

Development Policy Centre

Michael Flynn  
Executive Director  
Global Detention Project  
Geneva, Switzerland

interviewed by

Robin Davies

(27 May 2014)

**Robin:** Australia is currently holding more than 3,000 people in immigration detention facilities. Around half of these people are being held offshore, either on Manus Island in Papua New Guinea, or on the Island of Nauru. Most of them are from developing countries, including Iran, Sri Lanka, Vietnam, China, and Afghanistan. The group on Nauru includes 50 children.

The Global Detention Project is a Geneva-based, non-government organization which was formed in 2014. It investigates the use of immigration detention as a response to global migration.

I'm Robin Davies, the Associate Director of the Development Policy Center, and I spoke with Michael Flynn, the Executive Director of the Global Detention Project, just before the launch of the Project's new website and online database at the UN's Geneva headquarters. The launch was timed to coincide with a meeting of the UN Human Rights Council, and it was based on a case study of Australia and its neighbors.

Michael starts by talking about the origins of the Global Detention Project and its plans for the future. Most of the discussion that follows is about Australia's detention policies and practices in a global context.

We also touch at the end on the role of international organizations in this area.

**Robin:** Michael, could you start just by giving us a broad overview of what the Global Detention Project is, where it came from and what its aims are?

**Michael:** The Global Detention Project really is the brain child of students at the Graduate Institute.

**Robin:** That's the Graduate Institute of International and Development Studies in Geneva.

**Michael:** We were Masters students, and one of the things we were working on was some of the reporting I had done—because my background is as an investigative journalist, and a magazine editor—working on stories on how the United States was involved in keeping people detained, and other countries, and nobody knew about it. Nobody.

Whereas in Australia's case, everybody knows. Everybody, the world knows what Australia's doing. No one knows what the United States is doing to this day. It's really just hearsay, almost. But I tracked down a few stories—as far as, Guatemala, Ecuador—where you see the United States heavily involved in apprehension efforts and then, in certain cases, paying for detention centers.

In the case of Guatemala, they were using dilapidated hotels to detain Indians who had used Guatemala or Central America—it's not clear exactly where they originally landed—but they had been apprehended in Mexico and then sent back to Guatemala for some reason.

And the United States paid for the detention center for them. And this is just after 9/11. And the question, the obvious question, was why doesn't anybody know about this? Why is it that nobody—there was an article in the Miami Herald, page 20, one paragraph, saying there were Indians languishing in a detention center in Guatemala, but no idea about the United States' involvement in it.

And so, this kind of lack of clarity, lack of transparency about a very important issue, the treatment of people in need, not only was an important journalistic story, it was just an important thing to—I felt, to pursue.

And the idea eventually, working with other students, emerges: let's make a tool, a database of all the detention centers we can find using any technique we can, whether it's phone calls, whether it's freedom of information act requests, whether it's systematic review of fresh reports, finding any notice of a detention center anywhere in the world, which is really ambitious. Really ambitious. A small group of students looking at the whole world.

So you prioritize certain regions in certain countries, and the clear priorities originally were Europe, Australia, the United States. So the first work we initially did was on those countries.

But increasingly, the issue became, wow, what's happening is this effort to externalize detention practices, and so, we need to be able to pay closer attention to transit countries and also a lot of south-south migration and countries adopting policies that they are observing first world countries doing, developed countries doing, and then sort of adopting them wholly for their context.

And so we started seeing the spreading of detention regimes, a lot of them with similarities like mandatory detention practices. It remains very rare, the kind of mandatory detention that Australia has but you see countries citing it, citing that case and saying, “This is what we should be doing.”

And it's this kind of learning process. So, in any case, that's the origin. The Global Detention Project became a tool of transparency. Let's document the spread of detention centers, and that was the original cause, the original point, but doing it systematically, finding, coming up with a typology.

Okay, we're going to find detention centers but what kind of detention centers? What are we talking about? I mean, are we talking about airports? Are we talking about jails? Because we're finding people being detained in all kinds of different situations, so just to use the word "detention center" or the word "camp" as is very popular among some activists here in Europe, to call them all camps— really you don't say much, right, if you just use a very flat typology like that or one word to describe this. So we came up with a typology, and so one of our goals became, let's look at countries through the types of facilities they use, and determine why that mix of facilities is being used.

