

DETENTION in the UNITED KINGDOM

PART 1.

Foreigners, Camps and the UK, by Elspeth Guild

Introduction

The UK has a long history of camps and foreigners. In the recent past, these were widely used during and after World War II for the interment of suspected enemy aliens – primarily German, Italian and other Axis power nationals. The logic of camps for foreigners has been premised on the idea of security. Exceptional measures to limit the movement of persons considered to be a threat to the host population/the state has been the informing logic. The idea of protection of the individuals lodged in camps has been very much secondary, primarily used as an alternative justification for the deprivation of liberty.

Thus the creation of camps for foreigners in the UK is not directly related to the provision of housing and support for individuals. This is an indirectly result of the security logic of separation from the host population. The UK legal framework of camps is then one of detention versus liberty of the person. The right to access to benefits is a separate issue which continues to be related in other legal measures and contested on other grounds. This is most clear in the legal challenges to the provisions of the Immigration and Asylum Act 2002 which refused benefits to asylum seekers who fail to apply for asylum at the place of entry into the UK. The issue of state obligations to provide accommodation and food was not linked to the availability or otherwise of camps but was contested on fundamental human rights grounds and argued on this basis. Nonetheless, the lack of a link between camps and state duties to provide support and accommodation may be seen as part of the present UK government push to remove asylum seekers outside the UK (and the European Union) for the processing of their asylum applications. The UK authorities vision of camps at the edges of the Union (preferably on the other side of a hard EU border) is directly related to getting rid of duties of protection, accommodation and support.

Foreigners, Immigrants and Asylum Seekers

As regards camps for foreigners, UK legislation makes little differentiation between foreigners, immigrants and asylum seekers. Only in the most recent UK legislation is there the beginning of a different streaming for different groups. One can see from the most recent legislation and moves on camps in the UK an attempt to separate the issues of foreigners from asylum seekers and the creation of a separate regime for asylum seekers. However, as the experiment in a camp specifically for asylum seekers from designated countries whose applications in theory would be dealt with quickly, the logic remains one of separation and isolation. As was stressed in various UK court judgments on the Oakington camp for asylum seekers, the doors are locked, individuals are not permitted access to the society.

Foreigners in the UK fall into two large categories – those who are lawfully in the UK having been given permission to enter. These persons can only be isolated in camps under rather strict circumstances. Persons who are wealthy will normally fulfil the criteria to receive permission to enter the UK and thus only very rarely find themselves in camps or directly at risk of being put into camps. Only where they are identified as a specific security threat (for instance as suspected international terrorists) are they likely to find themselves in camps. In these circumstances they are likely to find themselves in indefinite detention under the Anti-terrorism, Crime and Security Act 2001 in the most draconian of conditions in a maximum security prison (Belmarsh Prison is where most of them are held).

The second category of foreigners are those who are not wealthy and are not given permission to enter the UK immediately, or who are given permission to enter but then stay beyond their period of permitted entry and become overstayers. The first category, those who are not given permission to enter include those who enter clandestinely, those who tell lies in order to be given permission to enter and asylum seekers. Asylum seekers and other foreigners who cannot be returned immediately somewhere else are given temporary admission to the UK either subject to detention or permitted to move freely within the UK. All persons given this status are in law considered to be continuously standing at the border even where they have physically been present in the UK for months or years with temporary admission. While they are subject to UK law in all other fields (for instance as regards contracts, criminal law etc) for administrative law purposes in immigration they are not in the country. Thus the safeguards of national law relating to persons lawfully present do not apply. At the same time they are not unlawfully present in the UK. These persons are subject to rather arbitrary decisions on detention. The grounds for detention are set out below, however, the legal controls are of such a limited nature as to permit a wide and political use of detention of this category of persons for a wide number of reasons, not least punishment, dissuasion to others etc.

The other foreigners who may find themselves in detention are those who have overstayed. Once lawful presence in the UK has ended if an individual does not leave the UK he or she may be detained in a camp until expulsion is carried out. The reasons for detaining such persons are also contained in the law but again the controls are of such a limited nature that questions arise about the use of detention. From the very detailed figures available on the nationalities of persons in camps in the UK it is clear that certain nationalities are targeted at any given time. The reasons for targeting nationals of certain countries as opposed to others are related to the extent to which they are seen as a security threat to the UK on a collective basis. Thus one sees in the late 1980s the disproportionate detention of Turkish nationals as numbers of persons flee that state, in early 1990s the disproportionate detention of Zairians as that country lurched into civil conflict, the continuing high percentages of Sri Lankans and Indian nationals in camps, the detention of Central and Eastern European Roma in the late 1990s etc. These persons are constructed by the UK authorities as a potential security threat in the collective rather than individual case. The individuals are put in camps, separately from the general population as the representatives of their national groups.

The Legal Framework of Camps in the UK

The UK is bound by Article 5 European Convention on Human Rights (ECHR) which guarantees the right of liberty and security of the person. Deprivation of liberty is only consistent with Article 5 where, in the case of foreigners, in addition to being prescribed by law it involves "the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition." The UK has not ratified Protocol 4 of the ECHR Article 2 of which provides a stronger right of freedom of movement within a territory. Nonetheless, as regards camps, because of their coercive nature Article 5 ECHR has been a central battleground about their legality. It has arisen regularly as the basis of challenges both in domestic courts and the European Court of Human Rights for camps. The length of detention was attacked on this ground in 1997 in the *Chahal* case before the ECtHR (unsuccessfully) even though the man had been held in detention for over five years. At national level, Article 5 was at the heart of the challenge to the short detention of asylum seekers in the camp at Oakington (successfully at first instance but reversed at higher levels). The UK issued a derogation from Article 5 ECHR (permitted under the Convention) regarding the indefinite detention of foreigners suspected of being international terrorists under the 2001 Act. This is the subject of legal challenge at the moment.

Article 5 ECHR is the legal battleground in respect of camps in the UK because of the inability of the UK authorities to imagine camps as anything but being "places of detention of unfixed duration,

sometimes very long, without judicial control [or weak judicial control]” – in our grid **type 3**. This type of camp is very expensive. It not only involves all the costs related to accommodation, support, health provision, education for children etc. but in addition the very high costs of control. Prison or prison type guards must be paid, perimeter fences must be secured, security checks on visitors etc all cost a lot of money. This is the most expensive type of camp. Most the camps in the UK are either former prisons, detention centres for own nationals, or indeed army installations. The decision of the UK authorities to increase the availability of space in camps has substantial public expenditure consequences. The justification of the policy is not least on security grounds. By categorising those foreigners who are liable to expulsion as security risks it has been possible to achieve the further investment in camps. However, the continuing interference of the courts in the treatment of asylum seekers in particular has led the UK authorities to promote the idea of camps outside the Union and for which the UK authorities would have no legal responsibility.

Effectiveness of Camps

The numbers of persons seeking asylum in the UK has risen over the past few years, exceeding 83,000 in 2002. This figure must be understood in the light of an increase in the numbers of persons issued work permits to come to the UK to join the labour market of over 120,000 for the same year. The numbers of foreigners coming for family reunification is substantially lower. A recent report by the Institute of Public Policy Research (May 2003) indicates that the measures of deterrence of asylum seekers which have been adopted by the UK over the past 15 years appear to have had little or no effect on the numbers arriving. Notwithstanding the measures, the numbers have continued to rise, according to the report, the result of gross human rights violations abroad. The discussion on the effectiveness of detention as a strategy is bound to continue, the argument of the authorities side being in effect, if detention were not used in a robust manner the numbers would have increased much more dramatically over the past ten years. As this supposition is based on no evidence it is difficult to counter it.

