoms, whatever is needed. People get good care here.'

Ranbir stared towards the window and shook his head. 'These people here [in Metsa] have a Soviet mentality. They don't understand... please help me.'

Ranbir was the oldest of my Metsa informants, a middle-aged man from India who had been in and out of detention for years. He belonged to a religious minority and was the son of a regional separatist. In the toxic political environment of Narendra Modi's India, Ranbir's family had faced increasing pressure to cease their activism. Ranbir described months of escalating threats from BJP³-allied gangs, culminating in a violent assault on him and his father. Ranbir fled, and his immediate family went into hiding. Looking for safety and stable employment, Ranbir travelled north with the goal of reaching Europe.

Ranbir was detained after entering Estonia since he could not produce a valid identity document. He applied for asylum while in detention, but was rejected after multiple appeals. This initial detention continued for 18 months—the maximum amount of time allowed under EU law for a single detention stay. Following this period, Ranbir was released to a homeless shelter in Tallinn. Without a

formal status, his every move became a legal transgression—he was not allowed to work, not allowed to rent a home, and not allowed to leave.

Ranbir's case illustrates a gap in Estonian law regarding rejected asylum seekers. After his initial 18-month detention period, he was stuck in legal limbo as a rejected asylum seeker who could not be deported or who would not cooperate with deportation procedures. This kind of situation, while unusual in Estonia, creates a double bind for those who experience it. Under the Dublin regulations, Ranbir was not permitted to leave Estonia, despite having no pathway to securing a formal status within the country. Alternatives exist to this kind of 'non-status'—Germany, for example, grants migrants in Ranbir's position a 'tolerated' (*geduldet*) status, which is limited in scope, but avoids criminalising employment (Kalkmann 2015: 41; Juran and Broer 2017). However, as of writing, Estonia does not have a legal category to cover this situation.

Shortly after his release, Ranbir travelled to another EU country; there, he attempted to get an appointment with a dentist for severe pain he had been experiencing in his teeth and gums. Ranbir's lack of proper documentation caused suspicion among the staff at the clinic, who then contacted local border police and arranged for his deportation back to Estonia.⁴ Ranbir was taken back to Metsa, where he began to serve a second detention term.⁵ I first met Ranbir in 2017, early during his second detention term. He had lodged a new asylum claim, noting to me that he had new video evidence from his family to prove their persecution. Ranbir recognised that having his second asylum claim taken seriously by the PPA was a long shot, especially given his detention and lack of access to other resources that could help his case.

Reflecting on Ranbir's experiences, I am reminded of a phrase—*'burning without*

fire—used by Daniela DeBono (2017: 129) to describe the ‘deportability’ of undocumented migrants in Sweden. She quotes an Afghani asylum seeker disillusioned by the precarity of his life in a purportedly ‘egalitarian’ society:

Most of the immigrants are coming here because they want to live in paradise, but what kind of paradise is this which is burning you without fire yeah. You’re burning without fire in Sweden. (DeBono 2017: 131)

In Metsa, Ranbir also seems to ‘burn without fire’. In a physiological sense, his pain was described to me as a ceaseless ‘burning’ across his upper arms and chest. In a psychological sense, he ‘burned without fire’ (i.e., without evidence or acknowledgement) as he struggled to convince Metsa staff of his ailments. According to officers, blood tests had revealed no clear or concerning reason for the affliction he described. In response, Ranbir pleaded for more specialised treatment, insisting that the tests performed so far were inadequate for understanding his condition. While migrants in Metsa have the right to public healthcare, the discretion of the PPA places a barrier between doctors and detainees. As a detainee in Metsa, Ranbir’s pain was denied, rendered invisible.

As with Omar, I contend a deep contradiction is observable in Ranbir’s experiences, something that exacerbated his physical pain, immobility, and temporal uncertainty. In denying Ranbir’s pain, officers also denied his autonomy, his history, and any notion he was experiencing a punishment or unfair treatment at all. They cultivated ‘punitive protection’—a paradox that forced Ranbir to justify the validity of his own feelings and sensations.

KHALED

‘I will be released into freedom or I will leave Metsa in a casket. I am willing to die here.’

