

A few families too many:

The detention of asylum-seeking families in the UK

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By Emma K. H. Cole

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This publication is based on an independent research project by Emma K. H. Cole. The research was originally undertaken as the basis for an MA thesis at the School of Oriental and African Studies.

For reasons of confidentiality, neither Bail for Immigration Detainees (BID) nor the author is able to release further details relating to the families who were interviewed.

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Glossary

- Adjudicator bail** - Bail granted by an adjudicator in an Immigration Appellate Authority court. To date, sureties have often been required. Where bail is granted, residence and reporting restrictions usually apply.
- Asylum Seeker** - An asylum seeker is a person who applies for recognition as a refugee, under the UN Convention (see below).
- Chief Immigration Officer** - A senior Immigration Service officer, usually in day-to-day control of ports and enforcement units.
- Chief Immigration Officer Bail** - Bail granted by a Chief Immigration Officer to a person subject to immigration control. Release may be conditional on the lodging of substantial amounts of money (often between £4,000 - £10,000), as well as residence restrictions and a date, or regular dates, for reporting back to the Immigration Service.
- Immigration Officer** - The basic grade of officer in the Immigration Service. These officers make the initial decision to detain.
- Judicial Review** - The procedure by which the High Court oversees administrative decision-making.
- Manifestly unfounded** - The indication by the Secretary of State alleging that an asylum claim lacks foundation or merit.
- Refugee** - The 1951 UN Convention defines a refugee as: "a person who has a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and who is outside the country of his nationality and is unable or owing to such fear unwilling to avail himself of the protection of that country."
- Removal Directions** - Removal is the process by which the IS removes a person from the UK. Removal directions are distinct from deportation, which is when a person is sent out of the UK on an order signed by the Home Secretary.
- Surety** - A person - usually, but not always, a friend or relative - who supports a detainee in a bail application. Sureties usually give a sum of money (lodged with the solicitor or the court), and take responsibility for ensuring that the person applying for bail will maintain contact with the IS. The money is returned to the surety if the person maintains contact until either granted leave to remain, or removed.
- Temporary Admission** - Permission to reside in the UK, or release of an immigration detainee, whilst asylum claim is processed. This is normally subject to residence restrictions (a fixed address as recorded by the IS), and possibly to reporting regularly to a police station or immigration office.

Abbreviations

- CIO - Chief Immigration Officer
D - Daughter
ELR - Exceptional Leave to Remain
F - Father
ILR - Indefinite Leave to Remain
IO - Immigration Officer
IS - Immigration Service
M - Mother
NIA Bill/Act - Nationality, Immigration and Asylum Bill/Act
RDs - Removal Directions
S - Son
TA-Temporary Admission

Foreword

Up until October 2001, children were very rarely detained by the Immigration Service and when they were it was usually for a matter of hours before they were deported or removed with adult members of their family. In fact, the very presence of children in a family was viewed as a factor indicating that an adult member of the family would not abscond, if granted bail, temporary admission or release.

However, by 2001, the Government had become increasingly keen to show the media and also its political rivals that it was tough on asylum seekers, if not tough on the causes of asylum seeking. The emphasis shifted from improving systems to process asylum applications and appeals, to demonstrating that it had the means to control asylum seekers.

The number of detention centres was increased and they were renamed removal centres. The centres were also designed to be able to accommodate not only adults but also the children who were dependent upon them.

There was no statistical or research based justification for the contention that it was now necessary to detain families with children when it had never been necessary to do so in the past. There was not even anecdotal evidence to suggest that families with children were coming to the United Kingdom, making spurious asylum applications and then going underground.

It must, therefore, be assumed that when a Ministerial decision was made to detain children with their families, this was intended to demonstrate that the Government was not going to let even compassion stand in the way of a need to take a tough line with asylum seekers.

Detention of children without reasoned justification is arguably a breach of Article 5 of the European Convention on Human Rights and is certainly not in accord with the principles contained in the United Nations Convention on the Rights of the Child (1989) and followed by the United Nations High Commissioner on Refugees, when making recommendations about the treatment of asylum seeking children and their families. It is also doubtful whether a decision to detain an adult provides the legal authority also to detain his or her child.

To date there have been far too few questions raised about this change of policy and no attempts by the Home Office to monitor or assess the effect of the change on the children who have been detained as a result of it. The research undertaken by this study points to the very

urgent need for longitudinal research of a much larger sample of families into the effect of detention on a child's ability to develop physically, emotionally and educationally whilst in detention. It also points to the adverse effect that detention can have on a child's physical and mental health and to the danger he or she may be exposed to in terms of social isolation whilst in detention and physical ill-treatment whilst being removed.

The research also provides a very useful overview of existing research into the detention of asylum seekers and also into necessity for their detention. It is based on informal, semi-structured interviews with a selected sample of nine asylum seeking families, the majority of whom had experienced detention. It provides a unique insight into their experiences of being detained and the failure by the Immigration Service to explain the reasons for that detention or meet the needs of children during their period of detention.

It should be essential reading for anyone seeking to obtain the release of a family from immigration detention and anyone responsible for detaining families with children from the Secretary of State to the most junior immigration officers.

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Executive Summary

The UK government's policy has changed to allow for the detention of asylum-seeking families at any stage in the asylum process, and without a time limit¹. The policy change was not based on research or statistical evidence. At the time of writing, neither the numbers of families detained nor the lengths of detention are routinely made available by the Home Office, making implementation of the policy difficult to monitor. This report details the findings of a small qualitative study based on interviews with nine families about their experiences and perceptions of immigration detention in the UK. It also looks at the likelihood of absconding amongst families, and explores families' reasons for staying in touch with the Immigration Service.

Key findings

The experiences of the small sample of families involved in this research suggest that:

1. Families are unlikely to abscond, for a variety of reasons, including their need to access services such as healthcare and education for their children, and their desire to be granted leave to remain in the UK.
2. Detention of families may be for lengthy periods: interviewees had been detained for 161 days, 111 days, 87 days, and 81 days.
3. Detention of families occurs in cases where removal is not imminent.
4. Families may be detained despite having previously complied with restrictions imposed by the Immigration Service, and kept in contact with the authorities.
5. Families who have been settled in the UK for considerable periods of time, some with children born here, are among those detained.
6. The process of detaining a family may be carried out with excessive physical force, intimidation and without giving adequate time to pack belongings or sort out affairs.
7. Families do not have adequate access to information setting out the reasons for detention or the outcome of internal reviews of detention.
8. Families may be released on bail or temporary admission (TA) after long periods in detention, which raises doubts about the necessity of detaining them in the first place.
9. Detained families experience difficulty accessing adequate legal assistance.
10. The healthcare advice and treatment available to families and children in detention is inadequate.
11. Provisions for education in detention are *ad hoc* and inadequate - often more along the lines of 'activities' than proper learning. Recreational arrangements vary considerably within the detention estate, but are generally very poor.
12. Frequent moves around the detention/ "removal" estate may be made. Such moves add to distress and are themselves debilitating.

¹ See pp11-12 for details of the relevant policy changes since October 2001.

13. Children suffer emotional, physical and psychological harm as a direct result of being detained by the Immigration Service. Responses to detention recorded in the sample included:

- loss of appetite
- serious mouth infection
- weight loss (which took 6 months to regain on release)
- listlessness, boredom
- incontinence
- difficulty sleeping, continuing fear (even after release)
- loneliness

Key Recommendations:

In light of the above findings, it is recommended that:

1. Detention is never in the best interest of a child, and children should not be detained under Immigration Act powers.
2. Until legislation is changed to reflect the interests of children by exempting them from detention, safeguards must be introduced to limit the damage to children and their families. If a family is to be detained, that detention should only be for a very short period, and must be subject to independent review.
3. Mechanisms should be introduced without delay to ensure prompt and automatic, independent review of the initial detention decision and the decision to maintain detention, in all cases.
4. Where families are to be removed from the UK, steps should only be taken to effect removal once the asylum process has been completed.
5. The Home Office should disclose all available statistics relating to the number of families and children detained since the change in policy of October 2001.
6. The Home Office should collect and publish information as to the length of time each family is detained, the stage of the case whilst detained, and the outcome of that detention - i.e. removal, release or bail.
7. The Home Office should collect and publish statistics relating to absconding.
8. The UK should withdraw from the reservation which excludes refugee children from the protection of the UN Convention on the Rights of the Child (1989).

Preface

This report sets out the findings of a study of asylum seeking families' own experiences and perceptions of detention. The study was conducted independently as the basis for an MA dissertation² at the School of Oriental and African Studies, with the co-operation and support of Bail for Immigration Detainees (BID). The original dissertation has been revised and updated, in order to be published by BID. BID is a small charity, which exists to prepare and present bail applications on behalf of asylum-seekers and migrants detained by the Immigration Service. BID does not deal with substantive asylum matters, but acts in relation to detention where a solicitor is unable or unwilling to assist.

Having a prior interest in the asylum seeking process, I approached BID about conducting research. BID expressed concerns about the increasing use of detention for asylum seeking families. I subsequently developed a research proposal to look at families' experiences of and perceptions of detention, and to explore their reasons for staying in touch with the Immigration Service. In order to orientate myself further in the workings of asylum claims and detention procedures, I undertook a period of voluntary casework with BID. BID relies largely on trained, supervised volunteers to conduct casework, having a recently expanded paid staff of only four people.

BID has published this report because it is opposed to the detention of children. In addition, BID is keen to challenge the lack of research commissioned and used by the Home Office as a basis for detention policies, and to start filling in research gaps regarding the effects of, and alternatives to, detention. BID submitted examples of cases identified by this research to Parliament, with a view to informing debate on amendments to the Nationality, Immigration and Asylum Bill (now Act) 2002. In particular, submissions were in support of amendments tabled in the House of Lords which attempted to ban the detention of children. The government rejected the amendment that would have banned the detention of children and also amendments that would have banned the detention of children for more than ten days.

² In Social Anthropology of Development.

1. Introduction

There are currently nearly 2000 spaces in immigration detention centres around the country, an increase from 250 spaces a decade ago. Detention/ "removal" centres containing family accommodation are Harmondsworth in west London, Tinsley House near Gatwick airport and Dungavel in Lanarkshire, Scotland. Detention is administrative, without statutory limit and those held are not accused of any crime. Asylum seekers and migrants can be detained at any stage of their claim to remain in the UK - on arrival, with appeals outstanding and prior to removal. The decision to detain is made by an individual Immigration Officer (IO) and is not automatically subject to independent review at any stage. Release from detention may be obtained by way of an application for bail to a Chief Immigration Officer (CIO) or to an Adjudicator of the Immigration Appellate Authority. However there are serious obstacles to these means of release including the requirement for sureties and the restrictions on public funding for legal representation. Legislation providing automatic bail hearings was passed in 1999 but never implemented, and has been repealed by the 2002 Nationality, Immigration and Asylum Act.

The UK government's policy on the detention of families changed dramatically between October 2001 and February 2002. The use of detention "for longer periods than immediately prior to removal" (2002 White Paper *Secure Borders, Safe Haven*) has received criticism, but there has been a lack of research into the effects of the policy change. Moreover, it appears that the policy change itself had no basis in research or statistical evidence. At the time of writing, neither the numbers of families detained, nor the lengths of detention, nor the asylum status of those detained, are routinely made available by the Home Office³, making the policy's implementation and impact extremely difficult to monitor.

1.1 The sample and interviews

No funding was available for this research, and various practical constraints (including time and ability to travel) also applied. The means of contacting families varied, partly because contact with support groups and legal representatives can be difficult for detainees, so that detained families may or may not be in contact with BID or with visitors groups⁴, etc. Detained, or previously detained families were contacted through visitors groups, through solicitors, through BID, and through fellow detainees in contact with BID, or with visitors groups. Non-detained

³ Limited statistics were provided by the Lord Filkin during parliamentary debate about the NIA Act. For example, it was disclosed that 36 children were in detention on 9th October 2002. (HoL Deb, 10 Oct 2002, C 435).

⁴ There are organised groups of volunteers who visit immigration detainees in different detention centres.

families were contacted through solicitors, refugee community organisations, and BID. Because of the importance of confidentiality, and because of the likelihood that some families might feel uncomfortable being interviewed⁵, in several cases a mediator approached the families on my behalf. In other cases, I approached families myself by telephone. Three or four families approached by mediators (solicitors or visitor groups) declined to take part in the research, apparently for stress-related reasons (according to the mediators). All of the nine families who agreed to participate were interviewed.

The research is based primarily on nine interviews of an average length of 2½ hours, conducted between July and September 2002. I also kept in contact with some detained families by telephone subsequent to interviews, and some information is derived from these telephone conversations (notably, some of the details of attempted removals).

The sample size was limited by time constraints, financial constraints and the desire to explore families' experiences and perceptions in detail. Sampling was purposeful rather than random: participants were selected to allow for as representative a sample as possible given the small sample size. This meant interviewing not only families who were detained at the time, but also those that had been previously detained and had been granted temporary admission, and finally, those who had never been detained at all.⁶ In total, four detained families, three ex-detainee families, and two non-detained families were contacted and interviewed. The fourth detained family was interviewed only partially since the mother and daughter were issued with removal directions and removed. The case is included in this report because it raises serious concerns about policy and practice, relating to the detention and removal of families, and because this was the only case where people detained for removal were actually removed during the research period.

The interviews were conducted at the convenience of interviewees (at their homes, or in one case at a café), or according to visiting constraints in Harmondsworth Immigration Removal

⁵ For reasons relating to their situation or experiences (as detainees, or more generally as asylum seekers).

⁶ The possibility was considered that all of these groups might be under pressure to respond in certain ways, for different reasons. Direct questions about absconding were therefore avoided. The question of maintaining contact had two interrelated aspects - exploring the implications of absconding, and exploring incentives/disincentives for maintaining contact. In most interviews, the family's views about the implications of and desirability of trying to live illegally, as a family, arose unprompted. Other families were invited to distance themselves from the issue, by talking about a hypothetical family, or a family they had known. In practice, many people chose to discuss the issue in this way, of their own accord. Where hypothetical families were discussed, I endeavored to create a vignette which adequately reflected realities, without reflecting the reality of the particular family being interviewed too closely, in order to minimise any acquiescence effect. I am indebted to Lea Esterhuizen for her suggestions on this matter.

Centre⁷ (hereafter referred to as Harmondsworth). At the home interviews, the whole family was usually present. In Harmondsworth, I was informed that it would be possible to visit only one adult detainee at a time, and therefore only one parent was usually present at the interviews. However, one family did manage to come through to the visiting room together. It was not possible to conduct separate interviews with different family members, and the language skills of different family members often determined who spoke the most⁸. There was no particular bias overall towards either male or female voices, though female voices were perhaps more evenly represented due to the absence of fathers in some families. I took a cautious approach to the presence of children at interviews. Children were present at some of the interviews, at the discretion of their parents, and occasionally volunteered information, which has been used in this report with their parents' consent. Children's participation was mostly very limited (often because they were very young), but in one case an older child gave detailed accounts of her experiences and feelings. The mother and daughter took part in the interview jointly and consent was obtained from both of them. The child had apparently taken on the role of family spokesperson in communicating with various third parties. I therefore made an effort to ensure that her participation in the interview was not merely as spokesperson for her mother, encouraging her mother to answer for herself, and making clear that the daughter's views were also valued.

