

Self-inflicted deaths of asylum-seekers and migrants detained under Immigration Act powers in the United Kingdom.

Briefing from Bail for Immigration Detainees (BID), October 2005

Introduction:

The number of self-inflicted deaths in immigration detention has significantly increased – seven immigration detainees took their own lives between January 2003 and September 2005¹, yet there were only four such deaths between 1989 and 2003.² The most recent death occurred on 15 September 2005, when Manuel Bravo from Angola apparently took his own life in the family unit at Yarl's Wood Immigration Removal Centre, where he was detained with his 13 year-old son.

In BID's experience, circumstances surrounding the deaths of immigration detainees are complex and sensitive to manage due to the particular situation of immigration detainees. Detainees often have no legal representative, no family or close friends in the UK and witnesses may have been removed from the country by the time death is investigated.

In BID's opinion, those responsible for the safety of detainees are currently not effectively being held to account. In contrast to a death in prison custody, which is notified to INQUEST, Prison Reform Trust and the Howard League by the Safer Custody Group at the Home Office, deaths in immigration detention are not reported to any outside agency or NGO. As a result, BID believes that there is a risk that firstly, any family or friends may only receive ad-hoc support and secondly that issues of wider relevance to the death may not be brought to the attention of the Prisons Ombudsman or the Coroner.

Deaths of immigration detainees may quickly fade from the public mind. It is testament to the strength of the community in Leeds where Manuel Bravo and his son were living that his death is not being allowed to go unnoticed; the Right Reverend John Richard Packer, Bishop of Ripon and Leeds has called for a public inquiry.³ However, there are lessons to be learned from other tragic deaths that have occurred, and the Home Office and Detention Services need to take action to ensure that the responsibility of the State to protect the human rights of those they detain is met and that further deaths are avoided.

This action needs to focus on

- a) Making necessary changes to the legal framework for detaining asylum seekers and migrants under Immigration Act powers, to ensure that detention powers be limited by accessible and meaningful legal safeguards.
- b) Improving the investigative process if a death does occur, to ensure that wider lessons for policy and practice are identified and implemented, particularly in the absence of friends of family of the deceased in the UK to apply pressure.

Background – the use of immigration detention in the UK

§ More asylum seekers and migrants than ever before are detained – 2155 people at the last official snapshot, in 10 centres and a number of prisons around the UK⁴

§ More women and children are now detained - 13% of detention beds are allocated to families⁵

¹ Mikhail Bognarchuk died in Haslar IRC in January 2003. Mohammed Bin Dutri committed suicide in Belmarsh in October 2003, having been moved to prison from Dover IRC. Sergei Banuyck died in Harmondsworth in July 2004. Tung Wang died in Dungavel IRC in July 2004. Kenny Peters died in Colnbrook IRC in September 2004. Ramazon Komluca died in Campsfield IRC in June 2005. Manuel Bravo died in Yarl's Wood IRC in September 2005.

² House of Lords, House of Commons, Joint Committee on Human Rights, **Deaths in Custody**, Third Report of Session 2004-5, Volume 1, December 2004, HL Paper 15-1, p 28

³ 'Bishop urges inquiry into detention centre death', Eric Allison, The Guardian, Tuesday September 20, 2005