Social Control and Camps

The detention nature of camps in the UK make them a particularly strong mechanism of social control. The individuals who are placed in camps, primarily men, but including families with children, are removed from society and separated off far from the public eye. However, the UK traditions of visitors to detention centres and prisons has been extended to camps after substantial struggles with the authorities. Thus as the report on immigration detention of February 2003 of the Chief Inspector of Prisons indicates, the fact of isolation itself excites concern by individuals within the UK to check and control what is happening. By creating camps which are a form of detention, the social resistance mechanisms around detention are brought into play and even quasi state forces, such as the Chief Inspector of Prisons, become engaged in the battle of legitimacy.

The struggle against camps in the UK has a substantial degree of support across civil society. A very active non-governmental organisation, the National Coalition of Anti-Deportation Campaigns, coordinates non state activities to help foreigners in detention, and campaigns to prevent their removal. Considering the activities of people in the UK in resistance to camps in the first half of 2003 one finds: demonstrations in three large cities in the UK on 8 January 2003 against conditions of reception of asylum seekers; on 26 January 2003 a demonstration against a specific expulsion from a Scottish camp; on 27 January a demonstration against biased news coverage of immigrants and asylum seekers; 6 February 2003 a hunger strike in one of the camps and self harm by one persons; 22 February 2003 a celebration of 110 successful campaigns against expulsion; again in February 2003 the creation of a website to highlight and campaign against abusive media stories about foreigners and in particular asylum seekers; 26 February 2003 a new campaign against media distortion of information about asylum seekers; 16 March 2003 a demonstration against media distortion of foreigners and asylum seekers; 30 March 2003 a demonstration against detention of families in Scotland and the mobilisation of Scottish religious leaders against detention; 12 March 2003 a press conference by the English Collective of

Prostitutes which highlighted among other issues the detention of foreign prostitutes under immigration powers; 18 March 2003 a press release of the Scottish Bishops against the detention of children; demonstrations on 29 and 30 March against detention of foreigners; 14 April 2003 a call for observers for trials of asylum seekers and detained foreigners in respect of the burning of a detention centre; 16 April 2003 a sit down protest in one camp; 22-24 April 2003 a hunger strike at a camp; 25 April 2003 a demonstration to support foreigners on trial for the burning of a camp; 28 April 2003 urgent action to coordinate resistance to the removal of Afghans on charter flights; 1 May 2003 day information campaign on media images of foreigners; over 17 national petition campaigns and individual actions for specific detained persons.

Thus it is questionable whether the practice of camps in fact reduces or increases the visibility of foreigners designated as security risks. As physical places they easily become symbols of injustice to foreigners where the actual legal provisions are rather remote.

The Status of the Border

There have been very substantial efforts by the UK authorities to move the border for persons outside the territorial limits of the UK. Sangatte was only one example of this effort to reject persons and prevent their arrival in the UK when they are still on the sovereignty territory of another state. The UK authorities have also reached agreement with the Czech Republic to station immigration officers at Prague airport to prevent persons who are categorised by the officers as undesirable from coming to the UK. In effect the persons so designated are Roma. This practice has been challenged, so far unsuccessfully in the UK courts. However, the use of visa requirements to keep the UK border in the country of origin of the individual has been widely used and associated with numbers of asylum seekers. The UK authorities have been the most vociferous in favour of the creation of camps outside the Union for asylum seekers applying within the Union to be sent. The "invisible border" has not been an option chosen by the UK directly. Instead while some borders become more and more porous (for instance for those persons travelling for certain countries where there are no visa requirements) others are hardened and at least symbolically moved within the territory of other countries.

PART 2.

Detailed information on detention centres in the UK, adapted and updated from information provided to the Brussels conference on 5/6 February 03.

Much of the detail of this response has been prepared by Sarah Cutler of Bail for Immigration Detainees, drawing on material gathered for answering a questionnaire in September 2002 of the UN Special Rapporteur on the Rights of Migrants. Much of the information for the Special Rapporteur was prepared by the Association of Visitors to Immigration Detainees (AVID) and the Immigration Law Practitioners Association (ILPA) and is reproduced here with their permission. Many of the answers are also drawn from the submission made by Bail for Immigration Detainees (BID) to the UN Working Group on Arbitrary Detention made in September 2002 which is available in full at www.biduk.org

Further information on many aspects of the UK Immigration Detention system can be found in the Bibliography below, as can the contact details for AVID and ILPA.

In April 2003, HM Inspectorate of Prisons published inspection reports of 5 immigration removal centres, Tinsley House, Campsfield House, Oakington, Lindholme and Haslar. The reports identified many serious problems with detention centres in the UK and contain detailed criticisms and descriptions of the problems facing detainees.

Further reports into two other centres, Harmondsworth and Dungavel, will be published later this year but were not available at the time of writing.

At the seminar in February, a 'typology of methods of confinement' was defined.

In the UK, the main type of camp is 'Type 3' ; places of detention of unfixed duration, sometimes very long, without *automatic* judicial control. These centres are also 'Type 4', in that they are named 'removal centres' and a proportion of those held, are done so for the purpose of removing them. There is also Oakington Reception centre, which is a detention centre in which asylum seekers and migrants remain for a period of 7-10 days for the purpose of making a decision on their asylum application.

THE PLACE ITSELF	
<p>Type of place/name</p>	<p>REMOVAL CENTRES: Asylum seekers and migrants may be detained under Immigration Act powers in detention centres which have now been renamed 'removal centres'. For the purposes of this response, the name detention centre is used.</p> <p>N.B <i>'Removal centres' are distinct from accommodation centres (as proposed in the 2002 Nationality, Immigration and Asylum Act but not yet built) and from induction centres (pilot ones are already in operation). These centres are also notable for the restriction they place on movement, free association, potential tensions in community relations and the linking of controlled residence with support. However, they are NOT the same as detention centres. Further information on accommodation and induction centres can be found at www.refugeecouncil.org.uk</i></p> <p>Detention takes place in immigration detention centres which are managed on behalf of the immigration service (Home Office). They are currently:</p> <p>Campsfield House Dover Detention Centre Dungavel Detention Centre Harmondsworth Detention Centre Haslar Detention Centre Lindholme Prison (has a separate block for immigration detention) Oakington Reception Centre Tinsley House Yarl's Wood Detention Centre (not currently operational)</p> <p>Some detainees are detained in normal prison establishments</p> <p>Detainees may be held at ports in short term holding centres (Manchester and Dover) or in police cells for not more than 5 days (7 days if removal directions have been set).</p>
<p>Number of places of this type</p>	<p>There is a capacity of around 2000 places in immigration detention (Ministers stated the figure of 2009 at July 2002, and statistics from 28 Sept 2002, stated that 1445 detainees who had claimed asylum at some stage detained).</p> <p>The number of places available in immigration detention and hence the numbers who are subjected to detention at some stage has been steadily increasing over the</p>