Interviews were informal and as unstructured as possible. They began with a series of structured questions about dates, names, periods of time (living in the UK, in detention, etc.). This was followed with open questions, the number and nature of which depended on the extent and direction of the interviewees' own narratives. Whilst interviewing I referred to a 'check-list' of issues and questions, which were not asked directly, so as to minimise the chances of pre-empting information arising naturally in the course of interviewees' accounts of their experiences.

Pre-interview explanations of the purpose of the research were kept to a minimum, along the lines of 'research about your experiences as an asylum-seeking family, particularly experiences of detention'. This was to avoid pre-empting the answers that people might feel were desired. However, establishing trust required stressing my independence from the Home

⁷ In 2002 the Government changed the name of detention centres to removal centres, and formalised this change in the NIA Act. The name change does not relate to a change the function of these centres, which "will remain designated places of detention for the purposes of the Immigration Act. Similarly, it does not signal a change to the powers to detain" Lord Bassam, HoL Deb, 15 July 2002, C 1081.

⁸ All interviews were conducted in English, with the exception of one, where some of the interviewee's responses were given in their first language, and translated by a friend of the interviewee.

Office/Immigration Service, and explaining my relationship with BID. The independence of the research enabled people to describe their experiences quite openly, and probably encouraged people to vocalise their concerns, in the hope that treatment of families would improve in the future. Interviewees spoke with varying degrees of urgency, but all gave the impression that they valued having their perspective taken seriously. The fact that their words were being recorded in writing seemed important to the families. I was probably perceived as holding a position of relative power, particularly by those interviewees in the more vulnerable position of being currently detained. These families were also keen to seek advice and support (particularly relating to the possibility of getting released from detention), and where appropriate and possible, referrals were made⁹. It is clear that interviewees had an interest in their experiences being recorded, particularly their negative experiences. However, in my opinion it would be simplistic to assume that this led families to distort their accounts of their experiences. All those interviewed displayed a genuine concern for the welfare of any detained family.

1.2 Limitations

As already noted, the sample in this research comprised a relatively small number of families. This was largely due to constraints on time and resources and the difficulty in making contact with detained families. Further research would benefit from a larger sample size.

As an account of the detention of asylum seeking families, this study is somewhat incomplete due to the relative lack of attention paid to non-asylum-seeking actors, their parts in and perceptions of the process. Comparatively little research has been conducted about immigration detention. However, the following studies were a useful starting point from which to contextualise this research and will be useful to those interested in the broader contexts of immigration detention:

- Pourgourides *et al* (1996) *A Second Exile* - covers a wide variety of issues arising from detention, in particular examining how they relate to the question of mental health. The study uses a focus group methodology to examine in detail the perspectives of detainees, refugee community organisations, professional advisors (legal, medical or psychiatric), members of visitors groups, and NGO staff.

⁹ For example referral to BID, with the aim of preparing and presenting a bail application, to the Bail Circle (which provides sureties to some immigration detainees) or to solicitors who could deal with the family's substantive case.

- Weber (2002a, 2002b) *Detention of Asylum Seekers on Arrival in the UK* - exploring the issue of immigration detention from the perspectives of Immigration Officers.

Other actors of relevance, and not considered in either of these reports, are: other Immigration Service staff; government ministers and MPs; detention centre staff; security staff (from private security firms employed by the Immigration Service to conduct removals). This is an important area for further study. There is a need to explore the perspectives of “external players”: to look at ways in which “their political and economic agendas generate some of the conditions the refugees are obliged to negotiate to make an acceptable life for themselves” (Kaiser 2001: 1).

This report is based on nine asylum-seeking families’ accounts of interactions and negotiations within the asylum seeking process. It is an experiential account, based on their understandings and perspectives, and I have used people’s own words wherever possible. Theirs, as the families potentially or actually affected by recent changes in policy, is arguably the most important perspective, but cannot be understood in isolation from the political and personal perceptions of other actors in the UK, which create the situations these asylum seekers have to deal with. However, since it has not been possible to involve other actors in this research, the policy and political contexts are explored briefly in the following section. The policy implications of the research are also considered, in Section 3.3.

1.3 Recent policy changes

The government White Paper of July 1998, *Fairer, Faster and Firmer*, describes the detention of families as “particularly regrettable”, but nonetheless “sometimes necessary to effect removal of those who have no authority to remain in the UK and who refuse to leave voluntarily”. This statement is qualified by the requirement that families should be detained “as close to removal as possible so as to ensure that families are not normally detained for more than a few days” (Home Office, 1998: paragraph 12.5). The White Paper also sets out that, for a decision to detain to be legally defensible:

“it would have to be shown to a court that [the decision] corresponded with one of the legitimate interests which justify interference and that the interference in family life caused by the detention went no further than was strictly necessary to achieve that aim” (ibid.: chapter 38, paragraph 1.1.2).

In other words, for the detention of families to be acceptable, its expected negative effects were to be ‘proportionate’ to the importance of the reasons for detention.

Although the responsible government Minister, the Lord Filkin, stated during the Report stage of the NIA Bill (now Act) that he was “not aware of any shift in policy between the 1999 and 2002 White Papers” (HoL Deb, 10 Oct 2002, C435), BID was notified of a change in family detention policy in a letter from Kevan Brewer, the Director of Immigration Service Detention Services. The letter, dated the 25th October 2001, states:

“I am writing to draw your attention to a change in policy regarding the detention of families... [until this change] the detention criteria were qualified when it came to the detention of families in that their detention was only to be as close to removal as possible so as to ensure that it lasted for no longer than a few days...The increase in family detention accommodation will allow the detention of those families whose circumstances justify this (i.e. a risk of absconding, identities and claims need to be clarified or pre-removal) but are not detained at present because they fall outside the detention criteria as qualified for families” (See Appendix II)

Subsequently, the White Paper of February 2002, *Secure Borders, Safe Haven* formally set out the government’s intention to detain families, “for longer periods than immediately prior to removal” (Home Office 2002: Paragraph 4.77). This policy change violates the United Nations Convention on the Rights of the Child¹⁰ and could result in children being detained for indefinite and lengthy periods. There is no statutory limit on the duration of detention, and as will become apparent below, no automatic, independent review of the initial detention decision, nor of decisions to continue detention¹¹.

1.4 Evidence-based policy?

Concerns have been raised about the nature of the decision to detain families for longer, particularly following a letter to BID on 18th June 2002, from Simon Barrett, Assistant Director of the Detention Services Policy Unit. The letter states:

“I can confirm that the decision to change the detention criteria in terms of families was indeed a Ministerial one. It was not derived from statistical evidence but rather was based on the recognition that in some cases families would give rise to similar concerns that might be encountered in relation to single adults and that, accordingly there would be occasions when it would be appropriate to detain families for longer periods and at other points in the process than simply a few days immediately prior to removal” (See Appendix III).

¹⁰ According to the Refugee Children’s Consortium parliamentary briefings (2002), “Detention gives rise to serious concerns in respect of violations of articles of the UNCRC, in particular, non-discrimination (Article 2), the duty on the state to ensure to the maximum extent possible the development of the child (Article 6), freedom of association (Article 15), interference with privacy and family (Article 16), access to education on the basis of equal opportunity (Article 28). Article 37(d) of the UNCRC states that:

“Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action”. *Committee Stage Briefing, Refugee Children’s Consortium, Children and detention centres*, August 2002.

¹¹ For further information on problems relating to detention policy and the lack of judicial oversight, see Bail For Immigration Detainees’ *Submission to the United Nations Working Group on Arbitrary Detention: Immigration Detention in the United Kingdom*, September 2002

The candour with which this lack of evidence and research has been revealed to BID is surprising at a time when other government departments are going to lengths to stress the importance of 'evidence-based policy'. Furthermore, given the nature of media involvement in debates over asylum policy, and the prevalence of negative public perceptions of asylum seekers, it is pertinent to ask whether the policy decision has been a politically useful one rather than an ostensibly managerial, or operational one. It has been suggested that refugee law, "as it exists today is fundamentally concerned with the protection of powerful states" (Hathaway 1990, in Aleinikoff 1995: 257). This would not be the first political move to reinforce the "state-centredness" of UK refugee law, and its preoccupation with "containment" (ibid.).

Another matter of concern to those who oppose the detention of children is that according to current legislation the power to detain lies with individual Immigration Officers (IOs), whose decisions are not automatically subject to independent review. On a day-to-day operational level, the combination of a lack of research, and lack of review of discretionary decisions to detain, has tangible effects: since there has been no research, IOs who make the decisions to detain families have no independent information on whether families generally abscond or not¹². Bruegel and Natamba's research found that even amongst groups of asylum seekers classified as 'high risk' absconders - namely, those detained but later released on bail¹³ - rates of compliance with the terms of bail are higher than 91% (2002: 15). Bruegel and Natamba conclude that the Immigration Service apparently "lacks the ability to forecast absconding with any degree of accuracy" (ibid.). Concerns have also been raised about the lack of research by the Home Office into the appropriateness of the current criteria used in detention decisions, since their introduction twelve years ago¹⁴. Weber has suggested that "some individual decisions and certain systematic practices... could be described as arbitrary" (2002b: 11), to the extent that Weber and Landman's research identifies a "headhunting culture" amongst the IOs who make detention decisions (2002: 1). It is therefore important to investigate whether asylum seekers, including families, are currently being detained arbitrarily and unnecessarily. The findings of this research show that some families *are* detained arbitrarily and unnecessarily. A small number of cases

¹² A separate, and equally important point must be made: that each case must be examined on its own merit. Since interviewed families had not lost contact with the authorities and had complied with restrictions set out by the IS, sometimes for several years, it appears that the individual merits of the case may not be properly considered either when deciding to detain.

¹³ In this case, predominantly (but not exclusively) young, male and single, and often with cases that had been deemed 'manifestly unfounded'. The research did not involve families.

¹⁴ A letter to BID from the Home Office Research Development Statistics office, dated 7 May 2002, confirms that "the Home Office has not commissioned any research on the subject of compliance with Temporary Admission in connection with detention criteria over the past twelve years."

were covered by this study but the findings show that the need for further, longitudinal research is urgent.

2. Findings

The following table provides a summary of the interview findings.

2.1 Table: Summary of Findings

| | A (D-R) | B (D-R) | C (D-R) | D (D) | E (D) | F (D) | G (D) | H (N-D) | I (N-D) |
|--|---|--|--|--|---|---|--|---|------------------------------------|
| Family members & children's ages | M S (8 months - born in UK) | M D (7) D (2 - born in UK) (F removed) | F M D (2 - born in UK) | F M D (22mths born in UK) | F M D (12) S (5) | F M D (7) D (3) S (2 - born in UK) | F M S (6) D (3 - born in UK) | M S (18) D (15) | F M S (8) D (6) S (3 - born in UK) |
| Length of stay in UK at point of detention | 1 year | 3 years | 5 years | 3 years | 1½ years | 2½ years | 6 years | M 4 years S/D 1½ yr | 5 years |
| Complied with terms of TA? | Fully complied. Miscommunication re change of | Fully complied | M missed appt. with IS, when asked to attend without D | Fully complied (but F now lost contact)* | Fully complied | Fully complied | Fully complied | Fully complied. | Fully complied |
| Length of Detention | 161 days (plus twice previously) | 111 days (F 1 day) | M & D 87 days, F 99 days | M and D 5 days | 68 days | 81 days F 182 days+ | 155 days | M 1 day | N/A |
| Circumstances at time of detention (including reasons for detention where given) | | Refusal & RD given at house, 3 weeks after making own claim. No written review of detention. | M given paper: 'claim refused since 1998' (in 2001) Later classed absconding risk. | Removal Directions issued. | Initially no written reasons. Later given Removal Directions. | Initially no written reasons. Later given Removal Directions. | Taken straight to airport, then later detained. Initially no reasons given. D initially not incl. on RD. | Detained overnight on arrival after beaten by police. No reasons given. | N/A |
| Where known, history of detention & torture* | Not known. | Not known. | F detained in country of origin. | F detained (2yrs) and tortured in country of origin. | F detained and tortured in country of origin. | Not known. | F and M detained in country of origin. | M detained for 15 months in country of origin. | F detained in country of origin. |

| | A | B | C | D | E | F | G | H | I |
|--|---|---|--|---|--|---|--|-----------------------------------|---|
| Children's ages when detained | 5 weeks | D (6) D (19 months) | D (20 months) | D (22 months) | D (12) S (5) | D (7) D (3) S (2) | S (6) D (3) | N/A | N/A |
| Brief summary: Impacts of detention on children's health and well-being | Baby detained at 5 weeks Not vaccinated. Eczema (not treated). Nutrition problems. | D severe mouth infection, not eating or sleeping. Lost so much weight only just regaining 6 months after bail. | D suffered respiratory infection. Bored and listless. Personality changed. | D feverish and not eating. | Both children unwell, bored. D under extreme pressure. S lonely, incontinent with fear. Trouble sleeping. | D & S had chicken pox in Tinsley House. Later all suffering fever. Not eating. Not sleeping. Nightmares. | Both children ill. Fever. Not eating. Bored and listless. Not sleeping (cold). | N/A | N/A |
| Family members separated? | | F removed 9 months prior to interview | Split in detention | Split by detention, & removal | | M, D, D, S released after 81 days | | Separated by M going into hiding | N/A |
| Bail applications made? | Adjudicator's bail (through solicitor) | CIO bail offer withdrawn - Adjudicator's bail. | M - two failed bail apps (1st solicitor, 2nd BID) | None | Bailed by solicitors. | None | Bailed by solicitors after referral. | N/A | N/A |
| Outcomes | Bailed by solicitors. 1 month on bail. Reporting monthly | Case going to High Court. Reporting monthly | Released M & D 6 mths on TA, F 5 mths TA. Reporting regularly. | M & D removed to country of origin. Father lost contact* | Released on bail without sureties. Reporting regularly. | M, D, D, S spent roughly 3 months on TA. Later Removed. | Released on bail without sureties. Reporting regularly. | Given indefinite leave to remain, | Awaiting decision on human rights appeal. |
| Outcome | | | | | | | | | |

M = mother; F = father; D = daughter; S = son IS = Immigration Service TA = Temporary Admission

D-R = Detained and released, D = Detained at time of interview, N-D = Not detained, RD = Removal Directions (i.e. to be 'deported')

* Reflects only those who volunteered the information spontaneously

** F suffers from severe PTSD. M & D detained while F out buying milk one morning. M & D removed five days later. See case study (X).

