

The harmful effects of detention and family separation on asylum seekers' mental health in the context of Bill C-31

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Citizenship and Immigration concerning
Bill C-31, the *Protecting Canada's Immigration System Act*

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Table of contents

Executive summary	3
1. Incarceration of “designated” asylum seekers: Practical implications	5
2. Impact of detention and temporary status on asylum seeker mental health – studies in other countries	7
3. Impact of detention on asylum-seeking children – studies in other countries	7
4. Studies on the impact of separating children from their parents	8
5. Our study on the impact of detention on adult asylum seekers’ mental health	9
6. Our study on the impact of detention on detained families with children	11
7. Our study on the Sun Sea asylum seekers	12
8. Alternatives to detention: Australia, UK, Sweden	13
9. Conclusions	15
Recommendations	16
References	17

Executive summary

Practical implications of designation as an “irregular arrival”

- Asylum seekers designated as part of an “irregular arrival” will be incarcerated in high-security prisons, either Immigration Holding Centres or provincial jails.
- “Designated” children aged 16 to 18 will be incarcerated as if they were adults, while children under 16 will either be taken away from parents and handed over to provincial child protection services, or unofficially detained with their mother. In all cases children will be separated from their fathers.
- Designation criteria are totally unrelated to criminality, suspected terrorist activity, or any potential threat to public safety, and also unrelated to the merit of the refugee claim. About 40% of the asylum seekers detained under C-31 will, in all likelihood, be found to have a well-founded fear of persecution, will be accepted as refugees, and will become Canadian citizens.

Mental health implications for adults

- Even short-term detention of adult asylum seekers leads to high levels of depression and post-traumatic stress disorder (PTSD), while longer-term detention aggravates symptoms.
- In the United Kingdom, for example, after about 30 days in detention, 76% of detained asylum seekers were clinically depressed. In the United States, after about 5 months in detention, 86% of refugee claimants showed clinical levels of depression, 77% clinical anxiety, and 50% clinical post-traumatic stress disorder.
- In Australia, in 2010-2011, there were over 1100 incidents of self-harm in immigration detention centres, including 6 suicides, for a population of about 6000 people, most of whom had been detained for less than a year. This is over 10 times the suicide rate in the general Canadian population. Self-harm behaviours included attempted hanging, self-cutting, drinking shampoo or detergent, and voluntary starvation.
- In Australia, refugees who received temporary status after release from detention continued to suffer for years from very high levels of PTSD and depression. Symptoms generally did not abate until they received permanent status.
- Our research team’s study of adult asylum seekers detained in Immigration Holding Centres showed that after an average detention of 31 days, over three-quarters were clinically depressed, about two-thirds clinically anxious, and about a third had clinical posttraumatic stress symptoms. PTSD levels were almost twice as high, and depression rates 50% higher, among detained asylum seekers compared to their nondetained peers.

Mental health implications for children

- Even short term detention has a negative impact on children, both directly and also because parents often become too depressed and anxious to provide adequate care. Typical problems include developmental delays, bedwetting, nightmares, separation anxiety, sleep disturbance, depression, and suicidal behaviours.

- Detention of women who are pregnant or have recently given birth may have particularly serious consequences because of the negative impact of maternal depression on the child's physical and mental health.
- Children often experience long-term detrimental effects after release from detention, including nightmares, anxiety, and decreased academic performance.
- Separating children from their parents to hand them over to child protection services while their parents are detained is often even more damaging than detention, both to the child and to the family as a whole.
- Even voluntary separation is often detrimental. For example, Finnish adults whose parents had sent them to safety in neighbouring countries during World War II still, 60 years later, had higher levels of depression than those who had remained with their families
- Forced separation is particularly harmful to children who have been exposed to violence in their home country and arrive in a strange country where they may not even speak the language. Most will be placed in institutional care or in foster care with strangers, which is generally more harmful than fostering by relatives.
- Many designated asylum seekers will later be accepted as refugees and go on to become citizens. Inflicting detention and forced separation on these individuals is likely to damage their relation to the host country and to jeopardize their integration into Canadian society, particularly in the case of children.

