

Briefing paper on children and immigration detention – March 2008

'[the Committee's visit to Yarl's Wood Immigration Removal Centre] has enabled us to lift a stone and find a pretty horrible picture underneath. This is the gap between policy and practice'

- Andrew Dismore MP, Chair of the Joint Committee on Human Rights, Inquiry into Treatment of Asylum Seekers, February 2007

Why are children detained?

Every year 2,000 children in the UK are detained for the purposes of immigration control. These children are not detained as punishment for offences they have committed. They are detained for the administrative convenience of the government which argues that they would otherwise abscond or fail to comply with immigration rules. Children end up in detention either because they are the sons and daughters of asylum seekers or migrants who are detained with their families, or because they are child asylum seekers or migrants who are wrongly treated as adults and detained. They are the only children in this country who can be locked up indefinitely without the oversight of the courts and without having ever committed a crime.

Until 2001, children were only detained for limited periods of time immediately before the government planned to remove them with their families from the UK. However since 2001, children have been detained under the same legal and policy framework as single adults with no special consideration given to their particular vulnerabilities. This means that if a child's family has claimed asylum they can be detained at any time, even before the claim is decided. Their detention is not time limited – some children Bail for Immigration Detainees (BID) knows have been detained for six months – and the government's decision to detain them is not subject to judicial scrutiny.

The government has faced mounting criticism against its policy to detain children, including from the UN Committee on the Rights of the Child and the UK Parliamentary Joint Committee on Human Rights. It is currently piloting an alternative to detention for families at an accommodation centre in Ashford, Kent. While at the centre, families are given information to encourage them to voluntarily return to their country of origin. In BID's view it is not clear that the pilot presents an alternative for those families most likely to be detained rather than an unsuitable alternative for families who would otherwise be living within the community.

Key facts about the detention of children

- The government does not disclose the number of children it holds in immigration detention during a given period. It only gives 'snapshots' of how many are detained on a particular day. On 29 December 2007, 35 children were detained – five had been in detention for longer than two months.¹
- Children detained with their families are held in one of three immigration detention centres: Dungavel House in Lanarkshire, Tinsley House near Gatwick Airport and Yarl's Wood, the largest of the three centres, near Bedford.
- Many children have been in the UK for significant periods of time before they are arrested and detained – BID knows of one girl who was in the UK for six years before being detained

¹ Home Office, Asylum Statistics: 4th Quarter 2007 United Kingdom, March 2008

at Yarl's Wood for three months. Many other children in detention were born in the UK and know no other home.

- Over 40% of children detained at Yarl's Wood go on to be released.² Their detention is unnecessary, damages their mental and physical health and wastes taxpayers' money.
- Families may be detained when they still have outstanding matters on their asylum or immigration cases. Many detained families have no legal representation or have received poor legal advice. BID knows of several families who have won their case to stay in the UK upon being released from detention and obtaining quality legal representation.
- There is no evidence that families are systematically at risk of absconding if they are not detained. The education and health needs of children, friendship ties and the desire to be granted status in the UK all work against families 'disappearing'.
- Immigration detention affects many more children than those who are physically detained. Government policy allows for families to be split by detention, for example if one parent is able to be removed from the UK and another is not. In some cases this leads to children being taken into the care of social services.

Key concerns about the detention of children

- **The impact of detention on a child's physical and mental health**

The impact of detention on children can be devastating. Taken from their communities, often with little understanding of what they have done to deserve being locked up, detention can significantly impair a child's mental and physical health. One child that BID knows lost a third of her body weight while in detention. Others have suffered regressive bedwetting and soiling or lost previously acquired developmental skills. The impact of detention is compounded by the difficulties families face in accessing adequate health care for their children while in a detention centre. BID believes the government's use of detention is wholly disproportionate and that children should never be detained. Detention is no place for a child.

- **Safeguards to keep children from harm in detention are not meaningful**

Government safeguards to keep children in detention safe are confusing, contradictory and do not provide adequate protection for children. Child protection policies do not acknowledge the harmful impact of detention on children and families are not automatically released when a social worker documents concerns about a child's wellbeing in detention. Instead, parents are often blamed for prolonging their family's detention on the basis that they should voluntarily leave the UK and bring an end to their detention. BID believes detention itself damages children. While the government continues to detain children it has a duty to keep them safe and promote their welfare through meaningful safeguards.