Khaled delivered his words quietly, his voice rising just above a whisper, yet his conviction was clear. I stayed quiet for a few moments, letting the room fill with a heavy silence. My eyes darted over to the guard on duty—he was typing at his laptop, seemingly oblivious to the stakes of our conversation. Khaled followed and fixed his gaze on the officer. His eyes were searing in their intensity.

‘I am confident that I will win. They think they can break me, but they are wrong.’

My memory of this encounter with Khaled is vivid. This was in April 2018, ten days after he had begun a hunger strike to protest his detention conditions. He was dishevelled and gaunt, yet appeared to harbour a barely suppressed fury towards Metsa and its staff. The moment was powerful, and it forced me to confront an unexpected dynamic at play in the detention centre. In Metsa’s totalising, disorienting psychological environment, Khaled uncovered an institutional weakness.

Unlike Omar and Ranbir, Khaled was not an asylum seeker. He had travelled to Estonia to visit his child (a local citizen), but was apprehended by police after being unable to provide proper documentation. Khaled was cognizant of the fact that he was not a ‘typical’ Metsa detainee; he had a middle-class background, multiple graduate degrees, and a decade of professional experience in the EU. During my initial meeting with him, Khaled was cordial with detention officers, admitting to me that he had made a ‘mistake’ in entering

Estonia without the correct visa. He claimed to be cooperating with staff and was confident he would be released within days. By my next visit, however, Khaled was frustrated. He suspected that officers had been deceiving him about the nature of his case. Police claimed Khaled's status could be resolved with their help—but all pathways led to deportation and a re-entry ban. Such an outcome was unthinkable for Khaled, since it would separate him from his child who lived in Estonia for years. Instead, Khaled changed tack and decided to appeal his detention.

In a rare move, the Estonian appeals court ruled that the PPA did not have sufficient grounds to keep him in detention. His release, however, was short-lived. Once his court-ordered two-week interval concluded, Khaled was again apprehended by the PPA and returned to Metsa. In protest, Khaled began a hunger strike, demanding the right to reunite with his child. At this time, I also took a step that I believed would aid his defence: I wrote a letter of support, signed by myself and my supervisor, which I sent to Khaled's lawyer. This move triggered a backlash from the PPA, which complained to the university staff and specifically asked about the context surrounding my letter.

Given the conditions of Khaled's second session in detention, I expected to see him weakened, exhausted, perhaps close to capitulation with the PPA's deportation plans. Instead, each visit found him stronger, more determined, and more fervent in his pursuit of freedom. While his stature became frail, he seemed to radiate a fierce sense of purpose. Khaled was keen to understand every opportunity available to him in Metsa, recognising his mind and body as tools he could use to make political claims. Khaled refused to be defined by the PPA; he stressed that he was not an 'illegal migrant', a victim of

personal moral failings, or a pawn to be pushed around by migration officials. The guards were alarmed, concerned about the potential media ramifications of Khaled's hunger strike. Khaled's hunger strike had turned *time*—ordinarily a resource favourable to detention staff—into leverage. As the days passed, Khaled's withering figure and declining health became more apparent, more urgent, as if he were daring the guards to intervene.

Through a combination of pressure from Khaled's hunger strike and negotiations with his lawyer, the PPA and Khaled were able to reach a unique deal. Ordinarily, noncitizens deported from the EU are subject to a re-entry ban. However, if Khaled would voluntarily travel to his country of citizenship, the PPA would allow him to re-enter Estonia with a valid visa. Khaled accepted the terms.

Khaled's case provides an example of the negotiation and subversion which Könönen (2021) contends is often missing from ethnographic accounts of detention. Instead, scholars tend to '[privilege] a suffering subject as an object of analysis', leaving little room for agency or complexity (Könönen 2021: 632). This is partly due to fieldwork constraints: researchers rarely have the kind of immersive, long-term access to detention institutions that would reveal more subtle dynamics. My fieldwork in Metsa had similar limitations. However, my engagement with Khaled's case was sustained and personal despite my controlled access to Metsa. While visiting and following his detention, Khaled and I became friends; I advocated for his release and provided access to outside contacts. Through this engagement, I was able to observe something rarely reported: a successful case of detainee negotiation and resistance.