And that step starts leading to issues of privatization, why are they privatized, to issues of who has custody of these people in these facilities, is it a national security entity or is it a social welfare entity? All of these things tell us something different about the country, and the social drivers and political drivers of the phenomenon of detention.

So, a lot of things start to become apparent right away when you do this. You realize that, wow, it's only English language countries that have privatized detention centers. Only English language countries, fully, and there are some exceptions here and there, but it's only the three. It's Canada, well it is Canada, but it's mainly the United States, UK, and Australia.

**Robin:** So that's interesting. I mean, that raises the question about how policy gets transmitted across countries and do you think that's a factor that there is, I guess, easier communication transmission of policy between English language speaking countries?

**Michael:** I haven't studied the transmission of privatization. I think that there's really going to be a strong connection to countries or private companies, security companies having a familiarity with a certain market, knowing it very well, having a comfort level, having a lobbying level that allows them to use certain situations to push privatization.

I mean in United States' case of privatization comes about because private prison entrepreneurs were exploiting the Cuban crisis in the early 1980s and there was a need to quickly ramp up detention abilities. There's a perceived need, so they say, "Why don't you guys do this?"

And so this private company started running hotels as detention centers. But yes, so privatization is one of many issues that we ... we're trying to determine what has lead one country to adopt this set of policies, where they're learning it, or who's imposing it.

Broadly, you could say that if they're learning it, it's either passive or it's active. There's someone either pushing them to do it or it's just learning and adopting. So, really interesting case with Australia in this regard. It really is at the center of this interesting

story of the transmission of detention practices of mandatorily detaining people arriving by boat.

Canada looked at the Australian case to implement its policies after the Tampa case. Remember the Tampa case? A boat [MV Sun Sea] arrives in the port of Vancouver with several hundred asylum seekers from Sri Lanka?

And they eventually adopt the law. It's created a lot of public hysteria. And more are going to come. What are we going to do? Let's do what Australia does. So, based on the Australian case, they put in place their own mandatory mass arrival detention practice.

And then, interestingly enough, although they've never had a mass arrival, New Zealand then a couple of years ago looked at the Canada case and said, "If they can make it to Canada, they can make it here. So we'd better get ready." And so they adopt a mandatory detention policy.

**Robin:** So the project starts with a focus on the United States, it broadens to take in other countries, particularly English-speaking countries with similar policies. You split off from the Graduate Institute, or graduated from it, in a sense, in 2014, I understand, and you are now an independent non-government organization.

**Michael:** Association is the word in Swiss law. But yes, that's effectively the history. We began operating in 2006 at the Graduate Institute, we go through various phases there where at one time we're attached to the political science department, we later become attached to the program for the study of global migration.

Anyhow, that lasts for a few years, and then the Graduate Institute created this Maison de la Paix [new building] and they refurbished also a lot of their administrative processes, and it became a little bit more challenging to do the kind of independent work we were doing in this new context.

But we had a very cordial separation. The number two person at the top, at the time, Professor Lisa Prügl, really saw the situation and encouraged a cordial separation with the support of the Graduate Institute and our main donors to become an independent NGO and that happens—we become wholly independent in September of 2014.

**Robin:** Michael, can you tell us a little bit about the launch which is coming up on the 14th of June this year? You're launching a new website, a new online database, and there's going to be a particular focus on the case of Australia and its neighbors, so can you tell us a little about that?

**Michael:** We've had the website, the new website, the new database available online since January, it's just taken us awhile to get around to doing a public launch because we're just busy, so busy. And then an opportunity arose even though we don't have ECOSOC status so we can't [participate] at the UN yet, because we're a new organization.

A partner was able to secure a room so that we could do a launch at the Human Rights Council with the hope that we may draw some diplomats and people representing countries, because this is one of the few venues where you can actually—to have that kind of draw, so we thought it was a really good opportunity to do this public introduction, to bring attention to this tool.