- **Decisions to detain are not subject to automatic judicial oversight**

The decision to detain a family and all subsequent reviews of that decision are made from within the Home Office. The Minister for Borders and Immigration must personally authorise the detention of a child for longer than 28 days. In February 2007 the current Minister, Liam Byrne MP, informed the Joint Committee on Human Rights that 'to date I have not refused any request for extended detention.'³ The government never has to get the permission of a judge to sanction its decision to detain a family unless the family applies for bail. BID believes that decisions to detain a family with children must be independently reviewed.

- **The best interests of the child are not prioritised**

The government has an opt-out clause to the UN Convention on the Rights of the Child because it does not believe the best interests of the child should be the primary consideration affecting how child asylum seekers and migrants enter, remain in and depart from the UK. The consequences of

² Taken from a Freedom of Information Act request released on 16/05/07 containing data from 10/2005 to 09/2006

³ Bail for Immigration Detainees, Obstacles to Accountability, June 2007, footnote 91

this approach are evidenced when children are treated as adults and wrongly detained, families are split by detention, breastfeeding mothers are separated from their infants and children are ordered to leave the UK without their parents. BID believes that child asylum seekers and migrants are children first and foremost. If every child truly matters, then the needs of these children must take precedence over government targets on immigration control.

- **The detention of children is not properly monitored**

Information kept by the government about children in detention is totally inadequate. The absence of comprehensive statistics makes it difficult to monitor the use of detention for children and to hold the government to account. Limited information is published but does not show how many children were detained over a given period, the outcome of their detention, the children's nationality or at what point in a child's asylum claim they were detained. BID believes the government must be accountable for its policy and that it has a duty to publish detailed information about its detention of children.

Case studies of the detention of children

Family A

The mother, father and three children of family A were detained together for one month at Yarl's Wood during 2007 before being released. When they were detained the children were aged between four and 12 years old and the mother was pregnant – during her detention she suffered a suspected miscarriage. Since they have been released, all the children have had problems sleeping. The youngest son talks constantly about handcuffs and police officers. The oldest son is deeply ashamed that his friends know he was detained. The family worry that he will run away because he is afraid the immigration authorities will arrest him again.

Family B

'The conditions in detention are not good. The rooms are not ventilated, at night you cannot breathe properly because it is too hot. I had one room with two single beds and I shared a single bed with my son. We did not sleep well. The effects of detention for my children were bad. They have not had any stability. They didn't sleep at night. My daughter was very afraid. She kept asking, "What did we do wrong? Why are we in prison?" She has been cut off from school and she now has difficulty socialising. She is very traumatised, and so is my son. The school in detention is not good. It is not really a school; it's a place to put kids. They can't sing; there is nothing to make their minds work. They are growing children and they need to learn something new. There is no story reading and the place is very cold. The children don't have warm clothes to put on because we left everything behind. If you request something it becomes a tug of war. In the minds of the staff you don't even exist as a person and they are not trained to look after children.' – Trude, detained at Yarl's Wood with her two children in 2006

What is Bail for Immigration Detainees doing about the detention of children?

Bail for Immigration Detainees, or BID www.biduk.org, is a small independent charity that exists to challenge immigration detention in the UK. Since 2001 we have supported families in detention, or separated by detention, to make applications for bail. Over the past five years we have provided legal advice and information to 170 families in detention, resulting in release for many. We use evidence gathered through our casework to lobby the government to end the detention of children.

Further information

Bail for Immigration Detainees, [Obstacles to accountability: challenging the immigration detention of families](#), June 2007

Bail for Immigration Detainees, [Family rights bulletin for detained families](#), September 2007

Bail for Immigration Detainees, [A few families too many: the detention of asylum-seeking families in the UK](#), March 2003

HM chief Inspector of Prisons, [Report on an unannounced short follow-up inspection of Yarl's Wood Immigration Removal Centre](#), 13 – 16 February 2006

The All Party Parliamentary Groups on Children and Refugees, [Alternatives to immigration detention of families and children](#), July 2006

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