I contend that Khaled's success was also linked to an institutional vulnerability

stemming from Metsa's contradictory function as a place of both migrant assistance and confinement which lay outside criminal law. The ambiguity and inconsistency embedded in these practices, while stressful to detainees, can also lead to situations where protest, resistance, and negotiation become tactical choices via which detainees gain leverage and find opportunities. Khaled's hunger strike was potent not just because of his disobedience, but because his protest was visceral and visible to outsiders. His actions had the potential to imperil the balance of power in Metsa, piercing the veil of secrecy shrouding the institution. In other words, Khaled exploited the contradiction of punitive protection, challenging officers to defend their practices from outside scrutiny. The pressure of possible media attention and investigation from human rights organisations placed Metsa's guards in a defensive position.

BENEVOLENT CONFINEMENT: A CONVERSATION WITH THE PPA

After visiting the Metsa Detention Centre for six months, the PPA informed me that social visitors (i.e., anyone other than lawyers or diplomatic representatives) would no longer be allowed to enter the facility. This increased suspicion was prompted by the release of a written legal analysis of Metsa, authored by a refugee law clinic in mid-2018. That analysis was critical of Estonia's approach to detention and recommended reforms in line with EU human rights law. The two lawyers who authored this report had visited Metsa as part of a research project. Upon reading this analysis via the law clinic's website, the police expressed concern that other visitors could harm the reputation of the PPA as an institution.

In response, the PPA called three frequent visitors to Metsa (including myself) for a group interview at Tallinn's PPA headquarters. The PPA was interested in understanding our motivations and gauging if we could be trusted to continue our visits. In the section below, I highlight excerpts from this interview⁶ because I found their responses so intriguing: officers put immense effort into justifying detention as a necessary, neutral, and even benevolent practice. Indeed, at one point, the officers claimed their involvement in detention cases remained circumstantial, insisting that these hinged entirely on judicial motions. Metsa staff were only there to enforce these motions and ensure the safety of migrants in custody. Who could be opposed to that?

Officer 2: 'Estonia is not detaining people because they want to detain people. It's insane if you claim that we have a centre in [Metsa] and the personal agenda of the centre, the personal agenda of the police, is to keep the house full. It's not the case!'

Officer 1: 'There are two different legal statuses there—do you understand that? You are speaking all the time about asylum seekers. But there are also illegal immigrants. Do you understand? They are different.'

Visitor 2: 'Yes, but none of them are there for crimes—it's not on a criminal basis, otherwise they would be in prison.'

Officer 2: 'That's very correct, none of the guys are there for a crime. That's why they are not punished! Detention is *not* applied as a punishment.'

Visitor 1: 'But it is being perceived as a punishment by the people who are there—'

Officer 2: '—very many things have been perceived as a punishment.'

Visitor 1: ‘—And again, this is my personal opinion, when I see and speak to these people, I also feel that this is unjust treatment, that it’s punishment.’

Officer 2: ‘Of course! Because they are detained, of course they don’t like it. [But] if you read the points regarding detention, then I’m sure you do know why detention is applied in these cases... You use the term punishment, which is completely incorrect in terms of the law.’

Officer 1: ‘...So for you, an asylum seeker and an illegal immigrant, there is no difference?’

Visitor 2: ‘No, there is a legal difference. I would just prefer if they could wait at home for the decision of the judge or for deportation.’

This exchange felt like a distillation of the divergence in perspective between guards and detainees. For the officers, there were obvious, objective categories underpinning the practice of detention. Officers took great pains to distinguish between these categories. The detainees could not truly be experiencing a punishment, since detention was categorically not a punitive institution. To think otherwise was irrational and ‘emotional’—a failure of intellect. The experience of these categories did not seem relevant to the officers.