	<p>past decade'. The 2002 White Paper, <i>Secure Borders, Safe Haven</i>, announced an intention to increase this to 4000 places by Spring 2003 but no announcements have yet been made as to where the new capacity will be.</p>
<p>Situation in the country/address</p>	<p>There are a number of types of facility where migrants are detained. These can be summarised as purpose built Removal Centres, adapted facilities managed by the Immigration Detention Service or by the Prison Service, Holding Centres and Prisons.</p> <p><u>Purpose built:</u> <u>Tinsley House Removal Centre</u>, Perimeter Road South, Gatwick Airport, Surrey. RH6 0PQ 142 beds Near Gatwick Airport, South East of England</p> <p> <u>Harmondsworth Removal Centre</u>, (Heathrow Airport), Colnbrook Bypass, Longford, West Drayton, Middlesex. UB7 0HB 530 beds Near Heathrow Airport, South East of England</p> <p> <u>Yarl's Wood Removal Centre</u>, Twinwoods Road, Clapham, Bedfordshire.MK41 6HL 900 beds when fully operational South East of England</p> <p> <u>Campsfield House Removal Centre</u>, Langford Lane, Kidlington, Oxfordshire. OX5 1RE (ex-Young Offenders Institute) 189 beds South East of England, Near Oxford</p> <p> <u>Lindholme Removal Centre</u>, Bawtry Road, Hatfield Woodhouse, Doncaster. DN7 6EE (ex- Royal Air Force Mess) 110 beds North East England</p> <p> <u>Oakington Reception Centre</u>, Longstangton, Cambridgeshire. CB4 4EJ (ex-RAF Station) 400 potential bed spaces South East England, near Cambridge</p> <p><u>Prison</u> <u>Dungavel House Removal Centre</u>, Dungavel, Nr Strathaven, South Lanarkshire, <u>Buildings:</u> ML10 5RF, Scotland. 150 beds Scotland, south</p> <p> <u>Haslar Removal Centre</u>, Dolphin Way, Gosport, PO12 2AW 160 beds South of England</p> <p> <u>Dover Removal Centre</u>, The Citadel, Western Heights, Dover, Kent. CT17 9DR South of England</p> <p><u>Holding</u> <u>Manchester Airport Holding Centre</u>, Terminal 2, Manchester Airport</p>

	<p>Centres: 16 beds North of England</p> <p style="text-align: center;"><u>Dover Harbour Holding Facility</u>, Eastern Docks, Dover (Docks) 20 beds</p> <p>South of England</p> <p>Police Detainees may also be held in police cells while awaiting movement to Removal</p> <p>Stations: Centres for up to 5 days.</p> <p>Prisons: HMP Winchester, HMP Norwich, HMP Bullingdon, HMP Belmarsh, HMP Walton (Liverpool) and HMP High Down appear to be the main prisons currently being used. However, AVID has also been made aware of instances where individual detainees are held in other prisons.</p>
Geographical situation	Map available from Barbed Wire Britain website www.barbedwirebritain.org.uk
Which authority runs the place	All the detention centres (with the exception of Haslar) are managed by private contractors who are contracted by the immigration service (Home Office) to provide administration of the detention facility. Haslar and Lindholme are prison establishments run by the prison service on behalf of immigration service (both prison service and immigration service are part of the Home Office).
Other people intervening in the place (regularly, from time to time)	<ul style="list-style-type: none"> • Annual Reports are written by all the Removal Centres and are in the public domain. • Visiting Committees, appointed by the Home Office, are required to submit an Annual Report, but this is not in the public domain. A request by volunteer organisations to see these reports is usually granted. • Prison establishments are accountable to the Prison Service and Audit Commission. • All other establishments are accountable to the Contract Monitor from the Immigration Service. • All establishments are inspected by Her Majesty's Prisons Inspectorate .
Role of the police/problems with police/law enforcement agencies	<i>No information</i>
Aim of setting people aside in this place	<p>The stated policy aim is to detain :</p> <ul style="list-style-type: none"> (i) where there is a reasonable belief that the individual will fail to keep to the terms of temporary admission or release (ii) initially in order to clarify a person's identity and the basis of their asylum claim (iii) where their removal is imminent <p>The view of NGOs is, of course, different. The aims of immigration detention can be seen to include deterrence, punishment, segregation, breaking the spirit, desire to be seen to be 'tackling the asylum problem'.....</p>

<p>Reasons for setting aside</p>	<p>Detention in the UK may result from breaches of migratory norms or as a result of the person's migratory status. The powers to detain for immigration reasons under UK law are extremely wide. Under the Immigration Act 1971 and the Immigration and Asylum Act 1999 immigration officers are authorised to detain the following categories of person:</p> <ul style="list-style-type: none"> (i) persons arriving in the UK may be detained whilst awaiting examination by an immigration officer to establish whether they need or should be granted leave to enter (para 16(1) of Schedule 2 to the Immigration Act 1971) (ii) those who, on arrival in the UK with leave to enter granted prior to arrival but whose leave is suspended may be detained pending completion of an examination by an immigration officer and a decision on whether to cancel leave (para 16(1A) of Schedule 2 to the 1971 Act) (iii) those refused leave to enter and those who are reasonably suspected of having been refused leave to enter may be detained pending the giving of directions for their removal from the UK (paras 8 and 16(2) of Schedule 2 to the 1971 Act) (iv) illegal entrants and those reasonably suspected of being illegal entrants may be detained pending a decision on whether to issue removal directions and pending removal following such removal directions (paras 9 and 16(2) of Schedule 2 to the 1971 Act) (v) those who have limited leave to enter or remain but do not observe a condition attached to their leave or remain beyond their leave or obtained leave by deception or are reasonably suspected of being such persons, may be detained pending a decision on removing them or pending removal; and those belonging to a family a member of which has been given removal directions (sections 10(1)(a), (b) and (c) and (7) of Immigration and Asylum Act 1999) (vi) members of the crew of a ship, aircraft or train who remain beyond the leave granted to enable them to join their ship, aircraft or train, or abscond having lawfully entered without leave, or are reasonably suspected of doing so may also be detained (paras 12-14, 16(2) of Schedule 2 to the 1971 Act) <p>Asylum seekers who claim asylum at a port of entry to the UK (e.g. a seaport or airport) may be detained pending consideration of their claim. It should be pointed out that consideration of an asylum claim can take months, if not years, in the United Kingdom. It is also pointed out that it is only in extremely exceptional cases that an asylum seeker would arrive at port with entry clearance in order to claim asylum. The vast majority of asylum seekers will arrive without leave and will therefore be liable to detention pending consideration of their claim.</p> <p>In addition to the powers of detention by immigration officers, the Secretary of State for the Home Department has wide powers to detain persons liable to deportation in the following situations:</p> <ul style="list-style-type: none"> (i) Following a recommendation by a criminal court (para 2(1) of Schedule 3 to the 1971 Act) (ii) Where notice has been given to a person of the decision to deport him (para 2(2) of Schedule 3 to the 1971 Act)

	<p>(iii) Persons against whom a deportation order is in force (para 2(3) of Schedule 3 to the 1971 Act)</p> <p>Finally since the Anti-Terrorism, Crime and Security Act 2001 came into force, the Secretary of State may detain any non-national he has certified as being a risk to national security and suspected of being connected to international terrorism. This will occur where there is a bar to removal, such as where removal would expose the individual to risk of treatment contrary to Article 3 European Convention of Human Rights.</p> <p>The Home Office guidelines on detention state this it is to be used only where there is no alternative to detention and there are good grounds for believing that the person will not keep in touch voluntarily. Government policy statements in the White Paper Fairer, Faster and Firmer (July 1998) state that detention is justified in the following circumstances:-</p> <ul style="list-style-type: none"> (iv) where there is a reasonable belief that the individual will fail to keep to the terms of temporary admission or release (v) initially in order to clarify a person's identity and the basis of their asylum claim (vi) where their removal is imminent <p>There is an Operational Enforcement Manual which identifies the factors which should be taken into account when exercising the power to detain.</p> <p>Furthermore detention at Oakington Reception Centre is authorised on separate criteria. It is a centre established for cases where a person has made a claim for asylum which is deemed to be straightforward and can be processed quickly. There is a list of nationalities or ethnic groups which provide the guidance for determining the straightforwardness of a claim.</p>
Legality of the place	See above
Based on which text/date	<p>It is immigration officers who have powers to detain under paragraph 16 of Schedule 2 to the 1971 Immigration and Asylum Act or the Secretary of State in deportation cases or anti-terrorism cases. Immigration officers are employees of the State who are generally responsible for immigration control when a person arrives in the UK. Detention does not need to be authorised or ordered by a court.</p> <p>The immigration authorities are not <i>obliged</i> to detain a person. Whenever they have a <i>power</i> to detain, they can also grant a restricted period of residence in the UK usually called 'temporary admission'¹. An immigration officer can grant 'temporary admission'² (TA) to those who seek leave to enter the UK. This is effectively limited permission to enter the UK on a temporary basis, subject to conditions, while the substantive immigration application is considered.</p>
If the place is not indicated in the law itself, why was the	N/A

¹ See p 510-511, JCWI handbook, 2002

² Para 22 Schedule II Immigration Act 1971 (as amended).

camp/centre set up in the first place and by whom ?