People who are attracting detention policies know the site already and have been using it, but it's an opportunity to maybe draw more awareness from different groups. So the partners that we are working with on this have a keen interest in what's going on in Australia and also in the offshore sites, PNG and Nauru. And so, we thought that it would be a good opportunity to demonstrate what a database like the Global Detention Project database can tell us about a situation like Australia and its impact regionally.

Because one of the things that comes out of the database is it really shows the uniqueness of different countries. They stand out. And sometimes in small ways, and sometimes in big ways, but sometimes in very obvious ways, but until you actually have something systematically, where you're constantly trying to compare it to a peer group or to non-peer group countries, you begin to see patterns, and so, and there are a number of different things that come out in the Australia case in this regard, why it's really a sort of exemplary case for demonstrating the database.

And one of these things is privatization. When you look across the entire world, at privatization of immigration detention, Australia is one of a very small number of cases that has fully privatized its entire immigration detention infrastructure—put it under management of private companies.

The UK follows closely behind and then the United States. So, this is quite interesting, with the English language countries doing this, but also tells us something about maybe how the companies have familiarities and subsidiaries in these different countries, and just a knowledge of the political system.

And maybe there's also a kind of view of capitalism in these countries that is not shared necessarily in, say, mainland Europe, where privatization is much more complicated. And so, this tells us something quite interesting about Australia. It shares a mentality with these other countries, and has really gone gung ho. It's just embraced privatization completely.

What else do you see? Well, the issue of mandatorily detaining children who are arriving by boat. Who else is doing that? And, what's more striking about this, I think, is that the migratory pressures that Australia faces just don't compare to what you see in the United States or Europe today.

The numbers are staggeringly small, and the response is staggeringly excessive. So that's the thing that really just stands out about Australia. Not only that, but—and this is something that's hard to capture in data, but the kind of rhetoric and dialogue and social hysteria perceived from abroad, of what's going on, is quite impressive. I'll give you a case in point. We use our Facebook page as a tool for publicizing new profiles that we publish, and we published a profile on Nauru a couple of months ago.

Now, what Facebook lets you do is target countries in languages and interests in a way so that your sponsored ad shows up in their reading list. We targeted Australia and people interested in immigration. And this has never happened to us before but we had hundreds of hate mails. Mean-spirited comments. This has never happened with any other country.

Yeah, you'd get the odd person coming in with real mean speech but I was standing there for three days next to the Facebook page deleting these things because I felt embarrassed. I felt embarrassed for Australia, I felt embarrassed for our page.

I afterward gave thought to this, we should have left that. We should have left that as a record, but it seemed to encourage—by leaving it there for a little while, it seemed to encourage more people to go up and do it, so you're kind of encouraging people to go up and write hateful things about people arriving and why they deserved to be where they're at.

And it was hard to stomach. It confirmed something that you can already tell about Australian society's willingness to have these extreme policies, there's clearly a support and need for this to satisfy the demands of a concerned population, but again, you come back to this issue that comparatively speaking, Australia's migration phenomenon is very, very minor.

**Robin:** Okay, so the focus on Australia is partly because it's an outlier and therefore useful in terms of demonstrating the database, but I guess it sounds like it's also partly because of that policy contagion that you were talking about earlier. Outliers overtime tend to attract other countries toward the same policy frameworks. Would that be a fair point?

**Michael:** I would say that outliers attract awareness. It doesn't necessarily mean ... there have to be other factors in place to cause I think an adoption, but outliers certainly draw the attention of people who are fishing around for solutions to perceived crises. Australia is notorious

for its offshore regime, and so that really—and the mandatory indefinite detention—these things stick out and so countries fishing around, there is a process of looking on the shelf, what's available and if something's nice and shiny and seems to work, you do it. So, yeah.

**Robin:** Some people may have seen your narrative profile on Australia, on your website, which has not been updated for some time. The data have been updated. So I take it that at the launch, there will be a fully updated profile that will cover some of the developments.