The phrasing in our discussion effectively inverted the terminology of my informants. While Khaled, Ranbir, and Omar experienced punishment, imprisonment, and manipulation under the guise of ‘assistance’, the officers perceived assistance as misconstrued as ‘punishment’. The officers admitted that detention was rarely a pleasant experience, yet they bristled at the notion that it could be unjust or traumatic. After all, punishment was the realm of criminal law—how could they be

‘criminalising’ migrants under administrative law?

At one point, the officials mused that our social visits might be manipulating detainees, giving them ‘false hope’ for their asylum applications or their chances of legalising their stay. Because the detainees were under state protection, the PPA argued that visitors could overstep ethical boundaries by offering personal support or advice. By indulging their emotions, the officers contended that we were risking detainee safety and wellbeing, contributing to insubordination or unrealistic expectations.

Officer 2: ‘But as I understand it, if you go there [to Metsa], and they express their feelings, then obviously they expect something. If not based on fact, then emotionally. If you go there, and you gain their trust, don’t you think that they would have false expectations regarding their future? If they have some questions regarding the legal perspective? And if you’re not legal counsellors, then you cannot give them an adequate answer.’

The rhetoric of immigration detention—while ostensibly bureaucratic and benign—often ‘infantilises’ detainees, assuming them to be incapable of speaking for themselves, enacting change, or comprehending their circumstances (Gómez Cervantes et al. 2017: 269). I was reminded of this sentiment as officers spoke of the need to ‘protect’ detainees from visitors, even when detainees advocated for outside support. The broader implication was that detainees required protection *from themselves*, lest their emotions and desires lead them astray by contradicting state guidance. In effect, the officers argued that detainees could not be trusted to know what was best for them.

Our conversation later turned to the content of the law clinic's report. The officers argued that the report was inflammatory in tone and lacking context:

Officer 2: 'If I would be—if I install myself in a regular citizen's shoes... now I'm gonna read the report, and I have a picture about Estonian police and also the detention applied, etc. And with those short facts, the picture I must say, is wrong. And the picture is destabilising, in which way of how I feel for the police. Do I trust my country? Do I trust the authorities?... If you present emotions in the same pot as the facts, or non-based facts, then it's a problem. If you say that, yes, from your perspective, it's very sad to have people there put into isolation for punishment. OK, then who does that and for what reason? It's not shown here. Of course there are isolation cells!'

'...If I would be the guy who was detained in the isolation cell, and if you would be the person that [is] coming to see me in Metsa, of course, 9 cases out of 10, would be the case where I would say, "yeah, you know, I didn't do anything. Those guys, they're the bad police, the cops came, and then they dragged me to the isolation cell."

Visitor 1: 'But that's a problem if people say that, because that means-'

Officer 2: *[laughing]* 'Oh-ho-ho! Yeah, yeah!'

Visitor 1: 'That means that either they have not been explained what happened, or, of course it can happen that they disagree with it, but also this kind of "somebody came and dragged me", this is a very problematic narrative. For me, it indicates

that people have not been given a good explanation.'

Officer 2: '... If you are going on that kind of very emotional matter, you know, detaining somebody, or isolating, or whatever, there are always emotions involved. So, to base an article or even somebody's opinion only on emotions, it's not completely trustworthy or objective. ...It's like Donald Trump says; it's fake news! Do you agree with me?'

De Genova (2017: 161), in a conceptual discussion of migrant 'detainability', argues that one of the most compelling facets of detention is 'naturalisation' or 'depoliticisation' as a tool of law enforcement. During this interview, I was interested to hear Metsa's officers discuss detention in this context, framing the practice as essential for the wellbeing of citizens and migrants alike. Solitary confinement was also naturalised as a disciplinary measure: my informants in detention viewed solitary confinement as cruel and traumatic, yet the officers spoke about this practice in aloof, paternalistic terms. Moreover, Officer 2 claimed that individuals had requested isolation in the past, framing solitary confinement as something that could be desirable for detainees in certain circumstances—perhaps even necessary for their protection:

Officer 2: 'Just to give you another parallel issue regarding that: there are quite a few cases where persons have demanded to be isolated because they don't want to stay with other people. So, if you don't have the facts and background, it's a bit difficult.'