Date of opening
 Tinsley house: May 1996
 Campsfield House: built in 1939, opened as an Immigration detention centre in November 1993
 Harmondsworth: October 2001
 Dover: 1st April 2002 (formerly a young offenders institution)
 Dungavel: September 2001
 Yarl's Wood: November 2001 (currently closed since it was destroyed by fire in Feb 2001)
 Haslar: 1847 as a barracks, converted during 2nd World War to a military prison, then a young offenders institution, then solely immigration detainees approximately 1997/8 ish
 Oakington: 20th March 2000
 Lindholme: since July 2000 also for immigration detainees

Maximum number of people

Official figures from the UK IMMIGRATION SERVICE - Capacity -July 2002

Centre	Capacity			
	Total	Male	Female	Family members
Campsfield House	184	184		
Dover	316	316		
Dungavel	150	72	14	64
Harmondsworth	550	404	70	76
Haslar	160	160		
Lindholme	112	112		
Oakington	400	213	52	135
Tinsley House	137	93	23	21

	Totals	2009	1554	159	296
	<p>Note (i) 'other facilities' - these figures do not count towards the overall capacity of the centre.</p> <p>(ii) the capacity for family members is flexible, dependent on the size of families and v include babies</p> <p>(iii) Dover, Haslar and Lindholme are directly managed with the Prison Service as ser provider. The other centres are contracted out to the private sector.</p>				
Average number of people	N/A				
THE PEOPLE					
Main nationalities/Why ?	<p>The largest individual nationalities among asylum detainees on the 28 Sept 2003 were Czech (115), Turkish (110), Pakistani (100), Nigerian (95) and Indian (85). Others include Algeria (55), Sri Lanka (85). Most nationalities are represented.</p> <p><i>Source: Government Third quarter 2002 statistics</i></p>				
Families/women/pregnant women	<p>At 28 Sept 02, 85% of asylum detainees were male.</p> <p>Section 38.8 of the Operational Enforcement Manual (the instructions issued to the Immigration Service) defines those people who are “<i>normally considered suitable for detention in only very exceptional circumstances...</i>” These include:</p> <ul style="list-style-type: none"> • Pregnant women, unless there is the clear prospect of early removal • Those suffering from serious medical conditions or the mentally ill • Those where there is independent evidence that they have been tortured <p>These instructions do not offer sufficient protection to vulnerable detainees and are not statutory or subject to automatic, independent review.</p> <p>Pregnant women : Despite Immigration Service instructions, pregnant women are detained, sometimes for several months, even when there is no prospect of early removal. No adequate explanation is given of the ‘exceptional circumstances’ justifying this. Further information from ‘A Crying Shame : Pregnant Asylum Seekers and their Babies in Detention’ <i>see Bibliography.</i></p> <p>Those with serious medical conditions : Decisions are made to detain people who have serious medical conditions, in some instances without advice from the health care centre or the clinicians involved with the person’s care prior to their detention. Detention restricts the individual’s ability to access the care that they had been receiving prior to detention and BID is aware of occasions when the provision of health care in the detention centres has been inadequate.</p> <p>There is no requirement to define the circumstances that justify detention of the seriously ill. The UKIS may ignore recommendations for release or concerns raised</p>				

over fitness to detain made by detention centre health care staff. The UKIS may also fail to give adequate consideration to health when requests for release are made by representatives and attention is drawn to a particular condition.

The mentally ill : Detention was previously considered inappropriate for “*those with suicidal tendencies*” or “*those suffering from serious medical conditions or the mentally disturbed.*”ⁱⁱ At present, as with other vulnerable categories, the OEM allows detention ‘*only in very exceptional circumstances*’. In BID’s experience specific concerns about the person’s mental health state are not taken into account when making an initial decision to detain. ‘Very exceptional circumstances’ are very rarely made out in maintaining detention. The UKIS rely on the criteria which exist for categories not deemed vulnerable.

In detention there may be some access to mental health services but this varies between centres. In *A Second Exile; the Mental Health Implications of Detention of Asylum seekers*, the author, a psychiatrist, considers both the effect of detention on mental health and the care available for those who have mental health needs. The report, based on in-depth interviews, concluded that

“Detention creates trauma regardless of previous traumatic experiences producing anxiety, depression, isolation and so on, all components of traumatic experience. It was felt that such trauma may be worse than what may have been previously endured.”ⁱⁱⁱ

In BID’s experience, in some cases detention has led to a deterioration of the detainee’s mental health. Eventually, detainees are released for psychiatric treatment when the detention centre medical teams are unable or unwilling to care for them.

Torture survivors : Immigration Service guidelines demand independent evidence of torture but do not take into account the complex situation experienced by survivors of torture. The guidelines place a heavy burden on the asylum seeker to obtain a medical report and until such a report is available the fact that an asylum seeker might describe torture in their country of origin is considered insufficient reason to release. This has the effect of placing a significantly higher burden of proof on the torture survivor than on other asylum seekers.

Even where a detainee has obtained independent medical evidence there remains a risk that the UKIS will maintain detention. A research report conducted by the Medical Foundation^{iv} between 1 January 1999 and 23 June 2000 examined and documented the torture in their country of origin of 17 clients who were detained. All the information about the detainees past torture and present distress documented by the report was made available to representatives making applications for release. Detention was maintained, in most cases for several months, after the medical reports were written. The report concluded that there was no indication that the evidence of torture was brought to bear on the decision to maintain detain.

BID’s experience in making bail applications for those who have suffered torture reflects the conclusion of the Medical Foundation research.

Families with children : Children in asylum seeking families can be made subject to the detention of one or both of their parents. They can be held for indefinite period in a ‘removal centre’. There are currently 150 family spaces in the detention estate, distributed between Harmondsworth (west London), Dungavel (Scotland) and Tinsley House (nr. Gatwick airport). (These figures do not include family spaces at