**Michael:** We're working on it. There's a lot to say since 2008. It's not going to be a full on study but we're going to have a more up-to-date profile putting Australia in comparative context which is the key goal, I think, of the profiles at this stage. We're really moving towards more and more data collection and letting the data speak for itself instead of producing really long narrative profiles which we often do.

We have a small staff of three people, and to write 30- or 40-page profiles, which Australia easily merits, is just too time consuming. So what are the main things that we can do—how does the narrative add to the data that you're collecting? It's mainly highlighting differences.

**Robin:** I do want to move on in a moment to exactly that, how Australia figures in a comparative context, but what you're saying triggers a recollection. The first time I looked at your site, I found the individual profiles fascinating and deeply scholarly, in a sense. A lot of research has gone into these.

But I also found it hard to gain an overview, to get a sense of how one country related to others. At an extreme, you might demand an index. Everybody has an index. And I suspect that is not going to be a helpful instrument in this case, but it does seem that you're moving towards an approach which does facilitate those kind of comparisons.

**Michael:** The kind of tools that have not yet been launched or developed but are in the works would provide people the ability to choose the kind of policy tool that they're interested in, get a sense of how widespread it is, and bring up multiple variables, and trying to ask complex questions about what might be the pushers, the drivers of certain kinds of policies.

So those tools are in the works. We're hoping those will be ready probably next year, but yeah, I mean I think the data itself, it's there. One of the values of the Global Detention Project is you can go and look at just about any country you want, and you're going to get some information about—but the tools that give you all the comparative work, you have to do a bit of it on your own.

In the profiles, we do try to make an effort when there are real clear cut cases to talk about and highlight how, what's distinguishing this country from its neighbors. Last year, we published a profile on Germany, the first profile of its kind which is very complicated to do because the entire system rests on level of the *land* [province], and so you need to basically do a profile on all 16, I think it's 16 *lands*—it's not one country, it's 16 *lands* that you need to profile to get a real clear sense of the country, which is very complicated.

So you're asking information from people who aren't necessarily wanting to give it to you, and the federal government says that they don't have that information because the *land* is responsible.

Nevertheless, there's a lot you can draw from that and one of the things that stands out and we point out quite clearly in the profile is that Germany is one of the few countries in Europe that use prisons for immigration detention. That's one of the most important factors to take into account. The other interesting factors, they did try to privatize. One facility they privatized and then they never did it again.

And a lot of this may go speak to the political culture, right? The perception of capitalist system that they have is quite different than the English language countries, the large English language countries, so I think that's what explains that.

**Robin:** All right, so let's talk about Australia in context. I mean I think many Australians thinking about these issues, whether they're on one side of the debate or the other, often actually don't have a clear sense of where Australia's policies do sit along the spectrum. For example, on offshore processing, I think most people would suspect that we're fairly unique in our use of offshore processing but how do we stand on that?

**Michael:** On that you'd be wrong. It's interesting, I think most people in the world, not only in Australia will think the same thing. That Australia is the leader in this, is the innovator, but it was really the United States. When you go back in the policy discussions and you look at the birth of the Pacific Solution, you see that these guys are looking at what the United States was doing in the Caribbean.

And this becomes a real key factor in the discussions. They're doing this in the Caribbean. They're stopping these boats at sea, they're finding ways to send them elsewhere, to not keep them there. Let's think about doing something like that.

So you see some of the policy makers starting to use this. So the United States becomes the innovator, in a way. And then Australia, it remains very much under wraps in the United States. Nobody talks about it. And it's interesting. I mean, people did, at the time in the 80s, they were talking about what was happening in the Caribbean. They were

talking about—there were major landmark supreme court cases about the treatment of people being interdicted at sea and their treatment.

So there was attention but it didn't receive this global notoriety that Australia has with its offshore system. And as a result, it is kind of like the global bad guy. But then, the comparative perspective that must be taken into account is what are the drivers of this? One thing you have to recognize and everyone should recognize is that people arriving in an undocumented way, often in a very precarious way, have security threats to themselves, very much. To their livelihoods.

There's a problem with what may happen to them at sea. And you can't ignore that some kind of steps should be taken to assist but the next step to make statements saying that asylum seekers have no right if they're captured at sea to make an asylum claim in this country really makes Australia stand out quite—and again, in another way.