2.2 Thematic Review of findings

For clarity of analysis, I have organised the findings into categories, reflecting the themes covered in interviews. The interviews themselves were far less structured, (as described above), and within interviewees' narratives the themes were not separate but interwoven. Some of the extended case studies below will give an idea of how people actually described their experiences.

2.2.1 Duration of detention period

"Detention is used sparingly and lasts for the minimum period necessary for the purposes for which it was authorised." (Home Office, June 2002: Ev9)

"...unknown and unpredictable duration of detention was identified as one of the single most stressful aspects of detention." (Pourgourides *et al*, 1996: 40)

Since this research was conducted, all the families who were then in detention have been released on Temporary Admission (TA) or removed. One family was detained for 161 days, others stayed in detention for 155 days, 111 days, 87 days, 81 days, 68 days, and five days. The father of the family detained for 81 days also remained in detention for a total of over 182 days, after which the family was removed. The one case where interviewees were relatively swiftly removed from the country, after only 5 days in detention, involved the removal of a mother and 22-month-old child. The father - suffering from severe mental stress and distress¹⁵ - was left behind, without a carer (see case study A).

No statistics are routinely made available on the number of families detained, and lengths of the detention period¹⁶. There are, however, at least 150 family beds in detention, and the Lord Filkin has stated that the government expects 40 or 50 families to be detained at any one time (HoL Deb, 17 Jul 2002, C 1241). During the Report stage of the NIA debate, the Lord Filkin stated: "We want families to spend as short a time as possible in detention centres and for as few families as possible to do so" (HoL Deb, 10 Oct 2002, C 435). As the cases in this report illustrate, however, this aspiration did not translate into reality for the families in this research. However, even if the government continues to claim that very few families are detained, and in the majority of cases briefly, the concerns highlighted below indicate that this is a few families too many.

¹⁵ The family's GP had identified symptoms of trauma/stress, and the wife stated that husband was very ill, mentally.

2.2.2 Careful decision-making?

"If the assessment is that the family unit presents no risk of absconding, ...reporting arrangements may well be put in place. I cannot predict that that will always be the case, because it may not be. Those judgments have to be made by those most immediate to the case—the case officers and those handling the difficult circumstances. It is best left to their discretion. We cannot easily prescribe it here in the comfort of a debating Chamber." - Lord Bassam, HoL Deb, 17 Jul 2002, C 1243.

Weber identifies three specific ways in which detention decisions may be arbitrary:

- (a) in its 'everyday' sense (i.e. subject to personal whims, prejudices or caprice), where it is used as a punitive reaction based on personal prejudice or as an *ad hoc* response to perceived abuse of the asylum system or disrespect for authority;
 - (b) in the 'legal' sense, where it is motivated by broad policy objectives rather than individual circumstances, such as special exercises aimed at general deterrence or routine detention at Oakington for administrative convenience; or
 - (c) where it is 'experienced' as arbitrary by detainees who are unaware of the specific reasons for their detention, or dispute the reasons which have been given.
- (Weber 2002b: 11)

This research focuses on the 'experience' of arbitrariness, since it is concerned with the perspectives of asylum seeking families, rather than the process of decision-making. This 'experience' is explored in detail below. Under current legislation, the Immigration Service (IS) has the power to detain families at any stage of the asylum process. This research uncovered that in some cases families were being detained before their case had come to a conclusion, resulting in lengthy detention periods¹⁷. In these circumstances, reasons for detention appeared highly ambiguous to the detainees. The father of a family whose wife and three children were subsequently released after 81 days, explained:

F: I no here in prison... I am no criminal... Immigration said case finished but no finished... [we had] only one appeal...

Most of the families had been released on Temporary Admission (TA) by the end of 2002. By that date, all but two (who had been removed) had ongoing representations being made on their behalf by their solicitors. They were all complying with the terms of TA or bail. These facts suggest that the time had not come to remove most of these families from the country, and that the families were not likely to abscond. They had therefore been detained unnecessarily for between 68 and 161 days. One removed family was also subjected to prolonged detention (81 days) before their rights of appeal had been exhausted. The decision to continue detention in cases where removal is not imminent suggests two possible explanations. Firstly, that the Immigration Service believes these families represent a high absconding risk - an assessment

¹⁶ As mentioned above, some limited information was disclosed during the parliamentary debate on the Nationality, Immigration and Asylum Bill debate.

¹⁷ The quality of legal representation a family received was an important factor here. Some families were released after their files were transferred to new and apparently more proactive solicitors. In two cases, the wife had made an independent claim shortly before or after being detained - the fact that they had not been urged to do so upon arrival raises further questions about the quality of legal advice.

which this research suggests is inaccurate (see Section 2.26). Secondly, that decisions to detain easily become “institutionalised” (Weber 2002b: 8). This brings us to the issue of judicial review of detention decisions.

2.2.3 Lack of judicial oversight

“reviews are hampered by ‘organisational inertia’. This effect, which is commonly observed in large organisations, makes it difficult to overturn decisions made by peers in the absence of changed circumstances. In this case, legal developments or deterioration in the detainee’s health were the events most likely to prompt release on temporary admission... It seems that the original basis for the detention is rarely looked at afresh, so that some cases, particularly those where identity is a matter of continued dispute, or where efforts to remove have failed, can become ‘institutionalised’.” (Weber 2002b: 8)

Two mothers commented that the reason for their eventual release (after 111 days and 87 days) was their child’s ill health. In neither case was the response to illness prompt - one child had been so severely ill as to lose a third of her body weight before action was taken to release the family. Weber’s latter point, about failed removal efforts, is particularly relevant to the detention of the families interviewed, including the above. Several families had initially been detained for removal, but none of those families were speedily released once removal became unlikely. An example is the case of a family whom a pilot refused to carry, after being shown letters from the family’s GP advising that the parents should not be made to fly on medical grounds (see section 2.212).

Weber’s research raises further concerns that discrepancies in the reasoning of detention decisions can exacerbate problems with subsequent reviews:

“the reasons for making a decision to detain can differ from the written justification recorded afterwards, which presents serious difficulties in challenging detention. These discrepancies may be the unintended result of a number of officers dealing with a particular case, or may reflect deliberate attempts to justify detention where the reasons are unclear, or fall outside the official guidelines” (Weber 2002b: 8).

Immigration Service regulations specify that a check-box form with reasons for detention should be given to people on their initial detention. Subsequently, monthly reviews in narrative form should be given to detainees¹⁸. However, as Weber notes, “there is no system for monitoring whether ministerial commitments to provide proper explanations to detainees are being met” (Weber 2002b: 7). In practice, it seems interviewees had rarely been given meaningful written reasons for their detention. BID has conducted some longitudinal research into the consistency with which these reasons are provided to detainees, and the (in)consistency of reasons being

given. In May 2001 copies of 47 monthly reviews were collected from individuals detained at Campsfield House. In July 2002 copies of 47 monthly reviews were gathered from detainees at Harmondsworth, Lindholme, Haslar and Tinsley House - a total of 96 forms from a 15 month period. According to BID, none of these reviews gave reasons for maintaining detention that were consistent with official criteria for detention¹⁹. The inadequacy of the internal review mechanisms may contribute to the lengthy detention of families. Other effects on families of inconsistent and (in their eyes) inadequate reasons given to them by the Immigration Service, are explored in sections 2.24 and 2.29.

BID has raised further concerns about the increase in family detention in light of the government's decision to repeal part III of the 1999 Immigration and Asylum Act²⁰. Part III provided for automatic bail hearings after 7 and 35 days in detention, but was never implemented. The decision not to introduce automatic bail hearings represents a failure to comply with Article 5(4) of the ECHR and Article 39 of the UNCRC which require states to introduce safeguards against the prolonged detention of families without judicial oversight. The families interviewed for this research were not well informed about judicial processes, including bail, and were not in a position to take steps themselves towards applying for bail²¹. Several families said that they had received no information from their solicitors regarding their legal rights as detainees, including explanations of the bail process, and the terms 'bail' and 'sureties'. Several of those families subsequently changed solicitors, and some seemed to have received better advice from their new representatives (see also section 2.25).

Where bail applications are made, these prompt a 'review' of detention decisions in the sense that the IS must always produce a bail summary - reasons for refusing bail - for disclosure before the hearing. However, the apparent inconsistency (as identified by BID) of these reasons and any reasons given earlier in the detention period is worrying. There are no statistics available relating to the granting of bail, but in some cases BID has identified a reluctance on the part of

¹⁸ Rule 9 (1) of the Detention Centre Rules (March 2001) requires the disclosure of reasons for detention "at the time of his initial detention [by way of the IS91R] and thereafter with monthly written updates" by way of the IS151F.

¹⁹ As set out in the Immigration Service's (2001) Operational Enforcement Manual.

²⁰ See Memorandum from Bail for Immigration Detainees to the Joint Committee on Human Rights, 17th Report of Session 2001/2, HL Paper No. 132, June 2002.

²¹ The IS91 form, which should be given to detainees initially, includes a brief section on bail rights. However, BID has argued that the information given is inadequate and misleading - an argument supported by this research, since families were clearly very poorly informed on their bail rights. BID notes that although detainees are directed (by the form) to the Immigration Advisory Service and Refugee Legal Centre for assistance, these organisations are over-stretched and only represent clients in relation to bail if they are dealing with the substantive asylum matter. No information is given about other means of exercising the right to bail. (Bail for Immigration Detainees: September 2002.)

adjudicators to grant bail²². This may be a further example of inertia in the system, with initial decisions not necessarily “looked at afresh” (Weber 2002b: 8). Even when those decisions are finally reviewed and reversed, there may be no apparent logic to the actions taken. One family, for example, had been released without explanation, some days after an unsuccessful bail hearing:

M: New solicitor just said we have to stop deportation first. After maybe three or four weeks he was saying he was going to make a letter for the immigration to release me to give me TA. Then after I waiting, they did first bail. Second one BID did it. Third one BID supposed to do it, but they just released me. The first one, they say my surety her details were not correct - they say ‘Miss and Mrs is not the same’ ...And [then] they released me without bail! One day I was sitting, about 11 o’clock, they say, ‘Are you [name]? Pack your stuff, you going to get released’. Even my husband [who was detained separately] didn’t get bail [they just released him].

To this woman’s knowledge, the surety’s incorrect details were the reason why she was refused bail the first time around. The decision-making process which led to her release remained a mystery to her. She had been complying fully with the terms of TA for several months at the time of the interview.

Another woman explained that after being told on detention her family would be removed the following day, they then had removal directions issued twice more, and cancelled twice more, in the space of two weeks. The cancellations were probably due to their solicitor’s representations. After that, she said they were detained for a further three months and one week, and were never given any understandable explanation, nor any meaningful review of their detention, written or verbal:

M: I have asked when I was in detention to meet the officers, but they have said no. I used to send fax to them in detention, ‘why you keeping me here in detention? What’s going to happen?’ And they haven’t replied to me, they just told me, ‘you have to wait, we’re going to make a decision’. I said, ok, maybe it’s just to get me upset and say, ‘ok, I’m gonna go back’. I was really upset but I never going to say I go back, because I got problems, and I got my case.

Her surety²³ explained that the family’s solicitor had applied for immediate release on Temporary Admission, which was refused by the port²⁴. CIO bail had then been offered by the port at the solicitor’s request, after two months in detention:

Surety: They asked for two people with £3000 - we have that. I sent the papers, me and my friend. And like in two or three weeks later, they said no. They said [to the solicitor] to find two people with £3000 - we send everything we had, and after, they said ‘no, we don’t release her, even if you give £10,000, we not going to release her’. After, we went to High Court for her case, and her barrister asked for bail at same time. And the judge said, ‘I don’t see any problem with bail, because why you keeping her here if you have two sureties?’ He said ‘I don’t see any problem with release’. And after that time we still wait

²² BID has noted that at some Immigration Appellate Authority hearing centres, ‘the collegiate view seems to be distrustful of granting bail’ (Bail for Immigration Detainees: September 2002).

²³ Following release, the family in question was living with this surety, who was present at the research interview.

²⁴ People claim asylum at ‘port’, a term that usually denotes a major transport terminal. They are given a port reference relating to the location where they made that claim, and that port is normally then responsible for their case.

three weeks for her to be released. [Her solicitor] was calling the port to ask for her released. The immigration officer was saying, we going to find a doctor for check her after the court [they said they wanted a second opinion about medical evidence]. Actually, the bail of her was because her daughter was really ill.

At the time of research, the mother had been reporting monthly for six months, and renewing the family's bail every two or three months, as required by the court. Two other families were eventually released on bail after the research period.

2.2.4 Lack of information

"The remand prisoner is neither serving time nor at liberty. He/she has been described as being 'between worlds'. He/she is at the mercy of a larger 'universe of controllers'; his/her fate may lie in the hands of psychiatrists, lawyers, juries etc. Information regarding his/her case is felt to be a compelling need. Disappointed expectations from adjourned or confusing court appearances are traumatic..." (Pourgourides *et al*, 1996: 12)

As already noted, families were often given no meaningful reasons for their initial detention. The subsequent explanation in most cases - that removal directions had been set - began to stretch thin, as removals were repeatedly aborted, and families were detained for longer and longer periods. Pourgourides *et al* stress that the experience of detention is made many times more traumatic by the absence of a time limit on that detention. Those in detention at the time of the interviews expressed extreme unease at their apparently indefinite, and frequently in their eyes arbitrary, ongoing detention.

One might expect associations to be made between immigration detention and 'deterrence'. As Harvey argues, the "ubiquitous logic of deterrence" that persists in many countries of asylum, has fuelled a "culture of disbelief" surrounding asylum applications, which impacts heavily on the interpretation and application of the 1951 Convention (1998: 215)²⁵. The resulting attempt to divide asylum seekers into "formal (and simplistic) categories" - "genuine", or "bogus", for example, has, Harvey observes, proven extremely problematic - and unsurprisingly so, given the "serious evidential difficulties involved in asylum cases" (ibid.). Interviewees clearly felt themselves to be victims of the twin problems of deterrence and disbelief:

F: I sent pictures of my home, burned, flattened. I sent pictures of my brother's fresh grave, in the forest. They know that I am not lying. What do they want from me? I don't know. They should look every case, not assign me bogus. They call me and they say, 'you still here?'
My father's GP wrote letters to the Home Office. He tried to commit suicide last November. People, if they see these documents... I know if I show in television... I don't think there are a single human being in this country would say yes, deport them...

²⁵ That this 'culture of disbelief' is pervasive within the IS is confirmed by Weber and Landman's research: "Over time, the accepted wisdom about economic motivation for seeking asylum has crystallised into an 'ideology of abuse' which has been promoted by central IND agencies concerned to prevent 'systematic abuse'." Moreover, "Once labelled as abusive, the salience of the term is such that it may be used to justify detention in the face of countervailing factors, such as barriers to removal." (2002: 2)

It's like showing you as a human being you are not welcome. My feeling was that they [immigration] just don't like us, I just didn't understand why... My opinion is they just don't want you here.