	<p>Oakington).</p> <p>The Government estimate that thirty or forty families may be detained at any one time, but refuse to disclose any statistics as to the numbers detained over a period of time, the length of detention and the status of their asylum case. There is no statutory limit on detention, nor any special criteria outlining the circumstances in which children may be detained (such as those which exist for ‘vulnerable’ groups such as pregnant women or the mentally ill). Prior to October 2001, the policy regarding families was that detention should be “<i>as close to removal as possible so as to ensure that families are not normally detained for more than a few days</i>” (White Paper, <i>Fairer, Faster, Firmer</i>, 1998). The change in policy announced by letter in October 2001, lead to the pronouncement in the 2002 White Paper that families may be detained “<i>for longer periods than immediately prior to removal</i>”.</p> <p>Refugees agencies, children’s charities and immigration law practitioners have expressed serious concerns about the use of detention for children in families, on the basis that detention is never in the best interests of the child and is fundamentally in breach of internationally recognised children’s rights. In the experience of organisations and individuals working with child detainees, the lack of a statutory time limit and the absence of automatic access to an independent review of detention, leads to prolonged periods of detention and great emotional, psychological and physical distress amongst detained children. <i>Further information see : A Few Families too Many : The detention of asylum-seeking families in the UK’ by Emma Cole, published by BID, April 2003.</i></p> <p>Unaccompanied minors : In the case of non-accompanied minors the instructions issued to the Immigration Service, the Operational Enforcement Manual (OEM Chapter 38.7.3.1), permits detention only in restricted circumstances “<i>unaccompanied minors must only ever be detained in the most exceptional circumstances and then only overnight, with appropriate care, whilst alternative arrangements for their safety are made.</i>” It should be noted, however, that these guidelines are not binding and may not be followed in all cases. Problems arise where the age given is disputed by the Immigration Service. The OEM states “<i>Where an applicant claims to be a minor but their appearance strongly suggests that they are over 18, the applicant should be treated as an adult until such time as credible documentary or medical evidence is produced which demonstrates that they are the age claimed.</i>” Concerns have been raised by non-governmental organisations and legal representatives that in cases where the Immigration Service disputes the age claimed by an individual, lengthy periods of detention may ensue whilst documentary evidence of the child’s age is considered by the detaining authorities. There is no independent process by which a decision is made as to whether the evidence provided by an individual is “credible”.</p>
<p>How are children welcomed</p>	<p><u>Tinsley House</u></p> <p>Family rooms are used at Tinsley House, 5 beds to a room. 5 rooms are available. Other families are on the same corridor and include fathers, brothers. Separation can occur for interviews and a care assistant with qualifications in childcare is available. (She also accompanies the family into the main part of the Centre when necessary.)</p> <p>There are no interpreters for the care assistants.</p> <p>Unaccompanied minors whose age is disputed are held with adult males or females appropriate.</p> <p>All members of staff are police checked.</p>

	<p>There is a separate corridor for women and a separate corridor for men.</p> <p><u>Dungavel House</u> Children will only be separated if attending school or during interviewing of parents. There are no interpreters available for teachers/nursery staff. Women have their own separate accommodation. Unaccompanied minors whose age is disputed are with adult male or females as appropriate. There are 16 family rooms with three or four beds plus adjoining rooms with lockable doors for larger families. The men are in 6 bed dormitories with no privacy.</p> <p><u>Yarl's Wood</u> (not operational at present) Parents occupy room with inter-connecting door to children's room in Yarl's Wood. Women are on a separate wing from men and from families. Unaccompanied minors whose age is disputed are held with adults according to sex. All members of staff in contact with children are police checked. Staff looking after children do not have an interpreter available nor do they have specialist language training including teaching staff. Staff supervising children have childcare qualifications.</p> <p><u>Harmondsworth</u> Family rooms contain up to 4 beds, with inter-connecting smaller rooms. Families are held on corridors with other families including father and brothers. Can be separated from parents while they are interviewed. Also if a parent is put into segregation or is ill. Will be taken into care if parent is ill or segregated for any length of time as a last resort. Police checks are carried out. Women have their own separated corridor. Unaccompanied minors whose age is disputed are held with adults according to sex.</p> <p><u>Oakington</u> Family accommodation only allows mothers and children to sleep together. Fathers are accommodated in the Male block. During the day they have access to their families. Separation can take place while parents are interviewed or is ill. Women and men have separate facilities. Staff are police checked. Unaccompanied minors whose age is disputed are held with adults according to sex.</p>
Status of people (legal/illegal)	The vast majority of those detained have sought asylum-at 28 Sept 02, 81% of Immigration Act detainees were asylum seekers. Others include those who have overstayed or have been residing illegally.
RESIDING IN THIS PLACE	
How long are people meant to stay in this place?	<p><i>There is no maximum period of detention in the UK.</i></p> <p>Home Office statistics record that at March 30th 2002, 60% of those detained under Immigration Act powers had been in detention for longer than 1 month, with 22% remaining in detention for between four months and more than one year^v. No statistics are collected as to the overall periods spent in detention by each detainee, nor as to the status of their asylum case.</p> <p>Instructions to immigration officers enjoin them to remember that <i>(i)n all cases</i></p>

	<p><i>detention must be for the shortest possible time</i>^v. However this instruction carries no practical compulsion and has failed to prevent the UKIS from employing administrative detention for prolonged periods.</p> <p>Prolonged detention may be experienced whilst waiting for the asylum application to be processed. In other cases, detainees endure prolonged detention whilst waiting for the Home Office to obtain travel documents. The Indian, Pakistani, Chinese and Algerian governments take a long time to issue travel documents for their nationals. The Immigration Service Travel Document Unit (ISDU) has declined to give any estimate as to the length of time this procedure takes. However, the UKIS routinely defend the decision to detain in individual cases on the grounds that the document will be issued 'quickly'.</p>
<p>Average length of stay</p>	<p>See 'Table 11' of <i>Third Qu. Stats. 2002- Home Office</i></p> <p>On the 28 Sept 02 stats, 35% of detainees had been in detention for less than one month, 20% for between one and two months, 21% for between two and four months and 24% for four months or more. No statistics are made available as to the stage of the asylum process reached by those detained.</p>
<p>Material conditions. Is there a regulation stating how the place should work</p>	<p>The Detention Centre Rules were introduced in 2001. They cover matters including conditions in the centres and the provision of reasons for detention. Their introduction is significant in that they make statutory provisions by which detention centres must be run. The Operating Standards which flesh out the Rules have, however, yet to be completed and there is currently no consistent approach to the running of centres across the estate. For example, Rule 9 which requires the UKIS to give reasons for continued detention; in practice, this is not done. There are great inconsistencies between centres:</p> <ul style="list-style-type: none"> a) Some Centres give a £5 phone card each week, others do not give one at all. b) Some Centres have free association 16 hours a day, others only 6 hours. c) Some Centres have 49 visiting hours a week, others only 12 hours.
<p>What kind of buildings (originally designed for this purpose or requisitioned by the authorities)</p>	<p><i>See answer below</i></p>
<p>Description of living conditions (rooms/cells ; men and women mixed up ; sanitary equipment...)</p>	<p>There are a number of types of facility where migrants are detained. These can be summarized as purpose built Removal Centres, adapted facilities managed by the Immigration Detention Service or by the Prison Service, Holding Centres and Prisons.</p> <p><u>Purpose built:</u> <u>Tinsley House Removal Centre</u>, Perimeter Road South, Gatwick Airport, Surrey. RH6 0PQ 142 beds</p> <p> <u>Harmondsworth Removal Centre</u>, (Heathrow Airport), Colnbrook Bypass, Longford, West Drayton, Middlesex. UB7 0HB 530 beds</p> <p> <u>Yarl's Wood Removal Centre</u>, Twinwoods Road, Clapham,</p>

Bedfordshire.MK41 6HL
900 beds when fully operational

Accommodation consists mainly of rooms with 2 – 4 beds, some with en-suite facilities. A shop, library TV rooms worship rooms, outdoor sports area and a gymnasium are provided. In most Centres there are education facilities. Detainees have open access to telephone if they can afford the telephone cards sold within the Centres.

Adapted: Campsfield House Removal Centre, Langford Lane, Kidlington, Oxfordshire. OX5 1RE (ex-Young Offenders Institute)
189 beds

Buildings are in need of refurbishment. Detainees are held in rooms ranging from single to 7 beds with no privacy for the larger rooms. Facilities include a shop, library, TV rooms, worship facilities, outdoor sports are and a well equipped gym. There are some education facilities in separate buildings and open access to telephones if they can afford the phone cards. One card is supplied on arrival only.