And responding to a migration phenomenon that is remarkably small compared to other countries who have not adopted those kinds of policies. Most European countries for instance, although what's going on in Europe now raises a lot of questions about them looking at the Australian model to have arrangements with countries in Africa to prevent transmigration.

They're comparable to some of the things that Australia's doing.

**Robin:** Another innovation perhaps is the deal that Australia has sealed with the government of Cambodia to at least in theory accept refugees from Nauru and Manus. Not successful in practice but again, is that kind of arrangement widely practiced at the moment?

**Michael:** The European Union arrangement with Turkey is a really important case to look at in this regard, right? I mean, exchanging numbers—I mean I know that Australia wants—there's a previous agreement that failed, wasn't it with Malaysia, to exchange numbers and people—we'll send you this number and you can send us  $x$  number.

**Robin:** One for ten, or whatever.

**Michael:** Exactly. These kinds of arrangements we see happening with Turkey, right? It's crazy. Turkey's a country that does not provide in its law the kind of asylum regime that would be necessary for Europe to do this even in their own treaty issues.

They have an obligation not to send to people to countries where they won't receive appropriate hearings. So, it's quite remarkable, in this sense, too, Europe like Australia is just flouting international obligations in the face of everybody as if this is just—this is just par for the course, this is just what we do. They don't really matter.

Again, I always come back to this issue, the kind of crisis, the kind of movement of people that we've seen has been so dramatic. Has it been so dramatic in the case of Australia? We were looking at figures on boat arrivals before you came this morning, and in 2013 it was quite—there was quite a large number of—

**Robin:** We may have had about 10,000 people in that year.

**Michael:** I can't speak to the discourse, and the level of discourse, although I do read some of the newspapers from time to time when issues arise to get a sense of things. Here's another interesting comparative point. Language. The alternatives to detention that Australia has. They call them detention. Detention in the community.

So this tells you something, because most countries are trying to feature their alternatives as their humane thing, but it seems that Australia is trying to say, "Our alternatives are actually still meant to not be very nice."

**Robin:** And this is the deterrent objective.

**Michael:** And we're going to call it detention, we're going to call it detention. But they're also speaking to the political—the community, to voters, to the public. They're communicating by using this kind of language.

And so, it tells you a lot about the context these things are happening, right? That there's a real hard line, and it seems to be very widely accepted and embraced in the Australian public.

**Robin:** Speaking of community detainees as they're termed in Australia, there are only some 600 at present, but they are unable to work. Is that a common policy across other countries?

**Michael:** Yeah. There's a lot of inability of people to get work, I think Russia is a very good case, but once you have some kind of release from detention, generally speaking you have in most countries' an ability to be able to get some kind of work. But maybe it depends on your status. If you're being released because you have an asylum claim accepted, then you're at a different status then.

You can go but you can be re-detained and there are people who just have no ability to do anything, and there's a lot of so-called re-detention issues in Europe. People who are being released but they don't have any status.

**Robin:** I know the Global Detention Project has done some work, a lot of work in fact, on children in detention. Again, is this an area where Australia's very hard line policy is an outlier or are there similar policies?

**Michael:** The outlier for Australia is this mandatory detention of children arriving by boat. That's an outlier. I don't think that exists anywhere else. I don't think there's a single country that has that kind of ... as for the detention of children itself, Australia's not an outlier, unfortunately.

**Robin:** Is it institutional detention in other cases or does it tend to be community-based?

**Michael:** Well, I think that we wouldn't call most community-based solutions detention. We have a different name for these things. Which is a very important point to highlight. We have a typology, it's what I was telling you about earlier. And that typology is meant to pierce the problematic language used across the board for this issue.

What people call reception centers, what people call welcome centers, what people call—whatever, right? So you need to develop a vocabulary that can be mainstreamed and used by actors to do comparative work. Because otherwise, you really get caught and bogged down in language.

So in this particular instance, the community detention issue is really important for us because we see that that's unique. No one is calling alternative detention community detention.