Alternatives to detention

- There are many viable alternatives to detention. Australia, which served as the model for C-31's provisions concerning designated irregular arrivals, has now recognized that these policies are a failure and is committed to decreased use of detention for all asylum seekers and permanent status for all refugees. The United Kingdom has recently decided to put an end to the detention of asylum-seeking children and their parents. Sweden places asylum seekers in residences supervised by social workers rather than in detention centres.

Recommendations

- We strongly recommend that Bill C-31 be withdrawn.
- If the government chooses to adopt Bill C-31 despite its potentially disastrous effects, we propose that when a group is designated as an irregular arrival, the following persons be exempted from detention:
 - Minors under 18 and their parents
 - Pregnant women
 - Persons with a mental or physical illness that may be aggravated by detention, such as major depressive disorder, posttraumatic stress disorder, suicidality, or certain types of cardiac problems.

Persons claiming to be in any one of these categories may submit an application for detention review to the Immigration Division of the IRB, which must be heard within 7 days. If the IRB decides to order conditional release, placement in a supervised community residence should be one of the options considered. Any option involving separation of minors from their parents should be excluded.

The harmful effects of detention and family separation on asylum seekers' mental health in the context of Bill C-31

This brief deals solely with the mental health impact of Bill C-31's provisions concerning detention of asylum seekers designated as part of an irregular arrival.

Our research team has recently completed a study on the *Impact of detention in Canada on asylum seekers' psychological health* based on interviews with asylum seekers detained in Immigration Holding Centres in Montreal and Toronto. The study was carried out by:

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1. Incarceration of “designated” asylum seekers: Practical implications

Asylum seekers designated as part of an “irregular arrival” will be incarcerated in high-security prisons, either Immigration Holding Centres (IHCs) or provincial jails. Yet, designation criteria are totally unrelated to criminality, suspected terrorist activity, or any potential threat to public safety. Like 94% of the asylum seekers detained under existing immigration legislation,¹ the vast majority of “designated” asylum seekers will probably be non-criminals who represent no risk to the people of Canada.

If C-31 had been in effect when the MV Sun Sea arrived in Canada in 2010, its 492 passengers would undoubtedly have been designated as an irregular arrival. Yet, only 2 of the Sun Sea asylum seekers have been found inadmissible because they had formerly been members of the Liberation Tigers of Tamil Eelam.² Apart from crew members, none of the other Sun Sea migrants has been found inadmissible. This is the type of population that will be affected in future by C-31.

The decision to designate asylum seekers as irregular is also totally unrelated to the merit of the refugee claim. About 40% of the asylum seekers detained under C-31 will, in all likelihood, be found to have a well-founded fear of persecution, will be accepted as refugees, and will become Canadian citizens.

Immigration Holding Centres are jails

Immigration Holding Centres (IHCs) are medium-security jails, with razor-wire fences, centrally controlled locked doors, and constant surveillance by cameras and uniformed guards. Men and women are held in separate wings, with a special section for children detained with their mothers. There are regular searches with metal detectors, and sometimes body searches. Personal effects are confiscated on arrival. All aspects of daily life are controlled by rigid rules, and failure to respect rules may be punished by solitary confinement. There are virtually no activities except watching television. Basic medical care is provided, but no counselling or mental health support. Suicidal detainees are either placed under 24/7 individual surveillance, usually in solitary confinement, or transferred to a provincial jail.

All asylum seekers except pregnant women and minors are handcuffed, and sometimes shackled, during transportation, notably when in need of specialized medical care at a hospital. Detained asylum seekers may be chained during medical procedures. For example, an asylum seeker that we interviewed was chained to the chair during dental surgery. If hospitalized, detainees, including women who have just given birth, are almost always chained to their beds as well as being under guard. Many asylum seekers forego medical treatment rather than enduring the shame of being seen in public handcuffed like a criminal.

Provincial jails are likely to be worse

There are only two Immigration Holding Centres (IHCs) for long-term detention, one in Toronto, the other close to Montreal (Laval). All other detained asylum seekers are held in high-security provincial jails, where conditions are in many ways worse than in IHCs. In BC jails, for example, even pregnant women are handcuffed during transportation.¹ Asylum seekers may be mingled with the criminal population, and may be exposed to verbal and physical aggression.

Children: Incarceration or separation

“Designated” children aged 16 to 18 will be incarcerated in IHCs or provincial jails as if they were adults. In jails they may be particularly at risk of sexual or physical aggression.