Lindholme Removal Centre, Bawtry Road, Hatfield Woodhouse, Doncaster. DN7 6EE (ex- Royal Air Force Mess)
110 beds

Detainees are held in twin bedded rooms; a shop is available (one day a week), library, TV rooms, worship facilities and outdoor sports area. There is no gym. Lindholme is a special case in that it is one wing of a local prison and under the control of the Assistant Governor who is being asked to run a hybrid institution with two distinct regimes. There is open access to telephones if detainees can pay for the cards.

Oakington Reception Centre, Longstangton, Cambridgeshire. CB4 4EJ (ex-RAF Station)
400 potential bed spaces

Accommodation normally consists of rooms with two beds. A shop, library, TV rooms and worship facilities are all provided. Oakington is a special case in that it is officially a “Reception Centre” not a Removal Centre and the stay there is not usually for more than a week or ten days. There are no education facilities. Detainees have open access to telephone if they can afford the telephone cards sold within the Centre.

Prison Dungavel House Removal Centre, Dungavel, Nr Strathaven, South Lanarkshire,

Buildings: ML10 5RF, Scotland.
150 beds

This is an old prison building purchased by the Home Office from the prison service. It is well outside any town or village and has to be serviced by a mini-bus which meets the train at the nearest station for access by visitors. There are education facilities for children and some classes are run for adults. There is a shop, library, TV rooms, worship facilities and a gym.

Haslar Removal Centre, Dolphin Way, Gosport, PO12 2AW
160 beds

The building is old and needs completely rebuilding. This fact was acknowledged by David Blunkett on 14th January 2001. *Quote,*

Hansard, "It may take some time before the facilities match those of other Removal Centres, but that is our intention." The accommodation appears inadequate insofar as most of the accommodation consists of dormitories each with thirty beds. These are sub-divided into cubicles which are so small that in some cases all three beds touch. There are no curtains, no doors and no privacy. There are a few single rooms with locks. The heating is inadequate with only a pipe running round slightly above floor level, which has been known to fail frequently. A shop, library, TV rooms, limited worship facilities, outdoor sports area and gym are all provided. The education facilities are comparatively good, with English classes, art and IT studies all offered. Detainees have open access to a small number of telephones if they can afford the phone cards.

Dover Removal Centre, The Citadel, Western Heights, Dover, Kent.

CT17 9DR

350 beds

Recently refurbished, detainees are currently accommodated in dormitories of six beds with no privacy. Smaller rooms are also available and will be put into use as the refurbishment is completed. A shop, library, TV rooms, worship facilities, outdoor sports and gym, are all provided. Classes are provided in a range of subjects including IT. Detainees have open access to telephones if they can afford the phonecards.

Holding Centres:

Manchester Airport Holding Centre, Terminal 2, Manchester Airport

16 beds

The accommodation consists of four rooms of four beds each off a single corridor. Women are in separate rooms but have to walk to their bathroom past the rooms of the men. The common room is for all and is the only smoking area. There is no natural light or access to fresh air.

An undertaking was given in writing that no children would be held, but this has been broken on several occasions. There are no education facilities or any form of occupation provided for migrants to pass the time.

Dover Harbour Holding Facility, Eastern Docks, Dover (Docks)

20 beds

We have little information about Dover Holding Centre as there is no Visiting Group at this location.

Police

Detainees may also be held in police cells while awaiting movement to Removal

Stations:

Centres for up to 5 days.

Prisons:

HMP Winchester, HMP Norwich, HMP Bullingdon, HMP Belmarsh, HMP Liverpool (Walton) and HMP High Down appear to be the main prisons currently being used. However, AVID has also been made aware of instances where individual detainees are held in other prisons.

Prisons provide in-cell accommodation but as the prison service is

	<p>unable to run three parallel regimes, one for convicted, one for remand prisoners and one for immigration detainees, the immigration detainees will usually be kept in their cells 23 hours a day. Sometimes they are held together with remand or convicted prisoners. They do not have open access to telephones and their access to work and education is seriously curtailed.</p> <p>It is known that the Immigration Service moves people who they consider to be “trouble makers” into the mainstream prison system. Such people include those who asked for more food because the portions were considered inadequate at Haslar Removal Centre. We were told in September 2002 that there are approximately 50 immigration detainees in this situation. The Home Office is unable to publish statistics which identify where these immigration detainees are held in the prison system. (Appendix 6, Criteria for Transfers)</p> <p>Further information from Liverpool visitors : <i>As far as we know, it is no longer used for straightforward detention of immigration detainees BUT there are currently 27, mainly Iraqi Kurds, whose incarceration arises from the criminal offence of making a second immigration claim when they were destitute and homeless.</i></p> <p><i>It is very difficult to arrange visits to HMP Liverpool. Sometimes it takes days. The prison is Victorian and very cold in winter. Totally inadequate interpretation facilities. There have been attacks on immigration detainees by prison staff.</i></p> <p><i>Until just over a year ago there were almost 100 immigration detainees in HMP Liverpool. Two local organisations, Merseyside Against Detention and Woolman House, visited detainees and supported them in their hunger strike against the appalling treatment and conditions. There were two marches ending in demonstrations outside the prison, calling for an end to all immigration detention, and especially prison detention. Shortly afterwards the government announced that prisons would no longer be used for this purpose.</i></p>
<p>Freedom of movement</p>	<p>See above</p>
<p>Contact with the outside world (visitors' room, access to telephones - give details)</p>	<p>Also see above</p> <p><u>Domestic visits</u></p> <p>Visits from family members can be made during the visiting hours set by the individual Removal Centres.</p> <p><u>Haslar Removal Centre</u> has very short visiting hours (2 hours visiting a day in the afternoon, 6 days a week, not Sunday.) This is very restrictive for families who may have to travel hundreds of miles to see their family member. There is no evening visiting.</p> <p><u>Lindholme Removal Centre</u> and <u>Dover Removal Centre</u> also have very short visiting hours which are in the afternoon. This restricts visiting by families who have to come a long way and who are unable to see their family member for more than up to two and a half hours in any one day.</p> <p>There is no evening visiting. (Under the support provision for asylum seekers, they are dispersed throughout the United Kingdom and the person detained may be</p>