But in the case of children being kept in the community or other social welfare solutions, we generally don't call those solutions detention. But it's not so easy to come up with a set of indicators that tells you when it's detention or not detention.

Because it clearly could be, they could be at Lutheran social services in Seattle, and locked in a room. What are we going to call that? It's an eight year old. The eight year old, undocumented, apparently no ties to any adults. You're not going to let that child go in and out freely out of the social welfare institution. It would be insane to do so, also because there could be a trafficker who's waiting to find a moment to nab this person.

It could always be a reality there. So there's a real question of what we should call detention in this. We had a really weird thing, one of the first things we ever did as the Global Detention Project was do a freedom of information request to the United States for all the detention centers that were being operated at the time.

And they sent us a list of 900 facilities. 900 facilities, right? For the fiscal year 2007. And on that list, there were about 40 different social services that were for unaccompanied minors, and they included them on this list of detention centers, which we found quite striking.

Why was immigration and customs enforcement giving us a list of detention centers and including those in that list? And we highlighted it and we brought it up in some of our publications, and so did others, and eventually they removed those from their sites of detention. But we called some of these people up, we just cold-called one of these Lutheran social services in Seattle.

“You guys know that you're in the list of detention centers?” “Oh, really? Why? That's crazy. We're not a detention center.” But I think there's hard work that needs still to be done to determine what we want to call, what custodial situations we want to call detention, which ones not. And that clarity does not exist today. So the campaign to end the detention of children is a complicated one because of this.

Because the nature of detention or what we want to call deprivation of liberty in these cases has so many inherently problematic questions that go to the security of the child, the well-being of the child, which is obviously the first consideration. Well what is the best situation and which ones do we determine to be carceral-like? So that becomes a question, what's carceral-like?

**Robin:** I'm interested in the role of some international organizations in this area working with governments like the government of Australia. I'm thinking of the International Organization for Migration, UNHCR in particular. In a sense, they're engaged in these policies through the work that they do, sometimes with funding for Australia or others, in countries like Indonesia or Cambodia. For example, IOM agreed with the government of Australia to assist people relocated from Nauru to Cambodia. Have you looked at the extent to which international organizations are engaged in implementing these policies and what sort of safeguards they put in place?

**Michael:** Yeah, well, I mean, have we looked into it?—We've had to, as a matter of beginning to focus less in destination countries and more on transit situations and immigration control in developing countries. We almost always find involvement of international organizations in some level, the IOM being the most important one.

But UNHCR finds itself in situations that are very uncomfortable for it. Playing a role inside ad hoc facilities and detention centers, doing asylum processing, but nevertheless kind of engaged as one of many partners in a detention situation which I'm sure is uncomfortable. The IOM, I don't think they're ever uncomfortable about this, although if you talk to the diplomats here, they don't really want to talk about it.

I had an interesting experience. We applied—I'm not going to tell you who the donor was that we applied to—we applied to a donor several years ago for a grant, and they

responded saying, “Look, we only do migration management, so detention doesn't have a role in that, so we're not interested in your proposal.”

And I really had to contain myself, my reaction because the migration management phenomenon with IOM involvement, with other international organizations involved as a part of this multi-stakeholder process, clearly has detention as a tool, and in that sense, IOM has become very, very engaged importantly with partners like the European Union, in the case of Ukraine, heavily involved.

And in the case of Indonesia you raised, and a multiple of other cases. And so, I think that there's a concern about IOM that stems from the fact that it's not a treaty-based entity, so UNHCR's involvement really is narrowly about—tends to narrowly be about processing asylum claims and providing some other services that are part of or come out of the treaty [Refugee Convention], that emerge from what their mandate is. What's IOM's mandate?

They have adopted guidelines for the treatment of people. But these are, it's like the United States, guidelines on the treatment of detainees is just guidelines. These are not something that they can be held legally accountable for—so, I think it's a real concern. I think that when you start involving any kind of non-state actor to broaden the analysis a bit in this issue, you start having odd questions about what is immigration detention?