However, interviewees who were aware of the concept of 'bogus' asylum seekers, and of contemporary concerns about illegal immigration, or asylum seekers 'going underground', did not always make a connection between that, and their detention. Rather, they felt they were being criminalised in other ways, and they could not understand why:

M: I can't understand: we are not killing somebody or stole something. All people coming, we are nice people.

D: Immigration acted like we've done something wrong, like we're criminals or something.

M: I never understand, because if they want to deport them they can put them in normal place... Most of the families they send them to detention, for which reason I don't know... I was in prison nearly 15 months when I was young. In [my country], it's for [political activity]. But when I came, I never did anything. I think it's just happening to people who come for asylum.

Other decisions appeared equally arbitrary to families. One family, whose solicitors had made representations to the Immigration Service detailing the inappropriateness, and indeed the illegality of their proposed removal to Germany, could not understand why the IS continued to try sending them there:

M: Immigration asked us 'Did you asylum in Germany?' we told them no... I don't understand... Something is wrong. Immigration made a mistake. Solicitors should look what is the mistake. ...All solicitors ask, the first question, 'did you asylum in Germany?' but no.

Other unexplained or ill-explained events troubled the families considerably. The parents in one family said that their daughter, who was born in the UK, was not included on their removal directions until they had been in detention for over a month. The family also said that the child's birth certificate had been mislaid by the IS or their agents, and took some time to reappear. Another man whose youngest child had been born in the UK complained:

F: Immigration took my son's birth certificate... didn't give it back... I no understand why they take.

He was extremely upset that he now had no proof that his son was born in the UK, and felt that the IS were trying to cover up this fact.

A woman whose husband was detained separately, explained:

M: [Before I was detained,] They asked me to come for appointment without my daughter. They was refusing [denying] that, the time they arrest me - they was refusing that they say that.

A family who had been kept waiting for five years before receiving an initial decision could not understand the subsequently rapid succession of refusals they received:

F: In a couple of hours refused two applications, but took five years to make first decision. I got [my first] interview after five years... My child already now in year two in school, and second child had acceptance letter to start school...My wife in college, me in college too...I got paper for appeal - how can I [prepare while I am in detention]?

Families deplored the lack of information given by the Immigration Service about all aspects of their claims, but about their detention in particular:

M: Immigration gave us no information, no advice.

The manner in which IS decisions are delivered and explained to asylum seekers has now become the focus of further concern, because a recent change in policy allows refusals to be delivered to a family in person, either whilst they are reporting, or at their home, and the family may then be detained immediately (as in case study A).²⁶

2.2.5 Legal Advice

The families interviewed expressed concern about the quality of legal representation that they managed to access from detention. Several families felt that their stay in detention had been prolonged by inadequate representation. Their accounts suggested that it became more difficult to change representatives once detained, or whilst removal directions were in place.

Interviewees expressed concern about their lack of control, which they felt was exacerbated by confusing and ill-explained procedures, throughout the asylum process. The fact that other sources of advice were scarce - the immigration service was considered uninformative by all, and interviewees felt that friends and acquaintances were just as ill-informed as themselves - meant that people were all the more reliant on the legal advice they got from solicitors, and wanted to feel they could trust their solicitors. Whether or not a solicitor was perceived to be competent and helpful was extremely influential. One man explained that he had been willing to go to an interview which he knew might end with the detention of his family, because matters had been clearly explained by his solicitors, and because he had enough confidence in them to feel that his case would continue to be fairly heard:

F: If I didn't go, my solicitors said... they convinced me. Even if you go into detention, we still represent you [they said]. I didn't want to go, and I didn't want to take my family. [Had we still been with our] old solicitors, I would be detained - deported. Such a lazy man.

I mean really, ...this is the first time that I cannot escape. If I know that they can detain me... [going to the interview is like] put my head in the lion's mouth. [Our solicitor] said 'you have to go'. I have to take my family. Even our youngest son who was born here. Why should I take my son who was born here? [But] my son doesn't stay here without his mother. I decided to go to interview with all my family. [That time] was very difficult for us.

Other families also found the quality of legal advice they received was mixed:

M: Then immigration police come to our house and take us here. Our solicitor knew all what happened - the results - but he didn't say anything to us. He knew before one month.

²⁶ Refugee Council (21 Aug 2002) 'The Government's new asylum system proposals'. See the Refugee Council website, www.refugeecouncil.org.uk/infocentre/asylumprops/proposals.htm, for details and comments.

D: Before we were detained we phoned our solicitor and we asked him what was going on. He told us if anything changed he would tell us. But he knew we were going to be detained, and he didn't tell us.
M: Our first solicitor tried to help, but looked just on the paper that immigration wrote, but he did not think. ...We asked about human rights, but he didn't tell us anything.

Pourgourides' *et al*'s research also identified "unreliable or indifferent legal representatives" as a problem. They found that a "lack of communication with the person viewed as the key source of support and main hope for release is particularly frustrating for detainees" (1996: 49-50). Several interviewees commented that they had been unable to contact their solicitors by telephone, having been told that their solicitor was away, or "busy", or that they "shouldn't call too often".²⁷ Solicitors' interpreters were also in demand:

M: Because I need interpreter, and there is [language] interpreter, she is always busy. I tried so many times. I want to explain all these things [to our solicitor].

The difficulty of accessing advice and information, particularly from detention, leaves people all the more vulnerable to poor representation, and some felt unable to remedy this situation. Two families commented that they did not know whether the legal advice they were receiving was good or not. They had doubts about the quality of their representation, but felt unable to criticise when they knew so little about the legal processes themselves.

2.2.6 A high absconding risk?

"However generous a spirit we have about asylum seekers, I am sure that the noble Lord accepts that some of them will be removed from this country at the end of the process because they are fundamentally in breach of our laws and regulations and are outwith the asylum process. They are illegal immigrants to this country. Some people caught within that process will attempt to abscond from the lawful authority. From time to time, children will be involved with those adults." - Lord Bassam, HoL Deb, 17 Jul 2002, C 1242.

Amendments were proposed to the NIA Bill in 2002, with the aim of preventing the detention of children, or putting a time limit on it. The government argued that if it was not allowed to detain families, or if it was were restricted by law as to the permissible length of detention (amendments laid would have limited the period to ten days), this would make the operation of immigration controls "impossible" as it:

"would make the operation of the immigration and asylum laws impracticable and would be open to widespread abuse... it would be known that a family with children would be unlikely to be detained for long and would be able simply to disappear into the community." (Lord Filkin, HoL Deb, 31 Oct 2002 C347)

²⁷ Solicitors may feel unable to visit their clients due to the time constraints imposed by their work load, the difficulty and costs of traveling to detention centres, and so forth (see section 2.29 for an indication of the constraints on visiting, but note that legal visitors may book time slots in advance, unlike ordinary visitors). If there are removal directions in place, solicitors may consider a visit even less worthwhile. This is a matter for concern: professional codes of conduct require a solicitor not to take a case if they are not in a position to represent the best interests of the client.

However, my research suggests that the likelihood of families absconding has not been accurately estimated. To my knowledge, *A Few Families Too Many* is the only piece of research to date which considers the issue of absconding in specific relation to families. The findings suggested that families were quite unlikely to “disappear” .

Information services - legal advice and support - as already explored, were very important in encouraging people to maintain contact and comply with IS regulations. The more information people were given, the more they were encouraged to comply with the terms of TA. It is an apparently facile point, but in order to comply, asylum seekers must fully understand the terms of TA, and bail. In practice these terms are not always well explained. The consequences of not complying must also be made clear, as one woman explained:

M: [When the IS detained me] They was saying that maybe I could run away. They saying that for everybody, that they're going to run away. They were saying that because I didn't come to interview [which she said she had been asked to attend without her daughter]. But this time I would do - because I had information - and [a BID caseworker], told me if I don't go they're going to put me in a lot of trouble. ...Even because [now that I've been released,] I'm signing once a month. I go with [my daughter]: it's not that good to be leaving your kid with friends, because if something happens to her...

This woman's case also highlighted the need for the immigration service to consider the particular difficulties or concerns of families in relation to reporting requirements.²⁸ Childcare needs are important, but so is sensitivity to a parent's fears about leaving children alone. Another woman expressed a fear of being separated from her son, as she said that she had previously had him taken from her at hospital, “to be weighed”, and returned to her in a van on the way to the airport.

Sullivan *et al's* (2002) report on the Appearance Assistance Program scheme - a pilot monitoring programme in New York, exploring alternatives to immigration detention - attributed the success of the scheme partly to the relationship built up between supervisors and participants in the reporting scheme, which enhanced confidence and communication. The regularity of contact “often” enabled supervisors to “accurately discern that a participant was about to abscond” (ibid.: 14). This is in stark contrast to Weber's observation that in the UK:

“an immigration officer may make judgements about whether an asylum seeker is likely to abscond or present a risk to him or herself, or to others. These judgements are related to perceptions of the *moral character* of the individual applicant” (Weber 2002a: 192)

Other points raised by Weber's research are also of relevance here. She found that some IOs:

“were concerned about the fairness of detaining after long periods of compliance with temporary admission, and feared the adoption of a more heavy-handed approach if detention was

²⁸ Note that the woman remained resident at an address registered with the IS, and had not, therefore, absconded.

concentrated on the removal of settled individuals and families. Quick and credible determination procedures were sometimes mentioned by these officers as an encouragement to voluntary compliance with removal directions." (Weber 2002b: 9)

Interviews revealed that fears of a "more heavy-handed approach" were well founded, a matter which is discussed in sections 2.211 and 2.212. Most of the families concerned did indeed consider themselves "settled", and, as will be already apparent, determination procedures were not generally "quick and credible". Some interviewees saw this as linked to the matter of absconding: they expressed frustration at apparently unjust decisions about their asylum claims, and about those of others. They implied that this was perhaps the strongest factor encouraging people to abscond. One father wondered if he had been foolish to place his trust in the system, after maintaining contact with the Immigration Service for five years:

F: I am not a bogus asylum in this country... [But] when they call you, say you'll be deported, you think, why I wasted my time all these years studying? It would have been better to work illegally for three years and get money... Have I done my best for this country? Yes. I didn't put any penny tax in this country, but [that is not my choice] - they wanted to make me a beggar. Why should I live on benefit? ...I was 23, 24 years when I left [my country]. Now I am 33. 10 years of my life is gone. 20 years I have done education. I look back what I have done. Can I be independent? My family? I've got kids and a wife but I'm not able to support my family. I look back why, and it's not my fault. I'm healthy man, I can work, I'm educated... If I [can] do PhD, the top qualification in the world, why I should be stopped, my life to be destroyed?

Other explanations also revolved around apparent injustices and fears of removal:

M: I think people disappear because they still afraid to go back, they have problems still, and their case is not finished, but some people they don't get right to appeal or anything. I would like to go back, but I can't. I have miss for my country, but I can't.

F: Ten years, not able to visit [my country]. After ten years, to be threatened again... I think if MPs knew this kind of story, like mine, they would say, 'either you kill this man, or you give him freedom'.

M: ...[some] people don't go to their last interview, because they're scared. Sometimes I persuade people to go, then they get taken to detention, and I feel guilty.

However, interviewed families all expressed the view that whatever the risk, it was essential for families to maintain contact, and that life would be extremely difficult if they did not. The basic services people need to access whilst complying with IS regulations and therefore legally resident in the UK, constitute a significant motivation for maintaining contact. The healthcare and educational needs of children were seen by parents as the primary incentive. Services accessed by parents were also important, as were the friendships family members formed. Without prompting, people clearly expressed their doubts about families absconding:

M: How could you run away with kids - because somebody got family, he can't run away...

M: [If our claim had been refused,] we [would have] change our solicitor and do something to stay here. It would be difficult ...[to live here illegally] with two children!

D: She says she never thought of that before... She says it would be really difficult because we need to go to school, and when we get ill we need to go to the doctor.

M: Our doctor was helpful, council helpful, school helpful: we was very happy in [city where they lived before detained].

M: Yes, it's possible [to disappear]. Last year I saw a family, two girls with their mother. The father, because he was working, he changed his address. He got refused two years before. They had to live apart. She was scared to be seen with her husband. But I think they left. They couldn't live, they scared... They got their own case, daughter, and wife, but they couldn't do anything, because of their father. [People who live like this,] they don't know for the future what will happen. They don't know how long they'll be living like this, no education, no job, no medication, you know...

Surety²⁹: I speak for myself: For some people maybe if you're single you can disappear. But for her [the interviewee], she have to send her kids to school, to hospital. My wife, before, she been refused, and still she going to sign every month: she got a husband, a child... People disappear. But if you are a family, you can't disappear. Maybe you can hide for a month, but...

People also explained how settled they had become in this country. Families explained that their children's first language was now English, with one father extremely concerned that his children were facing removal to a country they had never known:

F: They don't even speak [the language]: I tried to teach them, but they spend more time at school, with friends, than they spending with me...

F: My kids their first language is English, listen to them talking to each other in English... My son ...will be nine in November. My daughter... will be seven in December. My little boy was born here - he's three and half - he starts school September.

M: Their school is just five minutes from here. [They love their school,] every day they ask me, 'When we going to school?' [it's summer holidays now]...

M: I have three children in school -now we have three... 2 full time, 1 is part time... I am a nurse... I want to work, but maybe next year because I got a little one at home now. My husband is PhD student ... I think we have a lot of reasons [to keep in touch with IS]

Another point raised by the AAP report is that asylum seekers' compliance with immigration regulations may be heavily influenced by their family and community ties in the country of asylum (perhaps even more influenced than by the level of supervision they are subjected to) (Sullivan *et al* 2000: 7). In one case the presence of family members in the UK was very important to a family.

F: In [the time after we came to England,] my father had been jailed in our country. He is over 60 years old... [and he was jailed] for three months. My brother [was shot in front of my parents]... If I was alone, [at that time], I would go back. I had at that time my kids here and my wife... [Later, my parents came to the UK and the] Home Office gave my parents indefinite leave to remain. This was the first good sign. My case I was waiting... I didn't even think [they would try to remove us] until [the date] when I received appointment at the HO... [some days later] they tried to detain us... After all this what happened to us now... trying to separate me from my parents...

Other families explained how happy they had been to make friends in the UK, and how difficult it had been to be separated from those friends by detention³⁰.

F: I made very good friends in [the town where we were living]... my neighbours, you know, brilliant... My children, all the day outside [they were free to play]... I have medical [care], dentist, social services... I

²⁹ The surety of one of the interviewees, who was present at the interview, who also claimed asylum in the UK with his wife and child. (This was the only interview in which non-family members contributed).

³⁰ See section 2.29 on 'Friends and Visiting', and Case Study H.

have everything... Church big help for my family in [that town]. One lady from church [was particularly good to us]...

M: We were, with my husband, in an English class, in college... we have friends from college - in our class was people from another countries. Students. And we enjoyed.