	<p>hundreds of miles away.)</p> <p><u>Tinsley House Removal Centre, Harmondsworth Removal Centre and Yarl's Wood Removal Centre</u> have visiting hours from 2 pm to 9 pm which gives more flexibility and a longer time to spend with a family member who may have traveled a long way to visit.</p> <p><u>Campsfield House Removal Centre</u> visiting hours are from 2-5 pm and 7-9 pm every day.</p> <p><u>Dungavel House Removal Centre</u> is open for social visits from 1.30 to 8.30 pm.</p> <p><u>Manchester Removal Centre</u> allows visiting from 2 – 9 pm from family members.</p> <p><u>Oakington Reception Centre</u> allows visits from family members <u>only</u> between 2 – 5 pm and 7 – 9 pm daily.</p> <p><u>Legal Visits</u> are available at all Removal Centres during the morning and afternoon. Legal advice is available on site at Oakington Removal Centre and legal visits can be made both morning and afternoon.</p> <p><u>Non-Governmental Organisation visits</u> can be made during the above social visiting hours with the exception of Oakington Reception Centre, where no visits can be made except by special arrangement.</p> <p>It is possible for Removal Centres to refuse admission to a person they consider may be a security risk or ban a person who causes a disturbance within the centre on a previous visit. Stringent security checks are carried out to prevent drugs being brought into the centre and a list of prohibited items is displayed. Visitors are searched, fingerprinted and photographed, passed through a metal detector and then inspected again at Removal Centres before admission. Their baggage is also searched or x-rayed. No mobile telephones are allowed in under any circumstances and credit cards are also banned from some centres, together with sharp instruments, e.g. metal nail files, scissors or hand mirrors.</p>
<p>Sanitary conditions (on the spot medical facility, doctors' visits, how often...)</p>	<p>Health care standards are defined in the Detention Centre rules. The Operating Standards necessary to give practical effect to Detention Centre Rules have yet to be published despite a lengthy period of consultation.</p> <p>Issues such as doctors under a “dual obligation” as referred to in <i>UN Principles of Medical Ethics</i> (refer also to the <i>UN Standard Minimum Rules</i> and the <i>UN Body of Principles</i>) have not been addressed at all. As a result conflicts of interest arise not infrequently (see below).</p> <p><u>Tinsley House:</u> Access to nurse through Removal Centre Officer. Seen and assessed by a Nurse who is on duty between 9 am to 9 pm daily. Appointment made for Doctor Consultant Clinical Psychologist visits regularly to see detainees. Individual counselling available. Taken from the Centre to Crawley Hospital when necessary. Taken to Dentist and Optician but long waiting list for appointments.</p>

	<p>All staff are qualified in First Aid. A segregation unit for contagious diseases, e.g. chickenpox and an isolation unit (observation room) for self harm.</p> <p><u>Harmondsworth:</u> Access to nurse through Removal Centre Officer. Team of nurses screen patients. Doctors seen by appointment. 20 bed hospital for in patient care Dental facilities and X-ray facility Visiting optician once a week Visiting psychiatrist No counselling available Pharmacy on site A segregation unit for contagious diseases, e.g. chickenpox and an isolation unit (observation room) for self harm.</p> <p><u>Dungavel House</u> No awareness of how people from other cultures demonstrate stress. They are moved to other Centres if depression, suicide or post traumatic stress disorder is suspected. A counsellor and an art therapist are employed. Dental and optician visits are made outside the centre. Patients are screened by the nurse and then see the doctor who is available for 20 hours a week. A segregation unit for contagious diseases, e.g. chickenpox and an isolation unit (observation room) for self harm.</p> <p><u>Yarl's Wood</u> 24 hour nursing care. Request to see a Doctor taken by nurse who makes assessment. This is done through an Officer. X-ray facility on site Mental health staff on request 50 hours counselling available per week 10 bed ward for in-patient care. Dental and Optician care on site. Segregation unit and self harm unit available.</p> <p><u>Haslar:</u> Seen and assessed by a Nurse. Appointment made for Doctor. No on-site psychological help Very limited on-site counselling Taken to Haslar Hospital for physical problems. Sent to Harmondsworth for psychological problems. Taken out to optician. On-site dental attention. Self harm unit available.</p> <p><u>Campsfield House</u> Request to an Officer passed to nurse on duty. Appointments with nurse between 9 am and 10 pm. Surgery daily at which a Doctor can be seen. Visiting psychiatric help. Taken outside the Centre for all other needs e.g. specialist consultants</p>
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	<p>A segregation unit for contagious diseases, e.g. chickenpox and an isolation unit (observation room) for self harm.</p> <p><u>Lindholme</u> Access to healthcare is through an Officer and then a nurse who is on duty from 8 am to 10 pm. A surgery is held daily at which a Doctor can be seen. Other services are accessed through Doncaster Prison. Optician and Dental appointments are kept outside the Centre. Self harm and segregation unit used in Doncaster Prison (on same site)</p> <p><u>Oakington</u> Through an Officer, nursing staff assess problems in a community room, where others are waiting to be seen. A doctor holds a surgery on a daily basis. There is nursing cover 24 hrs.a day.</p> <p><u>Dover</u> Health Centre is open for two sessions per day 7 days a week on a drop in basis. Nurse available during these hours. Doctors available by appointment. Referrals are made for specialist clinics, dentist etc. Segregation unit and self harm units available.</p> <p><u>Dover Harbour Board Police Station</u> No information</p> <p><u>Ashford</u> No information</p> <p><u>Manchester Airport</u> No information</p> <p><u>Queen's Building</u> No information</p> <p><u>If an ailment cannot be treated at the Health care centre, detainees are treated as National Health Service patients with the same attendant delays as the general public.</u></p> <p>The stated intention of the Home Office was to transfer detainees with medical problems which cannot be dealt with at Removal Centres to Yarl's Wood Removal Centre, where two hospital wards should be available to the whole detention estate. However, the fire in February 2002 destroyed one half of the Centre and the unaffected half of the Centre has not yet been re-opened. Detainees are treated in local hospitals or transferred to a prison hospital for treatment.</p>
NGO intervention (legal basis/in practical terms)	<i>Different centres have different access arrangements, detailed in previous answers.</i>
Social/welfare assistance	Welfare Services prior to removal are not available from any of the Removal Centres. Substantial belongings, including a house and/or contents, car, tools for a job etc. may be left behind when families are detained for removal and there is no

	<p>access to help (except family or friends, possibly living at some distance) in disposing of these assets. AVID and other non-governmental organizations are pressing the Home Office to ensure that Welfare Provision is included at each Removal Centre and that no-one is removed until they have had access to this service.</p>
RIGHTS IN PRACTICE	
Detention under judicial control/ by whom / when/how effective ?	<p>There is no automatic access to independent judicial scrutiny of the legality of detention. The legality of detention may be challenged by an application to the High Court for judicial review or <i>habeas corpus</i>.</p> <p>An application for judicial review can be made where there are other grounds for challenging the lawfulness of a detention such as the length of detention. This must be made on grounds limited judicial review grounds and does not constitute a full review of the merits of decision to maintain detention.</p> <p>An application for <i>habeas corpus</i> can only be made where there is no power in law to detain. It is extremely difficult to make such application an immigration case because the powers of detention are so wide making it very hard to establish that there is no power in law to detain.</p> <p>Organisations working with detainees are concerned that judicial review and/or habeas corpus are not appropriate avenues for detainees and point out that legal representatives rarely seek either remedy for detained clients.</p> <p>Applications for judicial review and habeas corpus are expensive, time consuming and may raise complex issues of law. It is extremely unlikely that a detainee would be able to pursue such application themselves, whereas it maybe possible for a detainee to present the factual basis on which bail can be granted.</p> <p>A bail application may be made to the High Court as an ancillary to an application for judicial review relating to the immigration case. However if the judicial review fails the High Court has no jurisdiction to grant bail.</p> <p>There are other means of obtaining release from detention available that do not challenge the legality of the detention.</p> <p>These are:</p> <ul style="list-style-type: none"> • “temporary admission” • bail directly from the Immigration Service (“Chief Immigration Officer bail”) • bail from an adjudicator or the Immigration Appeals Tribunal (“adjudicator bail”) <p>These methods all have serious limitations as mechanisms for individuals to access an independent review of detention or to obtain release. See <i>Part 5 of BID’s submission to the UN Working Group on Arbitrary Detention for further information.</i></p>
Interpreters on the spot (in theory/in effect)	<p>The lack of impartial, competent interpreters and the practice of using other detainees as interpreters throughout the detention estate is a major problem for detainees.</p> <p>In some Centres (practice varies and it is difficult to obtain a definitive picture) interpreters, especially for medical consultations, are not called on sufficiently often or according to uniform criteria. All too often other detainees are asked to translate.</p>