If you've got a facility that's been operated in a country by private contractors who are getting training from the IOM with little involvement of the country itself in it, well what is that? Because one definition of immigration detention, I think we should—is the fact that it's really about states. It's about state, sovereign power, saying that we will hold somebody here because of the nature of crossing our border.

So it's non-citizens. So immigration detention has to do with non-citizens. But when you've got non-state actors who are involved in depriving people of their liberty, the question of citizenship becomes peripheral. And so you've got a new phenomenon.

I'm thinking of another case. We get a little bit away from Australia here but there's a small building on the tarmac in the International Airport in Seoul, and that small building is where people who are refused entry into South Korea have to sit for weeks sometimes on end to wait for a flight out, and it's operated purely by a consortium of airlines.

So this is detention by airlines on the tarmac at Seoul airport. Is this immigration detention? These kinds of cases we see increasingly. Increasingly. The involvement of so many different actors that you think—militia, militia running detention centers in parts of

Libya that are no longer governed by anything that you could call a state, militia comes in and just continues to run the detention center.

Is this immigration related detention really—what is happening exactly? These kinds of outlier cases really start to raise a lot of intriguing questions about how we call immigration detention and so what are the applicable international standards?

**Robin:** And I guess there's a related question about the management of detention by other sovereign parties as we have in Nauru, for example. The actual centers are run by private entities but Australia tends to say sure, we put people there but the government of Nauru is responsible for their welfare, so a further layer of complexity.

**Michael:** Yeah, yeah, no I mean Mauritania has a similar issue too. I don't know if you're familiar with the case of Mauritania. When they first blocked the migrant route from sub-Saharan Africa through North Africa, there was a heavy effort to interdict migrants there. And they kept getting on boats further and further south, along the coast, the Atlantic coast of Africa all the way down to Mauritania because the Spanish islands are right off the coast.

And so they would go on boats to get to the Canary islands. And that would be their entry point into Europe. And so, the Spanish adopted this model of having the Spanish international development aid give money to refurbish a schoolhouse to hold these people interdicted in the seas there and keep them there and there are all kinds of conflicting claims for years about who has custody of them.

Are they in Spanish custody? Are they—Mauritania at one point says we don't have custody of these people. So Australia's not unique in this. This is happening quite a lot and raising very disturbing questions about custodial authority, because so much hinges on custodial authority, doesn't it?

What are the rights that people can have under whose custody? And if you can't determine that custody, then they're in limbo.

**Robin:** So I just want to ask you a final question on Australia's, I guess comparative performance in relation to information transparency. So in one sense, it's become notorious that, for example, whistleblowers face heavy penalties for releasing specific information on what they might consider to be human rights abuses, but on the other hand, the Australian government makes quite detailed data freely available. What's your take overall on the level of access to information that Australia provides?

**Michael:** Well, I think that to give them their due, they provide extraordinarily good statistics on their mainland detention system. And much better than a lot of countries. I would say that

the country that comes closest to providing similar information is the UK, but partly in the UK it's because they have such a strong prison oversight mechanism, Her Majesty's Inspectorate of Prisons—we've got a working paper, we've just published in May by one of their lead inspectors, talking about does inspection have an impact on immigration detention.

They played a really big role on helping transparency, but they're a unique kind of entity a lot of countries don't have, and so without them, we might not have all the same kinds of details that we do today about detention statistics, but Australia really provides a massive amount of data.

And why would they and other countries not? Why doesn't the United States provide—the United States provides some information but nothing like that. Nothing that detailed. Why does Australia do it?

And I think it may come down to the same thing that Australia is not too concerned about, in fact wants people to know. It's very important for them, for the Australian government to know that its public knows everything that they're doing because this is really publicly accepted. And this speaks to a real important question about immigration detention, because generally speaking it's about detaining people and not charging them with a crime.

There are forms of immigration detention that are criminal, right, where it's criminal sanctions for coming in the country without papers. There's that form of immigration detention, but generally, the administrative nature of it means that you're not charged with a crime but still you're in prison.

And that strikes at the heart of a real important norm in contemporary liberal democracies, which is the right to freedom. Right to liberty. So, a lot of countries express their concerns about this by not putting data out. By not calling detention centers detention centers. By shielding their activities.