⁴ Table 11, IND Asylum Statistics, Second Quarter 2005

- § Many detainees have no, or very poor, legal representation and many experience great difficulty in accessing an independent review of their detention by way of a bail application. HM Inspectorate of Prisons has drawn attention to the fact that “*Access to competent and independent legal advice is becoming more, not less, difficult as fewer private practitioners offer legally aided advice and representation.*”⁶
- § Asylum claims by survivors of rape and torture are being ‘fast tracked’ in detention processes without enough time to prepare their case.
- § A report by Amnesty International published in June 2005 showed that many people who have sought asylum in the UK at some stage and who are detained solely under Immigration Act powers were languishing in grim, prison-like facilities even though, in many cases, the chances of enforcing their return within a reasonable time-scale remained slim.⁷
- § Removals are being pursued to countries like Iraq, Zimbabwe and Uganda. Some detainees are scared of return and may take desperate steps as a result of their fear of return.
- § There is considerable evidence of instances of inadequate medical care for detainees, in particular those at risk of suicide and self-harm and those with mental health problems. A report by the independent humanitarian medical agency Médecins Sans Frontières identifies “*[an] apparent lack of mechanisms to ensure that vulnerable individuals receive the medical care and protection they need during the detention process.*”⁸
- § MSF’s report is based on the cases of 13 adults and 3 children with health needs who were being assisted with bail by BID, who were held in UK prisons and immigration removal centres for periods ranging from 40 to 720 days (an average of 250 days). MSF were concerned about the health status of the individuals they medically examined, and the apparent lack of mechanisms in place to ensure that members of this vulnerable population are afforded the medical care and protection they need.
- § Whilst detained in the UK, it was the opinion of the medical doctor that the health of the detainees had deteriorated in detention, considerably in the majority of cases. MSF felt that the continued detention of these individuals would be likely to result in further deterioration of health, particularly mental health. Despite this, long periods of detention occurred between medical assessment and release – up to 168 days in one case.
- § The MSF report also notes:
 - § a lack of a systematic process in place to ensure that seriously ill individuals are identified and detained only in exceptional circumstances, as specified in official detention guidelines
 - § failure in some cases to identify torture victims
 - § cases of disrupted treatment for mental health problems, unidentified health needs among detainees, and lack of follow-up and referrals for urgent medical concerns
 - § poor continuity of health care and a lack of complete medical notes for detainees who are frequently moved between centres and a lack of interpreting services to enable detainees to communicate appropriately with medical staff.

Recommendations of the Joint Committee on Human Rights (JCHR)

Following an inquiry into all forms of Deaths in Custody during 2004, the JCHR published a report in December 2004.⁹ The report, which examines the issue of deaths in immigration detention;

- Expresses concern that “*there appears to be a recent increase in deaths in immigration detention*”

⁵ Centres at Yarl’s Wood, Oakington, Tinsley and Dungavel are able to detain families, with a total of 353 family beds of the overall detention capacity of 2724.

⁶ HM Inspectorate of Prisons, inspection report on Dover Immigration Removal Centre, July 2004

⁷ Amnesty International report, United Kingdom: Seeking asylum is not a Crime – Detention of people who have sought asylum, 20 June 2005

⁸ *The health and medical needs of immigration detainees in the UK: MSF’s experiences,* by MSF, November 2004, published as an Annex to BID’s report, ‘*Fit to be detained? Challenging the detention of asylum seekers with health needs*’ by BID, May 2005

⁹ House of Lords, House of Commons, Joint Committee on Human Rights, **Deaths in Custody**, Third Report of Session 2004-5, Volume 1, December 2004, HL Paper 15-1

- Notes that “*Those detained are likely to be highly vulnerable, with high rates of mental illness and distress, and sometimes with past experience of imprisonment, ill-treatment or torture.*”
- Expresses concern that “*Information on the risk of suicide or self-harm should be used to inform decisions on whether an individual is detained in immigration detention, and how he or she is cared for in detention. We are concerned that, despite guidelines, this may not be happening effectively in practice.*”
- Recommends an urgent review of the use of prisons for immigration detainees with a view to reducing the numbers, particularly of those at risk of suicide and self harm
- Highlights the requirement to clearly justify continuing detention of those with serious mental health problems or those at risk of self-harm or suicide “*Decisions on continued detention under the Immigration Act must be fully informed by any relevant medical and in particular psychiatric information. Where detaining authorities know, or ought to know (given adequate information exchange) that an immigration detainee is at risk of suicide, serious self-harm or severe mental illness as a direct result of continued detention, they will need to clearly justify such continued detention as compliant with Articles 2, 3 and 8.*”

Action following the JCHR report

The Government response to the JCHR was published in March 2005, and states that “*Immigration Service staff at removal centres will pass on any concerns about an individual’s physical or mental health to the IND office responsible for that individual’s continued detention. The person’s continued detention will be reviewed in the light of such concerns. Where there are concerns about an individual’s fitness for detention, or the ability to provide the level of care that may be required in a removal centre, consideration will be given to the grant of temporary admission or release. In all cases, we are concerned to ensure that a person’s detention remains human rights compliant.*”¹⁰

However, in BID’s experience this policy is not translated into practice in removal centres and detainees remain at heightened risk of suicide and self-harm. The Immigration Service appears to remain reluctant to consider release in some cases, even in the most desperate of circumstances (see attached case study).