Another incentive people had for living legally was the need for people in their countries of origin to be able to contact them. For some, the hope that they would be granted leave to remain was reinforced by the desire to help family members. In one case an interviewee's parents and younger brothers had eventually managed to join his family in the UK, and had been granted ELR. Another interviewee had waited 2½ years for her husband and children to join her³¹, during which time communication was extremely difficult:

M: For one year I couldn't call, because the phone was controlled. And my husband was in prison for eight months [in our country]. Then he must sign with police every month... My children were forbidden from school... When they blame, it was my activities. After two years, they making new life in another city. I called Canada [friends, who made an] appointment for him to call - from the street, with coins - it's difficult to control [public payphones]. [She explains how she and her husband would have deliberate arguments on the telephone, her husband saying 'you are not my wife, you're causing me a lot of trouble...', to prevent them from being discovered]. I sent letters, by another address, by another name.

Another woman's husband had been removed to the family's country of origin, leaving her and their two children behind. This woman had been desperately trying to contact her husband for a year, not knowing whether he was alive or dead. For her the likelihood of him contacting her was slim but nonetheless important.

Detention also caused difficulties in communication with relatives overseas, and one mother was particularly upset³²:

M: [We] manage to talk to my husband's brother - but they call us - it's expensive [for them] but support is very little [so we can't afford to call them]. First phonecard is free [in detention], but then... I talk also a bit my mother - in [our country]. My mother...

D: My grandmother doesn't know that we're detained here, and we don't want to tell her, because she'll get sad... My grandmother called our phone and we didn't answer, and she panicked and called my uncle and told him about it. My mother called my grandmother, and told her that there was something wrong with the telephone.

M: I told her 'I phone you from telephone box', because she is ill. Parkinsons... I have migraine when I think about it, I have headache.

Finally, it is important to point out that the interviews reinforced the conclusion of Bruegel and Natamba's research, that absconding is extremely rare, since the majority of asylum seekers are holding out a hope that their claims will be successful³³. The desire for legal refugee status is of

³¹ Robinson and Segrott's (2002) research suggests that the presence of family members is one of the primary reasons why people come to the UK, in contrast to the popular perception that benefits are a major attraction.

³² See also section 2.29.

³³ The Home Secretary himself has acknowledged that: "People who apply for asylum want permanent status in this country. That is why they do not come here and disappear illegally." David Blunkett MP, HoC, Deb, 29 Oct 2001, C Col 461.

course strong. Many asylum seekers may be unaware of the rates of success amongst claimants³⁴. Apparently, investigating this had not occurred to most interviewees, who were vague about their expectations from claiming asylum here, and explained they had not considered this before coming to the UK, saying "safety" had been their priority. However, the rates are far from discouraging: as the Refugee Council has pointed out, Home Office figures for the quarter prior to the research period showed that:

"well over 50 per cent of asylum seekers are given permission to stay in this country: 43 per cent of initial decisions that have been properly assessed resulted in applicants being given the right to remain in this country for their protection and around one in four appeals are now being overturned - in comparison to about one in five this time last year" (Refugee Council, 30/8/02).

Even after experiencing problems with immigration service regulations, with legal advice and representation, and indeed even after experiencing detention, people apparently hold on to some faith in the integrity of the asylum system. It also seems the fact that people have brought their families here, brought up their children here, and even started families here only strengthens their desire to "get status".

2.2.7 Alternatives to detention

"It has been argued that an *absolute* conception of 'last resort' (based, for example, on principles of proportionality) requires that *all* alternatives to detention have been exhausted in any *particular* case. But immigration officers in the UK have available to them a limited range of non-custodial options to encourage co-operation with asylum procedures compared with some other countries, and several alternatives used regularly in enforcement ...lack the appropriate infrastructure to be used from the outset (e.g. extra reporting requirements)." (Weber 2002b: 10)

As Weber makes clear, there is a very real lack of alternatives to detention in the UK. However, this is not to say that the government and the IS are unaware of alternatives. The UN Working Group on Arbitrary Detention's "Criteria for determining whether or not detention is arbitrary," include the question of whether alternatives to custody are made possible. The UNHCR's Guidelines on applicable criteria and standards relating to the detention of asylum seekers (1999) states that "[a]lternatives to the detention of an asylum seeker until status is determined should be considered" and suggests options including reporting and residency requirements. The AAP report, explored further in Section 3.3, is particularly instructive on this issue, and stresses the importance of using a full range of alternatives to detention (Sullivan *et al* 2000: 9). Interviewees' views, as described above, were that families are unlikely to abscond and

³⁴ See Robinson and Segrott (2002) for an exploration of asylum seekers' prior knowledge of the asylum system and other circumstances in the UK. Their research found that such knowledge was minimal.

therefore the need to detain them is minimal. Some interviewees elaborated further, and made the following proposals:

M: Like the way they say go and sign, it's a good idea. I'm not sure family going to run away - where you going to go? Kids got to go to school, your kids going to get sick... it's not possible. How could you manage? Because everybody want their kids to have a good life. Even if you see mad woman, she still want the best life for her kids.

M: I don't feel they have to detain the families. It's better to process quicker their case and even they decide to send you back - even it's better to send you back, not to detain you - and not to separate families, like me from my husband.

Note that these former detainees expressed what Weber describes as a more "constructive" view of "preventing absconding", focusing on "promoting co-operation with determination procedures" (2002b: 12), by capitalising on peoples' incentives to comply, and by making procedures more transparent and better managed.

Reporting requirements may have particular potential as an alternative to detention as the infrastructure for reporting already exists, and research already suggests their effectiveness when made a condition of bail (see Bruegel and Natamba as well as this research). Although the families interviewed were already traceable by the IS (because they were living at registered addresses and had not lost contact), there is now the possibility of using smart cards to trace people's movements. Whilst this is a contentious issue, smart cards would in many cases be preferable to detention.

2.2.8 Splitting Families

One of the government's arguments for detaining whole families is that this is better than splitting families by detaining one parent only³⁵. Indeed, interviewees expressed a clear wish that their families should not be split. A man whose wife and children were released two weeks after he was interviewed, but who remained in detention himself, explained:

F: I come in together, I finish everything together... I need for everything my family together.

³⁵ The IS continues to separate families by detaining one member, and BID is in contact with several such detainees. However, since the increased capacity in family accommodation the policy has shifted to one that considers the 'right to family life' best served by detaining the entire family: "The interests of the child are clearly an important factor in the decision to detain a family. However, where it is considered appropriate to detain a family, we consider that the interests of the children of such a family are best served by detaining the family together rather than separating parents from children—this balances the interests of the child with the need to preserve family unity and, to the extent possible within the detention context, allow the family to continue to enjoy family life" (letter from Lord Filkin to the Parliamentary Joint Committee on Human Rights, July 2002). Clearly the suggestion that people 'continue to enjoy family life' in detention is somewhat at odds with the findings of this research.

However, he was clearly relieved when his wife and children were released, because of the negative effects detention had been having on their health and well-being. He himself was looking forward to a bail hearing, having found a new solicitor through a friend.

BID is aware of numerous cases where one parent, usually the father, is detained whilst the rest of the family remain on TA. However, the experiences of interviewees in this research were somewhat different. In one case, the mother and daughter were detained whilst the father, suffering from severe mental health problems, was out buying milk one morning. The mother said that she was subsequently informed that the agency had changed the locks to their flat, and she was removed from the country five days later, with her daughter, believing her husband to be roaming the streets of London without a carer (see Case Study A below). The father from another family had been taken into detention alone, and was removed from the country the following day, leaving his wife and children in the UK (see Case Study B below).³⁶ Another family was split in detention - in a bizarre twist to the argument that detaining together is better than detaining one parent - with the mother and daughter detained in one detention centre, while the father was detained in another part of the country. The mother commented:

M: They separate family too much. It's not good, you know. They have to think again.

The concerns expressed by those who had experienced being split by detention suggest that this is indeed an inappropriate response to perceived problems of absconding, as is the detention of whole families. Those who had subsequently been split by removal raised even more serious concerns, as the following case studies make clear.

Case study A

M [crying]: ...my husband he's very ill, he's mentally ill... He came out to buy milk at eight o'clock in the morning, we hadn't that morning milk ...Maybe he saw police and he was scared... Maybe he's sitting outside now...

[The same day] the police came 8 o'clock in the morning. I told them I can't go because not yet received refusal from the Home Office... But they said, 'here it is'... They asked me 'where is your husband?' and I told them but they said 'are you sure he is not working illegally?'... Of course he can't be working, he's very sick.

I didn't expect it [our claim] to be refused, because of the situation: I thought they can't send people who are ill [to our country] because treatment is very bad there. It's very bad there the situation...

I've called the agency and they told me we have changed the locks 'because that's what they told us' - I don't know who told them... they had to make it closed to us.

He has lost his mind, he has lost his memory... his GP made an appointment with neurologist but I couldn't make him come. He don't want to come with me everywhere I told him - to solicitor, to GP, even if he has to go to the police... because he is scared. Even [I was] just lying to him, sometimes I lied to him to make him come. He has seen the psychologist. I got a report... [But] I don't have it with me: I don't have

³⁶ BID is aware of at least one other case where a family was split by removal in August/September 2002.

anything with me. They told me I have 20 minutes to pack... I couldn't think... and I have to take things for the baby...

I told them 'why you removing me and bringing me to jail?' They told me 'you don't talk to anyone in here,' and they will tell me when I am leaving... I don't need to be here, I don't need to go to jail. If they tell me it's over I can just go to the airport.

If you been here, the children are sick every day every night... The doctor says, ...he just gives them Calpol, and nothing else. He says you'll be alright, it's fine. My daughter doesn't have temperature yet, but she will have, because everyone has it here [she refers to another family with three children, at least one of whom has had fever at any time since they have been detained. Two days later she explained on the telephone that her daughter too had developed a fever]... It's very cold, it's air condition here.

If I'm alone, just [with] my husband, not the child, it would be better. The child just reminds me, in the night... It's really terrible. The word terrible, it's nothing: For me to be in here... you don't know what it's like.

I don't have it [the GPs number] with me... maybe I can find it from my head... [My solicitor's number] is with the office...I don't have a lot of money for telephone calls. When my solicitor came they limited it to ten minutes... he could see me only ten minutes, I can't believe it! Why did they do that?

The mother and daughter were removed to their country of origin two days after this interview. The whereabouts of the father remained unknown, both to his wife, and to the Immigration Service.

Case study B

M: 9 months ago, they went to get my husband in the morning, said your case is closed and they have told me 'you pack your stuff and you be ready to leave' - they told me they going to pick us up at four in the morning. Have been a lot of police around. Like criminal...

And the same day, after they have taken him, I apply asylum in my own. Actually that day I have talk to my husband in detention [he was taken first to police station for one hour...] I been ready to leave. Because my husband refuse to leave alone. They told him, 'ok, we going to bring your wife and kids to the airport,' [but they lied to him]. From that time I didn't know where my husband is. My husband had a blood feud in [our country]. Well, his father... Maybe is alive, maybe is dead.

I have [other family there,] but I haven't any contact. I have tried to make contact, but maybe they have moved, from the war, or from the blood feud they have... I have my case, it's not just my husband [who was persecuted]. I didn't told before, because maybe I been shy, I been scared.

2.2.9 Effects of detention on families' health and well-being

A report by the Chief Inspectorate of Prisons after 'An Unannounced Short Inspection to Campsfield House' in 1995 concluded that: "detention without time limit no matter how reasonable the conditions, is extremely stressful. When combined with an uncertain future, language difficulties, a perceived or real lack of information and the fact that some detainees appeared terrified at the prospect of being deported, the stress increases" (Pourgourides *et al* 1996: 9)

"to understand the mental health implications of detention, the experiences of detainees have to be viewed in the context of [that detainee's] wider world" (Pourgourides *et al* 1996: 36)

Detention is experienced not in isolation, but in the context of other circumstances and experiences. The families interviewed all made reference to traumatic events ostensibly external to the direct experience of detention, and these 'external' events clearly influenced the ways in which they were affected by detention.

Descriptions of the day to day experience of detention must be contextualised in several ways. Some of the most important circumstances to consider are, the manner in which the family left their country; the extent to which they have been able to settle in the UK in the meantime; the way in which the family was brought into detention; the (perceived or real) threat of removal at any time. The latter two circumstances are addressed in sections 2.211 and 2.212. The question of having become 'settled' has been touched upon above and is further explored in this section. Firstly though, it is enlightening to look briefly at the manner in which some of the families came to the UK. This is an issue which relates back to Harvey's (1998) point about deterrence and disbelief, and interviewees themselves made close connections between the traumatic experience of leaving their countries, and their subsequent feelings that their integrity was being questioned, that their claims were being considered in some way 'abusive'. The traumatic nature of the journeys is also directly relevant to the experience of detention, in light of Pourgourides *et al's* assertion that "detention reactivates and exacerbates trauma which has been previously endured" (1996: 64).

F: [My children were] just 4½ years, 1 year when we left. All together in lorry. Take medication for sleeping because is maybe cry, my children. Yes it was very difficult ... I need to be here for long time. I stay in detention centre my whole life [rather than go back]. Here I have guarantee for my life. I tell to immigration send me another country. I say I go in coffin. Very problem in [my country]... I came only for my life. Money is nothing, is no important. Important life.

M: It was very difficult to come here. I have travelled lorries, even we didn't know where we are. Maybe we been in a lorry three or four days, without food and drinks. My daughter was only four. She was very afraid. I wasn't thinking a lot about what is going to happen. Just we was thinking about how to live - to survive...

Negative misconceptions of people's reasons for coming to the UK may well influence the way in which they are treated by people here, including members of the IS. The "popular perception that Europe's living standards are menaced by a tidal wave of immigrants seeking the benefits of health care" (Benthall 1997: 1), as well as other public services such as education, belies the fact that for asylum seekers, flight to the UK may mean a decrease, not an increase, in living standards. Weber found that the perception amongst Immigration Officers that asylum seekers commonly made "abusive" (i.e. exploitative) claims influenced their treatment of those asylum seekers. It may be that detention centre staff are similarly influenced, though no research has been conducted into this matter. Pourgourides *et al* found that detainees, on the other hand, "indicated that it was offensive to imply that they came to the UK for financial gain. They find it difficult to adjust to criminalisation, loss of status, role and identity in the UK... forced dependency" (1996: 84). Several comments made during interviews mirrored this response:

M: Both of them [my children] they change their life for worse, not better in this country.

F: If I were in [my country], I wouldn't work so hard. I would think a little for my life... Life is more planned for people who were born here. I don't have a car, go out with friends, buy house... You cannot compare my life with your life. You can't escape what happens to you.

Institutionalisation

Detention contributes to the 'loss of status' and 'forced dependency' people may have already undergone in other ways after arrival in the UK. Imprisonment is perhaps the ultimate form of institutionalisation, entailing a loss of control over the basics of daily life. It may seem tenuous to draw parallels between the detention of asylum seekers in the UK, and the settlement of larger refugee populations in camps, usually in developing countries. However, much of the literature on camps is indeed relevant, as is clear from the striking similarity of concerns raised in debates about camps to the concerns raised during this research - nutritional choice, healthcare, communication problems/ misinformation, relationships with 'host' communities, and 'dependency' are all explored here. According to Harrell-Bond,

"The most essential feature of a camp is the authoritarian character of their administration; they are like 'total institutions', places where, as in prisons or mental hospitals, everything is highly organized, where the inhabitants are depersonalized and where people become numbers without names" (Harrell-Bond 2000: 1).