We did a freedom of information request the last couple of years to 30 different countries in the European region, and only a small handful responded to basic questions like where are your detention centers, if they weren't publicly known? How many people are detained there? Do you detain asylum seekers?

Less than half gave us full answers to these simple questions, right? In Australia, that's not a problem. You get all that stuff. So again, you ask yourself the question, these other countries seem to have this discomfort on some level.

There's almost this schizophrenia. They like to be able to portray, "We will get tough with you so don't come. But really we don't call that detention, we call it something else." There are legal issues involved too which help feed this schizophrenia. In Australia, there's no schizophrenia.

"We'll tell you what it is, and even when it's not detention, we'll even call it detention." There's an embrace. This is one of the things that's most striking about Australia, I think. It seems to be from the outside such a societal embrace that there is no level of discomfort whatsoever except for the offshore which is where you see all of these whistleblower issues coming up.

There is a desire to silence this, which contrasts sharply with the kind of thing that you see going on on the mainland, and that is much more the thing that we see—we haven't seen actually that kind of whistleblower, like you're going to be prosecuted if you say something like that. I haven't seen that kind of case elsewhere. So that's pretty dramatic.

**Robin:** I want to ask you a question which is, I guess, partly outside the mandate of the Global Detention Project but not completely—and it's a global question, not a question specifically about Australia, but take the case of Australia as a starting point.

In the past, it has been the case that a very high percentage of asylum seekers have ultimately been found to be refugees, usually on appeal. Maybe half of them are found to be refugees through the normal processes and then a large number in addition to that are found to be refugees on appeal.

Is it possible to generalize much about what happens in other countries? Because in a sense, the Australian figures point to—I guess they make Australian policy seem even more extreme when you consider it.

**Michael:** The low recognition rate.

**Robin:** Yeah. When you consider that in the end, at least up until around 2010, somewhere around 90% of people were being found to be bona fide refugees—people who had been in detention.

**Michael:** Where's it gone to now?

**Robin:** Well, it's no longer, in a sense it's no longer applicable because these people are no longer being processed by the Australian government. They are parked in offshore centers. And you have to assume that if they were being processed domestically, the figures would be around the same: on appeal, maybe 90% of them would be regarded as refugees.

So that throws an even harsher spotlight I guess on the policies of Australia and the same would be true in other countries. So I'm interested, have you started to look at this? Do you see this is a relevant area for research?

**Michael:** We've seen a growth in the last few years of the adoption of expedited processes that seem to have as their unspoken agenda, ensuring that the appeal process won't lead to eventual recognition. And the UK has had a very, very controversial process where the recognition rate just dropped dramatically when they adopted this particular expedited process.

It's actually gone down I think just since the end of last year. I think they've had to wipe it away because they've lost too many court cases. But we've seen, certainly, and the United States is another really good case too, where they have this expedited removal process where people are not being given the full appeals process to make their case. I think that that is one of the mechanisms, policy mechanisms, that is becoming quite common.

Either through expedited policies whether it's somebody who's in country or the biggest one is preventing them from ending up in the country so that the processing takes place elsewhere with the caveat that they wouldn't, even if they're found to be refugees, wouldn't have the option to be resettled in the country that they are heading to.

So, I think it's part of a much larger pattern of states shying away from the requirements that they have under the refugee convention.

**Robin:** So in a sense, it's even harder to see the true recognition rate because they're not even getting to first base?

**Michael:** Yeah.

**Robin:** And that's where we left the discussion. Michael Flynn holds a Bachelor of Arts in Philosophy from DePaul University in the United States, and an MA and PhD in International Studies from the Graduate Institute of International and Development Studies in Geneva.

He previously worked as a project director at the Institute for Policy Studies in Washington, DC, as a project coordinator at the Graduate Institute's program for the study of global migration, and as an associate editor of the Bulletin of the Atomic Scientists.

His research has been supported by the Swiss Network for International Studies, the Geneva International Academic Network, the Pew International Journalism Program, and the Fund for Investigative Journalism.

[End of Transcript]