	<p>This breaches confidentiality or, where consent is sought, there are serious questions as to whether or not that consent is sufficiently informed. In these circumstances, a detainee may be prevented from disclosing vital information about trauma suffered which would affect their health or their asylum case.</p>
<p>Help from a solicitor (in theory/in effect)</p>	<p>In theory, all those detained have access to legal representation. In practice, there are great difficulties finding adequate or locally available representatives. One of the most serious results of detention, and one which has been referred to by many detainees who have sought the assistance of BID, is the impact detention has on their ability to instruct representatives and obtain evidence relating to their substantive asylum case.</p> <p>BID is aware of many examples of the reluctance of solicitors to take on detained cases. Solicitors often tell BID that they feel that they cannot adequately prepare a case within tight time limits set out by the funding restrictions under which they operate. This is largely due to the difficulty of these cases in terms of the time spent going to visit detainees, the additional hours involved in obtaining liberty and the added complexity of preparing witness statements and taking instructions from people who are in detention.</p> <p>In addition to the reluctance of solicitors to take on detained cases, detainees themselves experience great difficulty in obtaining evidence from their home countries when preparing for appeal. If detainees are destitute they can suffer from restricted access to phones/faxes. They also have less opportunity to contact their community in the UK which limits their access to evidence from their country of origin.</p>
<p>Legal assistance</p>	<p>There is no systematic mechanism to ensure that detainees receive access to free legal counsel and interpretation during judicial or administrative procedures.</p> <p>Most detainees are eligible to receive free legal aid to assist them with representation in their immigration or asylum cases. However in practice detainees find it very difficult to obtain such representation. This may be due to the location of the detention or prison facility in which they are being detained or reflect generally the lack of representatives who are willing to assist in detained cases. In some detention centres detainees can access free legal advice by telephone although these services are very oversubscribed.</p> <p>Access to legal advice is possible from all Removal Centres to the Refugee Legal Service and the Immigration Advisory Service. Some Centres have free telephones and some have weekly surgeries to which detainees can come.</p> <p>Other Centres have lists available in the library or information centre, of local registered Immigration Advisers. These lists should only contain those who are registered with the Office of the Immigration Service Commissioner and are licensed to do immigration work.</p>
<p>Information on legal rights (how/ access to such information...)</p>	<p>The form listing reasons for detention (the IS 91) which is given to all detainees includes a short paragraph detailing the right to apply for bail. However, the information contained in this section is misleading, as the two organisations³ to whom the detainee is directed will not provide a bail service except to their own</p>

³ The Immigration Advisory Service (IAS) and the Refugee Legal Centre (RLC) are independent charities. They receive Government funding to carry out their work.

clients. No information is provided on other possible means of release. The explanation on the form is provided in English and, in BID's experience, is rarely translated.

The form includes brief details on where to telephone for help and advice. The IAS and RLC are unable to meet the demand for representation generally and, in our experience, it can be very difficult for a detainee to make contact with an adviser from these organisations⁴. The form does not provide an explanation of how a detainee can exercise the right to bail.

In July 2002 the Government announced its intention to publish an information leaflet for detainees. However, this measure will not address the crucial requirement of unhindered access to independent oversight of detention, which appears to remain unavailable to a large number of detainees who are not able to access adequate representation from experienced practitioners.

Since October 1999, immigration officers have served written reasons for the decision to detain in the form of a checklist. Rule 9 of the Detention Centre Rules⁵ requires disclosure of reasons for detention "at the time of his initial detention (invariably the IS91R) and thereafter with monthly written update" by way of the IS151F. The initial detention decision is disclosed to the detainee in a IS91 form. The Government has stated that:

*"Written reasons for detention should be given in all cases at the time of detention and thereafter at monthly intervals, or at shorter intervals in the case of detained families. Taking into account that most people who are detained are held for just a few hours or days, initial reasons will be given by way of a check list similar to that used for bail in a magistrates' court."*⁶ (Emphasis added.)

However, concerns have been expressed that this 'checklist' form of explaining reasons for detention is too simplistic to constitute a reasoned notification of the detention decision. Further, the form is not translated in to the detainee's language. An oral translation may be given, but this is not standard in every case.

In addition to the form giving initial reasons for detention, sufficiently comprehensive written reasons for maintaining detention should be given in all cases, on a monthly basis. An undertaking to produce monthly "written reasons" has been put on a statutory basis by the introduction of the Detention Centre Rules which became effective in April 2001. Rule 9 requires the Immigration Service to provide monthly

4 For example, some detention centres provide "free phone" services for IAS and RLC but to access the advice lines a touch-tone telephone must be used which is not provided.

5 The Detention Centre Rules were introduced in 2001. They cover matters including conditions in the centres and the provision of reasons for detention. Their introduction is significant in that they make statutory provisions by which detention centres must be run. The Operating Standards which flesh out the Rules have, however, yet to be completed (none have yet been published) and there is currently no consistent approach to the running of centres across the estate.

6 White Paper: Fairer, Faster, Firmer: A Modern Approach to Immigration Control, *Home Office, 1998*

8 In May 2001 copies of 47 monthly reviews were collected from individuals detained at Campsfield House. In July 2002 copies of 47 monthly reviews from detainees at Harmondsworth, Lindholme, Haslar and Tinsley House were gathered; a total of 96 forms from a 15 month period.

9 Operational Enforcement Manual, Chapter 38.6

	<p>reasons for detention.</p> <p>However, the vast majority of detainees who contact BID do not have reasons for detention given to them on a monthly basis which are consistent with the criteria for detention outlined in the OEM i.e. factors which <i>“must be taken into account when considering the need for initial or continued detention.(emphasis added).”</i>⁷ This point is illustrated by the results of a small survey of 96 IS151f forms conducted by BID in May 2001 and July 2002⁸ which found that in no case had the monthly review provided a reasoned justification for maintaining detention. In addition, these forms are not translated.</p> <p>After the initial decision to detain is taken, detention is reviewed on a weekly basis</p> <p><i>“Detention must be reviewed after 24 hours by an Inspector and thereafter, as directed, usually weekly by an Inspector. If circumstances change in the interim, however, an Inspector must review detention again. Detention must be reviewed again by an inspector after 28 days...”</i>⁹</p> <p>These regular internal reviews take place using the IS93E, a form that is not normally disclosed to the detainee or their legal representative. The detainee has no method of discovering whether appropriate reviews of detention have taken place or not or whether all the factors have been considered. BID has been made very aware by its clients of the frustration and distress which this causes. Furthermore, the lack of transparency may prevent a court from independently and effectively overseeing the use of detention.</p>
Appealing against detention or against the decision which gave rise to detention	There is no automatic appeal against the detention decision. Methods of obtaining release are described above.
RELATIONS WITH OUTSIDE WORLD	
Relations with the local population	There are visitors groups for most detention centres (see www.aviddetention.org.uk) but also campaigns locally and consistent and vocal opposition that has faced all centres eg. Demos outside centres, protests, local support groups etc.

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ⁱ There were 250 people detained in early 1993, by July 2002 detention capacity was 2009, (Lord Filkin, HoL Deb, 17 Jul 2002, C 1241)

ⁱⁱ IDI Jan/97

ⁱⁱⁱ A Second Exile: The Mental Health Implications of Detention of Asylum-seekers in the United Kingdom, *Pourgourides, C.K, Sashidharan, S.P, Bracken, P.J, Northern Birmingham Mental Health Trust, 1996, p 66*

^{iv} "Protection Not Prison: Torture Survivors detained in the UK", Susi Dell and Mary Salinsky, Medical Foundation for the Care of Victims of Torture.

^v Table 9, Asylum Statistics: 1st Quarter 2002, Home Office.

^{vi} Operational Enforcement Manual, Chapter 38.1