Detention centres have also been described as "total institutions" (Pourgourides *et al* 1996: 17). Arguably, the conditions detained asylum seekers have to "negotiate" are more restrictive than those in camps, and make it all the more difficult for them to make "an acceptable life for themselves" (Kaiser 2000: 1). This is not to suggest that detainees are devoid of agency (and indeed dependency is a hotly contested issue in the literature on refugee camps). The experience of detention is dealt with, and the trauma it entails manifested, in many ways. An extreme is hunger striking, but many of the manifestations of stress and distress described in this study are themselves ways of coping with detention, and are, according to Pourgourides *et al* "normal" responses to an abnormal situation (1996: 13). What is really striking about the discrepancy between research on camps and research on detention centres is the lack of attention in the latter to redressing the negative effects of containment, and avoiding the creation of dependency.³⁷

For many immigration detainees, helplessness is often exacerbated by language problems. This has been well documented in other research (including Pourgourides *et al*, who suggest that a

³⁷ Ways in which this could be achieved may require radical changes. Some are being debated with regard to the proposed accommodation centres for asylum seekers. For example, the Refugee Council has suggested that accommodation centres should offer families self-catering facilities (*Asylum accommodation process: Refugee Council proposal for a community-based pilot* <http://www.refugeecouncil.org.uk/publications/pub007.htm#accom> (May 2002)). Nutrition in detention was a major problem identified in the research interviews, and is explored below.

hierarchy develops within detention centres, based on competence in spoken English (1996: 48)), and was also of concern to some of the families. Interestingly, however, one family's solicitor proposed that this had been the sole "positive" aspect of their detention:

"The only positive thing about their detention was that [the mother] learned more English... I was her only point of contact [outside the detention centre, and]... she picked up more of the language [to talk to fellow detainees and to me]"

This comment touched on another concern raised in interviews: one of the most obvious effects of detention is separation from the support networks families have built up during their time in the UK. This includes legal representatives, who were usually more difficult to contact from detention centres, and who sometimes stated that they were too far away to arrange legal visits³⁸. Detained families who wished to find new representatives found this difficult from detention, and even those who were satisfied with their representatives felt limited in their ability to instruct their representatives, and help them to prepare their asylum cases:

F: I got paper for appeal - how can I [prepare while I am in detention]?

Friends and visiting

Families also lost community-based support. One family had felt unable to contact their friends (whose contact details they had left behind in the rush when they were detained anyway):

D: Before, we didn't have any friends here. But since my parents went to college, they made some friends, they're nice people. They help my parents, too.

M: [We can't call them because some of them] are asylum seekers - if I tell them I'm in detention centre maybe they will be afraid.

Most parents were particularly concerned about their children's abrupt separation from friends when detained (see also case study L).

M: [I made] friends, from any country - from my country, even from England, even from Zaire... anyone, even English. Where we used to live was a lot of flats, a lot of council - and there were people with kids coming to play with [my 'niece'] - when you with kids you meet a lot of friends. And all the time I was meeting 'cousins'. [When we were detained] they visited me. [But my daughter] she miss her friends, and miss her freedom.

Whether friends were able to visit detention centres depended partly on how far away they were living, and partly on their financial circumstances. Harmondsworth is not an easy place to visit even for those living in London - the fastest way by public transport is to take the underground to Heathrow, and then a bus, followed by a ten minute walk. There are no signposts or directions at the bus terminal, nor the bus stop, nor the detention centre itself. Detention centre staff were unable to advise visitors about public transport, and the nearest public telephone from which to

call a taxi is ten minutes' walk away. The entrance procedures for visitors are time consuming: fingerprints are scanned into the computer, as are photographs; fingerprints are checked three times on the way in, all belongings are left in lockers, and visitors pass through a metal detector, a body search, and a glass chamber with sliding doors that shut behind you before the next doors open in front. After all this, it is not unusual to wait an hour for detainees to be brought through to the visiting room³⁹, and longer waiting times of several hours appear to be quite common⁴⁰. The cost in time and money aside, many people - particularly former or current asylum-seekers - may be put off by the intimidating security checks.

Healthcare

Separation from established healthcare provisions was one of the most prevalent topics in the families' accounts of their experiences. Healthcare in detention centres was viewed as inadequate at best, and detention centre healthcare staff were often viewed with extreme distrust. Several families complained that their children's health problems, and indeed their own health problems, were not taken seriously in detention (see also case studies A and E). For example, case study C describes how the daughter in one family had a severe mouth infection, and suffered considerable weight loss, but was not offered adequate care for many weeks.

Case Study C

M: The older one was really upset, she was saying every day, 'I want to go to school, let me out of here... I want to see my father!'... She had problem with her mouth. My daughter was like, she doesn't like the food there. She had problem with her teeth. And she was 30 kilos before detention centre, and when I got out from detention centre she was 21 kilos. Actually she was suffering so much from detention centre. I used to go every day to see the doctor there, I used to tell them, I can't sleep, I have high blood pressure, headache, stress... [And] about my daughter, my daughter had the same problems - she couldn't sleep, and she had really pain from her teeth - she couldn't sleep, she couldn't eat. If you see her mouth at that time, she had spots inside, with water: infection. The doctors, the officers there, they have seen her but they can't do nothing. They just been waiting see what happen with my case. Actually they take her to hospital like two or three weeks before they release her. They have take her three or four times to the hospital: she had it already in Tinsley [House], but operation was later, in Harmondsworth [after 3 months]. They just used to give her Calpol for her pain. They just said to her, wait for your mum's case. This [the younger daughter] was a little bit better, because she didn't understand a lot - she just was asking for milk and things like that, you know. She was not eating too much then, just drinking milk.

In the end, the elder daughter missed almost two terms of school, because when the family was released after almost four months, her previous school said that they no longer had space for her. It was six months before she regained the weight she had lost in detention.

³⁸ Especially in cases where families were transferred repeatedly between Dungavel IRC near Glasgow, and Harmondsworth, near Heathrow.

³⁹ This in itself is a somewhat unnerving arrangement - a large room with security desks at either end, incorporating a multiple-screen surveillance system, connected to CCTV cameras which zoom in on the tables around which visitors and detainees are seated. Each of the thirty or so tables is surrounded by three blue chairs, and one red one - for the detainee.

The parents in another family were particularly concerned that their daughter had been attending regular hospital appointments, and they were due to go for another one:

Case Study D

F: Now kids crying and one she's sick already. My daughter, three days she can't sleep. She got fever. Doctor just says, 'it's ok'. When we coming to the nurse for [our daughter's eye]...

M: When she was born, it was not a [normal birth] - See, her eye's coming down at the side... Every three months she sees doctor [hospital appointment] because he have to do operation.

F: Now, he informed the doctor here. She have appointment, [in two days]. Nurse said they're going to do it, [but] it's going to be a different day. She said to me, 'we're not going to tell you the time, and the day'. Until now we don't know when that will be but it's going to be different day, different time. I spoke to GP, he say he going to get permission to take her. They [are going to] miss it for us! We waited three and half years.

M: If you miss the appointment, it's not followed, you know: you wait three months...

F: Even I give him a letter from the hospital, I give him her name...

Now both children have temperature 37 ½, two days ago, 2 o'clock at night. They [staff] say, 'don't worry, this virus around...' Look at [our son] and her now, it's not alright.

M: One lady, she's crying because her daughter is very sick, and they say to her 'it's normal'.

Fifteen days later, the family had not been taken for their daughter's appointment. The family was subsequently moved to Dungavel Immigration Removal Centre, in Scotland, and was not taken for a hospital appointment throughout the duration of their detention.

It is worth noting that concerns about ill health cannot necessarily be remedied by better physical and mental health services inside detention. It may be appropriate to look at health concerns as just one of many manifestations of stress and distress, which are themselves ways of coping with detention, and are, according to Pourgourides *et al* "normal responses to abnormal situation" (1996: 13). This interpretation is reinforced by the fact that health concerns were by no means limited to the physical aspects of health - parents were also particularly concerned about the potentially permanent psycho-social effects of detention. As will become apparent below, the psycho-social effects on parents also seem likely to affect children adversely. The following case study (E) shows how one mother saw the long-term effects of detention as potentially detrimental to the future integration, particularly of children, in the UK.

Case Study E

M: [My daughter] she change. It's not good to put the kids in detention. Sometimes she'll be playing, and she just starts crying. She scared about police...

A little 8 year old, he said [to staff in Harmondsworth] 'Going to take the gun, and kill you, and leave here with my mum'. He said 'I miss my dad'.

Time I was there, one month it was full to the third floor with families. It was unbelievable. And there was one family there, they didn't know how to respect people. They thieve, they do every bad thing... Some kids, it's not good to put them together. Those kids they been here before, they could get sick from the ones that come from back home. And the food's terrible. It's true, it's just rice and chicken. And they don't care for kids, they say they do, but they don't care.

⁴⁰ See for example the London Detainee Support Group's Annual Report 2002

My daughter, she was not moving around. She would just sit one place. She was just every day sick, every single day. And if you say, 'She's sick', they say 'You lie, you lie.' [My daughter] was one year and six months [when we were detained].

[In detention] children not got their freedom. I never seen that in this country [before]. It's not good, because imagine if a kid staying in detention for a long time. You going to create problem. If you putting someone in detention for nothing, you're going to say, 'why they keeping me for that long?' You can't love the country [if you're treated like that]. They take ten year-old kid that already been here for five years, it's unfair.

I saw [a] family they've been there for five months, and she got two daughters, one was born here, and the other daughter was seven, and she going to school. She was crying so much, because she was ill... They took her to a proper hospital, but with long time [waiting]. You know, if you're ill, they take their time before they take you to hospital.

Even for everybody it's not good. It's a prison, because they way they treat you it's a prison. You don't get your freedom, you can't move.

This mother's comments relate to a point raised in Pourgourides *et al's* research. Visitors who took part in focus group discussions felt that detainees found it:

"helpful to understand that the harsh conditions and confusion in detention are not the result of bad organisation but of a deliberate process within a calculated policy, and that '*it is not a detainee's fault, it's the system*'" (1996: 44).

The experience or threat of apparently arbitrary detention seems likely to encourage people to form negative opinions of the entire asylum "system". The comments in case study E suggest that resentment may form not only against the IS, but against "the country". Two other interviewees expressed beliefs about corruption within the Home Office. They made links between this perceived corruption and political events closer to their own experiences, and suggested that conflicts based on ethnic or other divides had infiltrated the country of asylum and indeed corrupted the asylum system itself. Corruption was specifically linked to perceived injustices against the interviewees and their families. There is a clear danger that those whose suspicions of official authorities may have been founded in their own country, and who then experience the apparently 'deliberate' or 'arbitrary' injustice of immigration detention here in the UK, may retain those suspicions even when granted leave to remain. This, as the mother's comments above suggest, is not likely to inspire people to "love the country" in which they have sought asylum. It is somewhat ironic that such negative impressions of the UK should be nurtured by the same government department that recently proposed to introduce a "citizenship pledge", and training in "knowledge about British culture" to give "meaning and value to the acquisition of British citizenship" (www.pm.gov.uk, 2002).

There were also concerns relating to more conventional notions of mental health. In this area in particular, it was suggested that children were influenced by the effects detention has on their parents' mental and physical health, as well as the state of other adults and children around them. People described being adversely affected by the 'disappearance' of fellow detainees

overnight (because of removals to other countries, or transfers within the immigration detention estate, or to prisons). Other circumstances contribute to feelings of insecurity and depression (see also sections 2.210, 2.211, 2.212), and detainees may be influenced by the “mental state of others” to the extent that “they may appear collectively depressed” (Pourgourides *et al*, 1996: 48). A woman whose daughter had been severely ill in detention explained how her daughter’s health had deteriorated in detention in parallel to her own:

M: Two weeks [we were in Tinsley House]. It’s a prison. Everything closed. [Then 3 months 1 week in Harmondsworth]. I had high blood pressure, and headache. Stress, very much. I had depression there. [My solicitor] she have sent a doctor... but he just talked to me on telephone. He spoke to me about my health, he just give me some medication, for high blood pressure, for stress, headache. I still continue taking them now... I used to go every day to see the doctor there, I used to tell them, I can’t sleep, I have high blood pressure, headache, stress... [And] about my daughter, my daughter had the same problems - she couldn’t sleep, and she had really pain from her teeth - she couldn’t sleep, she couldn’t eat.

In another case the daughter in a family had been under extreme pressure, taking responsibility for communicating traumatic events to third parties on behalf of her parents. The following case study outlines some of the problems the whole family was dealing with, and gives some clue as to how the daughter has been affected by these problems (see also case study G, and sections 2.211 and 2.212).⁴¹ The active response of the daughter to the detention of her family highlights the need for children in such circumstances not to automatically be “treated as passive victims, as opposed to competent survivors” of trauma (Boyden 2001). However, it also suggests the need to consider the level of children’s involvement in the ordeals of their parents, and to consider that when decisions are taken to detain entire families. A further point is that families’ experiences frequently involved parents being mistreated and humiliated in front of their children. The effects on children of seeing their parent(s) in a position of weakness may be compounded if similar humiliation occurred in their countries of origin.

Case Study F

M: I have panic attack. I take anti-depressant medicines. My husband too.

D: My mum can’t travel in a plane, or car, or train.

M: My hands are wet, my feet cold...

D: She keeps sweating.

M: My heart beat fast you know. I told doctor if I’m in a room, room gets smaller. Detention centre not good for me. If the door is locked, locked, locked,... and we can’t open the window.

D: Our GP from [the town where we were living] wrote a letter to immigration. But immigration don’t care about that letter.

M: We didn’t see a doctor or a nurse here. They keep my medicines and give every day - just for the day. I don’t trust them.

D: I can’t properly sleep at night. I wake up at night. When I wake up in the mornings I feel really sick and dizzy.

⁴¹ The family’s health problems (both parents are on medication for depression and panic attacks) echo long-standing concerns about the inadequacy of screening for health problems prior to detention (e.g. Pourgourides *et al* 1996: 33, 72).

M: My son he wakes up when the officer comes at night. They open the door with a key and they count us. My son wakes up and is afraid. Because on the [day] when the immigration come to our house, we were sleeping, and they come to my son's room very loudly. He thinks every time it's the police... My son ask me all these questions - 'why police put us here?'... My son's school was not finished on that date [when they detained us] and he's very worried about that.
D: My brother was in reception. He always talks about his friends...