Despite my disagreements with them, my aim in this section was not to ethically judge the

officers, but rather to juxtapose their understanding of detention conditions against the experiences of my informants. The officers' words framed Metsa as a space of seemingly incompatible functions—simultaneously invoking the rhetoric of discipline, national security, and migrant protection. They described detainees in terms that were both paternalistic and personal, claiming access to exclusive knowledge that contradicted the prejudiced, 'emotional', and conspiratorial views of my informants. The intensity of these contradictions parallels what my informants experienced in detention, providing a new perspective on the paradox I describe as 'punitive protection'.

CONCLUSIONS

European Union regulations outline immigration detention as an administrative measure that should function as a last resort to prevent unlawful border crossings and facilitate deportations (Council of the European Union 2008). In Estonia, as in the rest of the EU, detention is legally and politically distinct from any form of criminal punishment. Yet, these categories can blur together in practice; many migration scholars (e.g., Bosworth 2017; Jukka Könönen 2019; Nicolas DeGenova 2021; Griffiths 2013) have approached detention as an enigmatic institution where migrants experience criminalisation through informal processes. I observed this process in Metsa: Omar, Ranbir, and Khaled had not committed a crime—a fact that facility guards were keen to remind them of—yet my informants faced long-term confinement and social isolation.

In addition to this contradiction between the form and function of detention, a deeper irony was palpable in the interactions between Metsa staff and detainees. At stake was not just deportation, but the authenticity of day-to-day

life. Again and again, officials insisted that my informants were overreacting, misunderstanding, and mistaking benevolence for malfeasance. I watched as my informants' beliefs, sensations, and experiences were denied or disbelieved by officers. These processes lent Metsa a surreal, psychologically intense atmosphere. Entering the site felt like stepping into a crucible of stress, paranoia, and competing realities. Questions and ambiguities swirled through my fieldwork conversations. I struggled to make sense of what I was observing.

In this article, I have proposed a term I argue encapsulates this tension: *punitive protection*. 'Punitive protection' reflects the paradox that my informants in Metsa encountered; it describes the space between what they were *told* and what they *knew*. Punitive protection is potentiated by the ambiguity of detention law and experienced at a visceral level in Metsa's corridors.

My interview with the PPA allowed me to observe punitive protection from a different perspective. Officers described detention as a necessary service that supervises and manages care for undocumented migrants. This 'care', however, included 'arranging' migrant deportations and 'protecting' them from outside visitors. In our discussions, PPA officers purported to speak on behalf of detainees, assuring me that the state was acting in their best interest—whether they realised it or not. The afflictive experience of detention was irrelevant; the officers I spoke to contended that any rhetoric of punishment or imprisonment was an overreaction or delusion of detainees.

I left my fieldwork believing that detention takes a terrible toll on all involved. The informants from Metsa I am still in contact with complain of lingering trauma: nightmares, flashbacks, and paranoia intrude upon their daily routines, even when the risk of deportation has subsided. Yet, their suffering was not the

full story: each of my informants grasped the paradox of punitive protection and responded in various ways. Omar and Ranbir viewed the institution as an absurdity, challenging and contradicting guards in conversation. Khaled found a weakness in the ambiguous, informal nature of detention, using his body as a mode of resistance and working to attract attention from outside groups. All three described their experiences in terms beyond dispossession, articulating a disorienting tension that shaped life in Metsa.

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NOTES

- 1 Refer to the Estonian Penal Code sections §2374 and §258.
- 2 This can occur when different reasons for detention are given for each term. For example, someone could serve one 18-month detention term for 'identification' and another term as a 'security risk'.
- 3 BJP is an abbreviation for the *Bharatiya Janata Party*, the political party led by Narendra Modi.
- 4 The Dublin agreement requires that asylum seekers remain in the EU country where they first apply for protection. If they leave this initial country of entry, the Dublin regulations create a justification for their deportation back from within the EU.
- 5 In rare cases, migrants can serve multiple detention terms if their status changes. Each detention term must have a separate justification given by the PPA, such as flight risk, lack of identification, security risk, etc.
- 6 This conversation was conducted in English and recorded with permission from all parties taking part in the meeting. All quotes are verbatim, although lightly edited for clarity.

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