Conclusion

The Government wants to increase the number of people who are detained. *Controlling our borders: A Five Year Strategy for Asylum and Immigration* published by the Home Office on 7 February 2005 sets out plans to increase the use of detention with the aim of removing more people each month than the number of new unfounded claims received, and increasing the use of fast-track processes based on detention. In the strategy, the Prime Minister writes “*...we will move towards the point where it becomes the norm that those who fail can be detained.*”

Parliament must ensure that the removal and detention policies of the Government are not allowed to override the rights of detainees. Detainees must have the protection of a time limit on their detention, and independent automatic review of the reasons why they are deprived of their liberty and be subject to an effective screening process to ensure that alternatives to detention are employed for those vulnerable to suicide and self-harm.

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¹⁰ Government Response to the Third Report from the Committee: Deaths in Custody, 11th Report of Session 2004-5, HL Paper 69, 10/3/05

Esma, Dermo, Nina (aged 7) and Sibel (aged 5) *

Esma and Dermo arrived in the UK with their baby daughter Nina in 1998. They applied for asylum on arrival. The family's asylum claim was refused about 6 months later. One year later, the couple had a second daughter, Sibel. At the end of 2001, the family made an application to remain in the UK on human rights grounds, but this was refused a day later. The family appealed, but this appeal was dismissed. The family was granted leave to appeal to the IAT. Before the Tribunal appeal had been heard, Esma was detained for 10 hours at Gatwick, but was released. At the end of 2003, the Tribunal dismissed the family's appeal. Shortly afterwards Esma began regular counselling sessions. About 6 months later the family was detained. Esma was pregnant at this time and Nina and Sibel were attending school. Although Dermo can speak English and the girls have largely grown up in the UK, Esma does not speak English. Esma attempted suicide while at Oakington, apparently on the family's first day there. The family was moved to Dungavel, and a first attempt was made to remove them but this was stopped due to Esma's poor health. Three days later another attempt to remove was made Esma was experiencing pain and anxiety and the captain of the plane refused to carry her. Two weeks after the family's detention, there was an application for judicial review. Esma's mental health continued to deteriorate and around a month after the family had been detained, Esma was sectioned under the Mental Health Act and taken to hospital. She was five months pregnant. Esma was particularly anxious about her unborn child and reported that she could not feel any movement. She was returned to Dungavel, where it was confirmed that she had miscarried. She was treated in the maternity ward of a hospital, and then sectioned again under the Mental Health Act. While Esma was in hospital, Dermo and the couple's daughters were released on TA and housed in a temporary hostel in Glasgow. They had been detained for about one month. Esma was released from hospital but returned to Dungavel. Two independent medical reports emphasised her suicidal risk and her increased chances of recovery if allowed to be with her husband and children. However she was not released and, concerned about his daughters' education and their living conditions, Dermo and the children returned to London where they had been living before they were detained. Dermo reported at a reporting centre every day. He and the children were unable to visit their mother. Over the following weeks Esma's solicitor and BID applied for her release on TA on four separate occasions. Each was refused. An application for bail was then made and opposed by the Home Office on the grounds that Esma and her family had shown little incentive to return to their country of origin voluntarily. A second bail application made two weeks later was successful and Esme was released on TA. She had been detained for 121 days.

This case study of a BID client was included in 'No Place for a Child: Children in UK immigration detention – Impacts, Alternatives and Safeguards', Save the Children, February 2005

*names have been changed.