Education and other provisions for children⁴²

Families with older children expressed great concern over their education, not just from an academic but also a social perspective. All mentioned the lack of provision for their children, though one was happy that at least provisions in Harmondsworth were better than in Tinsley House, where they had spent one month⁴³. The 7-year-old daughter in that family had been at school before the family was detained, and has received letters from her classmates and teachers:

F: All the class send letters... teachers too... children don't understand.. [they write] 'I cry for you... why you leave this country go [to your country of origin]?' ...I have all the letters here.

This family reported that there were no educational facilities in Tinsley House. In Harmondsworth his elder daughter was studying a little. In Tinsley House, the two younger children had chicken pox. He said they were only allowed to play outside for one hour per day.

F: It's problem for family to be so long in detention... [in Tinsley House] children play outside only one hour in day - one hour in twenty-four hours! For everything it's more good [in Harmondsworth]. For children it's here...Here is better, can play outside all day. But children no happy... yesterday [my 3½-year-old daughter] had temperature... She's not eating. Only milk.

This family actually had a more positive impression than others of healthcare provisions:

F: Doctor is good. Doctor is doctor, you know... all time is nurse here...[doctor in daytime only]. [but] it's big place, too many are sick...

Another family confirmed:

M: Just, my children has [been able] to go out, an hour a day. It was a fixed time, like half an hour, an hour, after lunch. Used to be looked over by officer. In Harmondsworth it was better than Tinsley, they

⁴² The concerns raised here about education in detention centres relate also to the current debate about segregated education in proposed accommodation centres for asylum seekers. For lack of space this issue is not explored further here, but links should certainly be drawn in future research.

⁴³ It should be noted that Tinsley House Immigration Removal Centre was not designed to accommodate families, nor is it mentioned by the government in connection with family detention. Only Campsfield, Harmondsworth and Dungavel are described as having 'family accommodation'. Facilities are poor in Tinsley House - no educational provisions are made, and children are allowed outside for a maximum of between 20 minutes and 1 hour per day. A member of a visiting group explained, "There's a family unit of 4 or 5 rooms - it was never purpose built - separate from main centre... The kids are only allowed outside 20 minutes a day, even in this hot weather... For child protection reasons they're not allowed to wander round the main centre." Moreover, the disingenuous adoption of the term 'removal centre' to describe detention premises belies the fact that periods of detention can be far more than 'a few days' prior to removal. One family of five had been in Tinsley House for 1 month, and subsequently in Harmondsworth for over 1 ½ months.

had school and things, but like just to pass the time - they didn't learn anything, they had a play room - nothing.

Others were also unimpressed by the facilities. One mother didn't consider the courtyard play area in Harmondsworth to be "outside", and complained that "They let you through sometimes, not all the time". Most complained their children became bored, listless, and inactive in detention.

Case Study G

M: My son he wasn't finished from the school when they come to take us.

F: Yesterday he asked me, 'Is it September?' He's been studying two years, now going into year two.

M: Before, he was [at school], because I went to college and left him in the crèche. He was seven months old when we came here [to the UK].

F: Look at [our son] - he doesn't smile. Most of the time he keep him place [doesn't move round, keeps quiet]. [They do activities] From 9.30 to 11.30, just he drawing. And from half two there is a play place, very small room, computer game... [to son:] Tell her...

S: writing, drawing, colouring, art, doing some jigsaw puzzles, writing... Light through the window makes colours on the floor

M: ...also at night! [Security lighting from outside comes in]

S: Sometimes I play... sometimes I play 'Guess Who', sometimes playstation

M: ...he tells me if teacher asks, say he is eight [because] that age is for the playstation.

F[aside]: Before, he have four friends, who left now. He very upset, but we tell him he [the friends] just gone to his room to get some clothes.

M: Now he thinks it's a holiday. Now he ask when he's going back to school - he liked his school.

The daughter in another family elaborated:

Case study H

D: He [my 5-year-old brother] couldn't bring any of his toys from the house and he really misses his toys... And I'm really bored as well, because there's nothing for me to do. In the male section there's an activity room [for art, games etc.], and there's some computers... But I'm not allowed to go in there... I'm the oldest [child in the detention centre] - there's nobody my age in the family part, and there's nothing for me to do.

It's not really a school [in Harmondsworth], you just do activities... I was in year seven [before we were detained]... I liked it.

She went on to explain that she had missed her best friend's birthday party, and had been unable to contact friends since her family been in Harmondsworth. They had not brought address books and people's telephone numbers because the police had not given them enough time for that:

D: But, [my friend] doesn't even know that we're asylum seekers. I wouldn't want to talk to her about being in detention or anything like that.

Detention thus separates young people from the support of friends not just physically, but through the stigma attached to detention. Some parents also felt unable to talk to friends about their situation. Some commented that their children were "ashamed" to be asylum seekers, even without having being detained.

F: My son, he doesn't tell people where he is from. He's ashamed to be refugee [he thinks people will change their attitude towards him].

Pourgourides *et al* note that detainees often “do not inform” family or friends of their detention for fear that “they may not be believed in declaring that they had not committed a crime. There is a strong sense of shame associated with detention” (1996: 81). As noted above, interviewees had also not informed family or friends because they did not want to frighten them.

Nutritional choice, nutritional health

There is a long-standing debate in the literature on refugee relief programmes about the *qualitative* aspects of nutritional interventions - food preferences, the cultural acceptability of certain foods, etc. Yet there is no comparable exploration of this relating to detention centres. McLeish *et al*'s (2002b) report on the detention of pregnant asylum seekers and those with recently born babies does raise the problematic issues of food preference and nutritional need. Her earlier report (2002a) also raised these issues, but in the context of dispersal of asylum seekers. All families I spoke to who had been or were currently detained expressed their dissatisfaction with the meals provided for them, and particularly for their children. Both the quality and variety of food were considered poor, and meal times were restrictive. No provision was made for children, or those who had missed a meal, to eat between mealtimes. A woman with a 22-month-old child had been given only fish-fingers and beans for her daughter, who had virtually stopped eating in detention. One family was reluctant to stop an interview at dinner time, since their children “don't eat anyway”. The daughter in another family explained:

D: We have breakfast, lunch and dinner times, and sometimes my brother [aged 5] doesn't want to eat, he wants to eat a bit later [and that is not allowed]. Sometimes at dinner he wants milk, or something. It depends on the officer - sometimes if she's good, she brings milk, but sometimes they're not good. It just depends on the officer.

2.2.10 History of detention and torture

“Detention reactivates and exacerbates trauma which has been previously endured. The physical environment including the cells, uniformed security personnel, physical restrictions, searches and so on rekindle memories of previous detention and torture. Such memories may have been adequately dealt with prior to detention... Refusal of an asylum claim or threatened deportation also reactivate ...previous traumatic experiences. The isolation and monotony of detention hamper the processing of past trauma; detainees 'revisit' their traumatic memories and have few opportunities for distraction or resolution.” (Pourgourides *et al* 1996: 65-66)

None of the interviewees was questioned about their previous experiences of detention, or of torture. However, in six of the nine families, an interviewee volunteered the information that they or a member of their family had been detained in their country of origin. In one case both parents had been detained (on separate occasions) in their country. Two of the fathers said that they had been tortured. The detention of those with a history of torture and detention has

negative effects on the individuals concerned, and it has been recommended elsewhere (e.g. Pourgourides *et al* 1996) that screening for histories of detention and torture *must* be improved when deciding to detain asylum seekers. Guidelines issued to the Immigration Service by the government state that people who have been tortured are “normally considered suitable for detention in only very exceptional circumstances” (Section 38.8, Operation Enforcement Manual, last reviewed and disclosed July 2001). A report by the Medical Foundation for the Care of Victims of Torture found that torture survivors with independent evidence were being detained by the IS (Dell & Salinsky 1999).

2.2.11 Arrest/Removal from home

The manner in which families had been removed from their homes was an unexpected cause for concern raised during the research. Experiences ranged from inconsiderate treatment of children’s needs (to drink, to go to the toilet), to disregard for parents’ medical conditions, and outright violence. One man explained:

F: Eight police came my house half past six in the morning... My house is very good... my neighbours, all English people, brilliant... [On the journey,] my son [aged 2] needs toilet... no stopping for him... changed the vans in Manchester and then no stopping from Manchester to Gatwick...

Another family had a similar story:

Case Study I

F: Immigration officers came to the house and took us to police station, then to Tinsley House. Even when he take me from home, nobody reading to me [i.e. papers, explaining the decision]. Even the kids not waking up because it’s half past six... When we taken from the house, even, if I can’t remember in my mind my number I can’t contact the solicitor ... because [they gave us only] half hour to take it.

[On the way to the airport, after they took us from our home,] I asked to get water for my daughter. He saying, ‘ok, you going to after five minutes’. He stopped the car to change the car. Again, he saying, ‘after ten minutes’.

M: We had it in our own bags, but he wouldn’t let us take it.

F: Even he stopped to buy chocolate and water for himself. My wife said him, ‘why don’t you give that [to our daughter]?’

Interviewees also recounted that they had lost belongings after being taken into detention, which could not be recovered even after they had been released:

M: I haven’t got my stuff - my landlord took my stuff. [The council] said to go to agency - agency paid for the council [flat]. Now I go and see the manager. He start saying, ‘come tomorrow’. Tomorrow if I come, he say come the next day. I’m sure he selling my stuff. - my washing machine, my fridge... even stuff for my daughter - all this stuff [I have now is] new.

D: They said that they’ve given our stuff to our friends, but our neighbours told us that they’ve thrown it away in big grey bins. They’ve only given some stuff to our friends.

More serious concerns were highlighted by the experiences of one family, who were allegedly assaulted on the day they were taken into detention. With apparent disregard for the parents' medical conditions (depression, panic attacks), and the welfare of the children, the family was allegedly handled violently and verbally abused. The parents were reportedly threatened, laughed at and denied access to (prescribed) medicine in the course of the arrest. The family gave a detailed account of their experience, which cannot be included here because of an ongoing civil claim against the Immigration Service.

2.2.12 Mishandled removals

As noted above, the experience of detention must be seen in the context of the ongoing insecurity represented by the threat of removal. People expressed the feeling of being forced to live one day at a time:

F: We don't know what we can believe now. Anything can happen.

Even before being detained, some people found the insecurity of waiting in 'asylum limbo' difficult to bear:

M: I was just like... You can go to [English] lessons, but I didn't go to classes very much. You just think, one day they're going to arrest you. Your mind, it's not free - you can't plan.

The prospect of removal invoked fears about what would happen to families on return to their countries of origin.

F: I need to be here for long time. I stay in detention centre my whole life [rather than go back to my country] Here I have guarantee for my life. I tell to immigration send me another country. I say I go in coffin [to my country]...

M: I can't believe it, after five years they put me in detention, and they want to send me back. [My daughter] was born here. What they doing to me? She going to be in danger if they put her back. Imagine! She's so innocent - she don't even know nothing. What would happen to her if something terrible happened to me? Here, she know a lot of my friends, they could take care of her. She got cousins here.

Repeated attempted removals can clearly be quite debilitating, but the following case studies will clarify that some people are treated better than others during removals. Families interviewed experienced being issued with removal directions at extremely short notice, often without clear explanations.

Case Study K

M: They [the IS] say 'you going to be deported on [Monday]'... That day it was so hard, I never forget it... I spent three days, not eating, not drinking, just thinking what I'm going to do...

And they didn't believe me at all. Everything I said, they said 'you're lying, you're lying'... They arrest me Friday... Monday took me to airport. I didn't get on the plane because I didn't want to. Because they didn't really want to take me - I could sense so. And God didn't want me to go that time. Maybe, [they] felt

sorry. And with a kid - and with no baggage as well: how can you bring your stuff? Just with plastic [bag]. The time they take you [she claps, saying 'faster, faster' - imitating the officers' actions when taking her from her flat]... 'Just pick the nappies for the baby, you won't come back'. [And] they never bring you again. The day you leave your house, that's it. That day I just start bleeding - my period. It was just so hard.

The time the immigration taking you to the airport, anything can happen to you. I asked to speak to [the IS], to explain myself. Because I leave in airport at four o'clock and flight at nine. I saw somebody at eight. They showing my file to me, and say they cancel my case. I say 'no, I can't go back because my life in danger'. My husband went back, and he came back. If it was safe her dad wouldn't come back. If her dad come back - and he say to me 'never go back'. I can't - I know it's not a safe place. I say to the immigration, it's better to keep me here. Because the way I seen my husband, it's better to be here. My husband say they put a lot of pressure [in our country]. He said they put him in prison for ten days, and they kick him all day, and that ten days was like twenty years. And after that, he fell sick for six months. [she describes marks on his body from when he was beaten in prison, on his back...]. Even the time I was in detention, I was not feeling alright.

The prospect of removal may also represent a painful uprooting for families who have been here for as long as six years, whose children have been in education here, who have learned English, and begun to feel part of communities. For one woman, removal also meant separation from her mentally ill husband, for whom she had been caring (see case study A).

Of more concern, however, was the prospect of violence and other mistreatment of families which allegedly occurred during the attempted removal of families interviewed for this research. Several interviewed families said that they were taken to the airport three or four times during their detention period, where they reported being subjected to violence, verbal abuse and deception. They inferred that they, and particularly their children, had faced this mistreatment when often already traumatised by the manner in which they were removed from their homes to go into detention. The accounts given by interviewees suggested that mistreatment during removals or attempted removals was at the hands of private security firms employed by the Immigration Service.

One family gave a detailed account of being subjected to physical violence after a pilot refused to fly them (for medical reasons laid out in a letter from the family's GP, which the family presented to the pilot). All family members were allegedly physically assaulted. The father was apparently subjected to xenophobic/racist verbal abuse. The family's account also described the adverse effects of the experience on their health, which included not just physical injuries but problems sleeping, loss of appetite, and in the case of the younger child, incontinence. The family's account cannot be included here because of an ongoing civil claim against the Immigration Service.

Another family described similar treatment at the hands of security staff:

F: They put handcuffs on my hands... my children crying on the floor [beside me]. Take by force [to Heathrow airport]... take me first my children cry... in the floor you know... [at the airport] on the floor four officers put me, beat me... My children see me what happened, and now they ask me what happened, why did they do that to you? [Since that experience,] All family bad dreams... too many times no sleeping... take medication for sleeping...

They also said that security staff had used deception to try to persuade them to come quietly to the airport:

F: In airport they said there is immigration for you [to talk to].

Another family reported that escort staff attempted to persuade them, in one case right up to the departure gate, that they would get to speak to an IO if they went through. They recounted:

F: Under the aircraft, somebody came from same people as detention. I showed him fax from solicitors. He tried to say to my wife, 'ok, go first'. I told him, 'you know, until now, some misunderstanding'... After that he call somebody. He say, Home Office 'he don't like to see you'. I said I need somebody for talk to. He tried to make me come out of myself...

M: you know, to say, 'ok, I'm going, I keep quiet'...

F: People came to get on plane... [After that], he took us to place inside terminal two, like detention. He keep us sitting three hours.

M: ...and really, it's too dirty there...

F: After that they bring us here [to the detention centre].

The same family said that they were told some weeks later, by the IS, that their removal directions had been cancelled, only to be taken to the airport two hours later. On this occasion, the family said that eight security staff accompanied the family of four, and attempted to board them onto the plane one at a time. Two people allegedly "grabbed" the three-year-old daughter and "ran" onto the plane with her. Two more then reportedly attempted to escort the mother, who collapsed, apparently suffering from an asthma attack. Her husband said that she returned to the detention centre with "scars" on her arms⁴⁴. Three days later, her husband said, "My wife is not alright", and explained how his family had been further traumatised by the events of that day. They subsequently explained that they felt so threatened that they felt unable to speak in English on the telephone, and had commented to a friend that even the medical staff in Harmondsworth are "part of" the immigration service and not to be trusted.

⁴⁴ From his description of what happened, these were probably bruises.

3. Conclusions and Recommendations

3.1 Conclusions

"...the detention of a family with children is a very serious step and is not one which is taken lightly. The interests of the child concerned would naturally be an important factor in deciding whether or not detention should be authorised." (Home Office, June 2002: Ev9)

The interests of children should not be merely an 'important factor', but rather the primary consideration in deciding whether to detain. The experiences of the families in this research show that children suffer physical, mental and social harm as a direct result of being detained. The negative experiences described by the families should be considered in light of the fact that the Immigration Service does not have information to prove, firstly, that the detention of families is necessary, and secondly, that the power to detain families is not being abused. Indeed, this research suggests the contrary: firstly, that families are unlikely to abscond, and that the negative effects detention has on family life, and on the health and well-being of family members, indicate that detention is disproportionate to the apparently minimal risk of absconding. In particular, the families' accounts demonstrate that the interests of the children concerned have not been taken into account. Secondly, the majority of detained and ex-detained families interviewed had, ostensibly, been detained prior to removal. This, however, was not usually limited to "a few days". It appears that the Immigration Service is not only failing to identify genuine absconding risks (Bruegel and Natamba 2002: 15), but also to identify 'removable' families. Thirdly, it is clear that the power to detain families is open to abuse, either by Immigration Officers or by their agents. It also appears that no effective safeguards are in place to prevent abuse - namely, the use of violence, deception, and other forms of mistreatment, including the ongoing detention of families for lengthy periods even when they are not removable, and the splitting of families - particularly by the removal from the UK of part of a family.

3.2 Recommendations: further research and statistical transparency

Clear and worrying themes have emerged in this research, albeit with a small sample of families. It is therefore important that longitudinal research is conducted with a larger sample of interviewees, to investigate the extent to which families are being detained and are experiencing similar situations to those described here. If further qualitative research is undertaken in a similar manner, it would be useful, if possible, for that to comprise a combination of both individual and whole family interviews, *and* focus group discussions, to allow a more comprehensive analysis of the perspectives of different family members. There is also a

need for further research to include other actors in the asylum and detention process, not only the detainees themselves.

Researchers, policy-makers, practitioners and asylum-seekers alike would benefit greatly from the disclosure of relevant statistics by the Home Office and a greater transparency about the policy and practice of immigration detention. Not least, disclosure is necessary to ensure that parliament can scrutinise the impact of this policy on children and their families. The Home Office should immediately disclose all available statistics relating to the number of families and children detained since the change in policy of October 2001. It should also collect and publish statistics as to the length of time each family is detained, the stage of the case when detained, and the outcome of that detention - i.e. removal, release or bail. Statistics relating to absconding, particularly where families are concerned, should also be published.

3.3 Policy implications and Recommendations

It is difficult to recommend a productive, appropriate, policy-based solution to problems with detention decisions, since, as Weber has noted, “organisational factors other than official rules also influence the way detention decisions are made”. This, as she concludes, implies that “the re-drafting of official guidelines, while clearly necessary, is unlikely to translate directly into changes in practice” (Weber 2002a: 193)⁴⁵. It is therefore not enough to set ‘standards’ relating to minimum provisions within detention (e.g. educational and health provisions). The only effective policy solution is to remove the power to detain families indefinitely and without independent review.

The main recommendation of this research is that children should not be placed in immigration detention. Steps should be taken immediately to introduce statutory safeguards against the detention of children. Until legislation is changed to reflect the interests of children by exempting them from detention, safeguards must be introduced to limit the damage to children and their families. If a family is to be detained, that detention should only be for a very short period, and must be subject to independent review. The Home Office must consult with experts (social workers, psychiatrists, the Medical Foundation for Victims of Torture, etc.), before detaining a family, even for a very short period.

“Those judgments have to be made by those most immediate to the case—the case officers and those handling the difficult circumstances. It is best left to their discretion.” - Lord Bassam, HoL Deb, 17 Jul 2002, C 1243.

It is clearly inadequate for the government to abdicate responsibility to Immigration Officers as Lord Bassam decrees. The ‘discretion’ of Immigration Officers in their decision-making role must be subject to sufficient procedural safeguards to ensure that in all cases (i.e. not only family cases) detention is used only where strictly necessary and for the shortest possible time. Decisions to detain and to continue detention must, promptly, be subjected to independent review.

Alternatives to detention have already been identified by the government - specifically, the reporting and residence restrictions outlined in the 2002 White Paper (which sets out that in future *all* asylum seekers will report to either police stations or reporting centres). Only one of the families interviewed had not fully complied with the terms of TA, and this was in ambiguous circumstances (where a mother claimed she had been asked to attend an appointment with the Immigration Service without her child). This suggests not that one in nine families will not comply, but that those who are misinformed by the IS *may* not comply. There is therefore no evidence from this study to suggest that families would not comply, provided the terms of compliance are fully and clearly explained to them.

The conclusions of Sullivan *et al*'s research on the Appearance Assistance Program - a pilot monitoring programme in New York, exploring alternatives to immigration detention - are particularly relevant. Their report declared the scheme a success, documenting significantly improved rates of compliance with INS⁴⁶ regulations. Perusal of the components of the AAP scheme is instructive, since many of them correlate with the issues identified by interviewees in this study:

Components for intensive participants (relaxed for regular participants)

- Orientation (including feedback) - also attended by guarantors.⁴⁷
- Ongoing monitoring
- Information
- Resources (including library access; referrals “to food pantries, health clinics, English classes, other social service agencies and, most importantly, free or low-cost lawyers - all of which addressed potential obstacles to compliance. Continued outreach to legal service providers increased

⁴⁵ This is not a surprising conclusion to anthropologists of policy - on the contrary, Mosse (forthcoming) suggests that the status quo may be maintained in both directions: practice also serves to sustain policy consensus, which is highly ‘resistant’ to the ‘lessons’ taught by research.

⁴⁶ The United States Immigration and Naturalization Service.

⁴⁷ Participants were required to have ‘had satisfactory scores on screens relating to public safety and compliance with prior appearance requirements, a verified address, and a guarantor who agreed to maintain regular contact with the participant and the AAP’ - this, importantly, is described as a ‘moral’, not legal or financial responsibility (Sullivan *et al* 2000: 13).

participants' ability to obtain legal counsel. In addition, many asylum seeker participants made use of the center's materials on country conditions and books on immigration law, resources that helped them to take a more active role in preparing their cases."⁴⁸

- Home visits (to verify addresses, but also to maintain/enhance the relationship between staff and participants)
- Departure planning and verification
- Responding to program violations and increased risk of flight

(Sullivan *et al.* 2000: 16)

The success of the AAP scheme was based on accurately identifying obstacles to compliance - such as lack of information about procedures, or about the implications of non-compliance; poor legal representation - and providing services which alleviate those obstacles. It was also based on use of a range of alternatives to detention - involving different levels of supervision, to capitalize on people's own incentives to comply (2000: 9). It also depended on tailoring supervision according to variation in peoples' incentives:

"Typically, intensive participants were required to report to the AAP's office once every two weeks, to call twice every week, and to be available for home visits once a month. Once supervision staff established a relationship with participants, regular reporting was used as a vehicle to remind participants of their obligations... Generally, if participants fulfilled all program obligations for two months, their reporting schedules were reduced to once per month until the need to intensify those requirements developed - for example, immediately prior to their voluntary departure deadline" (Sullivan *et al* 2000: 14).

The findings of this research suggest that families are extremely unlikely to abscond. Should the government be concerned, nonetheless, that absconding is a serious risk, there is no reason why alternatives to detention, as set out in the White Paper, or similar to those used in the AAP scheme, should not be further tested as to their effectiveness.⁴⁹

The AAP scheme also addressed the issue of removal without the regular use of detention. Where families are to be removed from the UK, immediate detention is not an appropriate solution. Steps should only be taken to effect removal once the asylum process has been completed. Time should be given for families to sort out their affairs, and to access legal advice. Indeed, if the pattern of the AAP programme were followed, both families and their representatives would be well informed, in advance, of the intended removal, and therefore far better prepared for it.

It appears that the families in this research were detained without regard for their well-being, and with disregard for the minimal risk of their absconding, to satisfy a "narrowly defined policy objective" (Harvey 1998: 215). Given the serious nature of some of the allegations against the

⁴⁸ Co-operation with, or referral to agencies that are already providing this type of services could be a fruitful initiative in the UK too: for example, Asylum Aid has recently established library resources for women refugees and asylum seekers. Several of the participants in this study expressed a wish to be more in control of their claims, so offering them the resources to do so would almost certainly be met with approval.

⁴⁹ In fact it seems likely that there would be strong financial advantages to exploring alternatives to detention, which costs, per person per week, from £364 at Haslar to £1620 at Oakington (HoC Deb, 25 Oct 2001, C333).

Immigration Service arising in the interviews, relating to families' the experiences of apparent neglect of families' well-being during detention and removal, it would be preferable if alternatives were explored before many more families are detained. Even the 'few' families traced in this study are a few too many.

"[T]he destruction wrought by treating everything and everyone purely as a means to satisfy narrowly defined policy objectives is now clear." (Harvey 1998: 215)

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Appendix I: Further Reading

Further information regarding the policy and practice of detaining families can be found at the following sources:

- The official transcript of the Home Affairs Committee Inquiry into Immigration Removals (2003) includes information provided by the private contractors running the detention estate and evidence from Home Office Minister, Beverly Hughes MP. See www.parliament.uk.
- *How does it feel to be a child in a detention centre?* Ann Treneman, The Times, 6th November 2002 (See www.the-times.co.uk).
- *Worlds Apart: Is it right for asylum-seeking children to be taken out of school and taught in detention centres?* Diane Taylor, The Guardian, 7th January 2003 (See www.guardianunlimited.co.uk).
- Australian National Inquiry into Children in Immigration Detention. See: http://www.humanrights.gov.au/human_rights/children_detention/index.html

Appendix II: Letter to BID from Kevan Brewer, Director, Immigration Service Detention Services, 25th October 2001

The text of the letter is copied below. Copies of the original letter are available from the BID office- contact: 020 7247 3590

"I am writing to draw your attention to a change in policy regarding the detention of families.

As you know, the 1998 White Paper "Fairer, Faster, Firmer- A Modern Approach to Immigration and Asylum" set out the normal circumstances in which detention under Immigration Act powers could be justified; where there is reasonable belief that the person will fail to comply with temporary admission or release; initially, to clarify a person's identity and the basis of their claim or where removal is imminent. In March 2000, detention at Oakington under the fast track process was added to the criteria.

Other than for Oakington, the detention criteria were qualified when it came to the detention of families in that their detention was only to be as close to removal as possible so as to ensure that it lasted for no longer than a few days.

As part of our expansion programme for the Immigration Service detention estate we are increasing the overall provision of family accommodation. The new detention centres at Harmondsworth, Yarl's Wood (due to open shortly) and Dungavel will contain dedicated family accommodation. The accommodation is based on family rooms which ensure that family members are not separated and, so far as practicable within the constraints of detention, are able to maintain family life.

The increase in family detention accommodation will allow the detention of those families whose circumstances justify this (ie a risk of absconding, identities and claims need to be clarified or pre-removal) but who are not detained at present because they fall outside the detention criteria as qualified for families.

In every case the detention of a family, especially those with children, will have to be considered necessary in all circumstances of the case. There will remain a general presumption in favour of granting temporary admission and release. No family will be detained simply because suitable family accommodation is available.

As far as human rights issues are concerned, given that families would be detained only after consideration of each individual case and where this was considered necessary in order to prevent unauthorised entry (ie whilst their identities and claims were being established and/or where there were reasonable grounds for believing that they would abscond if given temporary admission or release) to

effect removal, we are satisfied that we would be able to comply with Article 5 (1) (f) of the ECHR.

As far as Article 8 is concerned, the detention of a family may interfere with this right but only so far as is necessary and in accordance with the law. This is provided for in Article 8 (2). Again, as each case would be assessed on its own facts, we are satisfied that detention should not be in conflict with this Article.

Detention of families with children is not inconsistent with UNHCR's "Guidelines on applicable Criteria and Standards relating to the detention of Asylum Seekers". The Guidelines, whilst stating that minors who are asylum seekers should not be detained, recognise that there may be circumstances where the detention of children is necessary. Detention should be used as a last resort and only where alternatives to detention have been considered first: this is consistent with our general approach to detention.

Article 9 of the UN Convention of the Rights of the Child grants children the right not to be separated from their parents against their will. Article 37 requires the detention of minors to be used only as a last resort and for the shortest possible period of time. While the latter article is directed more towards the position of unaccompanied minors, it is clear that the detention of families with children in the circumstances we envisage would not be in conflict with the Convention."

Appendix III: Letter to BID from Simon Barrett, UK Immigration Service, 18th June 2002

The text of the letter is copied below. Copies of the original letter are available from the BID office- contact: 020 7247 3590

"Thank you for your letter of 28 May... I can confirm that the decision to change the detention criteria in terms of the detention of families was indeed a Ministerial one. It was not derived from statistical evidence but rather was based on the recognition that in some cases families would give rise to similar concerns that might be encountered in relation to single adults and that, accordingly, there would be occasions when it would be appropriate to detain families for longer periods and at other points in the process than simply a few days immediately prior to removal. This is set out in the White Paper "Secure Borders, Safe Haven".

As in any other case, the detention of families is taken on a case by case basis, with each case being considered very carefully on its individual merits. If, in any particular case, detention is considered appropriate either to effect removal, to establish the family's identity or basis of claim, or where there is reason to believe that the family will not comply with any conditions attached to the grant of temporary admission or release, and appropriate family accommodation is available, the family's detention may be authorised.

Given this very particular and specific approach to the detention of families (and others) the use of statistical evidence, even if such evidence were available to us, would surely be an inappropriate means of implementing this policy. It is surely preferable that the facts of each case inform the decision to detain rather than reference to a set of statistical data which may have little reference to the case in question.

So far as the research conducted by the US Immigration and Naturalization Service and the Vera Institute is concerned, I understand that a representative from the Immigration Service was a member of the advisory board for this project and the Immigration Service was made aware of the institutes findings published in Spring 2000."

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