“Designated” children under 16 will either be taken away from parents and handed over to provincial child protection services, or unofficially detained with their mother. This latter option is only possible if the mother is in an Immigration Holding Centre, as young children generally are not allowed to stay in provincial jails. In all cases children will be separated from their fathers, as so-called “family” sections in IHCs are reserved for children and their mothers.

Like the rest of the IHC, the “family” section offers almost no activities except television. There is no internet access, very few books, and generally nothing to do. IHCs are not equipped to provide proper schooling. To comply with its obligation to provide schooling to children up to age 16, the government would have to either set up a system of tutoring in IHCs, or perhaps arrange for children to be escorted to schools by security guards.

2. Impact of detention and temporary status on adult asylum seekers' mental health: studies in other countries

Negative mental health impact of detention on adult asylum seekers

Studies from around the world have consistently shown high levels of psychiatric symptoms among detained asylum seekers, even after short periods.³ Symptoms tend to worsen over time. Depression and posttraumatic stress are the most common psychiatric problems among detained asylum seekers. Clinical depression typically involves feelings of despair and sadness, insomnia, lack of energy, withdrawal, impaired concentration, and thoughts of suicide. Symptoms of posttraumatic stress disorder (PTSD) include recurring, intrusive memories of traumatic experiences, both in waking hours and in nightmares, insomnia, and severe anxiety.

In the United Kingdom, after about 30 days in detention, 76% of detained asylum seekers were clinically depressed compared to 26% of a nondetained comparison sample.⁴

In the United States, after about 5 months in detention, 86% of refugee claimants showed clinical levels of depression, 77% clinical anxiety, and 50% clinical post-traumatic stress disorder.⁵ At follow-up a few months later, the mental health of those who were still detained had continued to deteriorate, whereas it had substantially improved among those who had been released and granted permanent status.

In Australia, in 2010-2011, there were over 1100 incidents of self-harm in immigration detention centres, including 6 suicides,⁶ for a population of about 6000 people, most of whom had been detained for less than a year.⁷ This is over 10 times the suicide rate in the general Canadian population.⁸ Self-harm behaviours included attempted hanging, self-cutting, drinking shampoo or detergent, and voluntary starvation.⁶

Detention followed by temporary status: long-term mental health problems

The negative impact of detention is likely to be aggravated if followed by temporary status, as proposed under C-31. An Australian study found that, three years after release from detention, refugees who had received temporary status continued to suffer from very high levels of depression and posttraumatic stress disorder (PTSD). Those who had been detained over 6 months were particularly likely to have long-term mental health problems.⁹ Four years later, a follow-up study showed a substantial decrease in psychiatric symptoms among individuals who had finally been granted permanent residency.¹⁰ The hardships associated with temporary status, notably separation from family and uncertainty about the future, were even more harmful than detention.

3. Impact of detention on asylum-seeking children – studies in other countries

In the UK, after an average 43-day detention, asylum-seeking children showed symptoms such as post-traumatic stress, depression, suicidal ideation, behavioural difficulties and developmental delay as well as weight loss, difficulty breast-feeding in infants, food

refusal, and regressive behaviours.¹¹

An Australian study of 10 asylum-seeking families (14 adults and 20 children) detained for a prolonged period found that all but one child suffered from major depressive disorder and half from PTSD.¹² A majority of children frequently contemplated suicide, and five had self-harmed. Most of the younger children showed developmental delays as well as attachment and behavioural problems. A third of the parents had attempted suicide.

In 2004, an Australian government inquiry found that a high proportion of detained asylum-seeking children had psychological problems such as developmental delays, bedwetting, nightmares, separation anxiety, sleep disturbance, depression, and suicidal behaviours.¹³ Previously competent parents, notably women giving birth during detention, were often too depressed to adequately care for their children.

In January 2012, four asylum-seeking children won a “six-figure” settlement from the UK government in compensation for the negative impact of their 13-month detention.¹⁴ During detention, the children had developed multiple problems including hand tremors, refusal to eat, hair loss, recurrent nightmares, and severe anxiety. Eight years after release, the four children still had numerous symptoms, including insomnia, intrusive frightening memories of detention, phobic reactions, and reduced ability to concentrate and study. Their academic performance, which had been excellent before their detention, remained impaired.

4. Studies on the impact of separating children from their parents

Innumerable studies have found that separating children from their parents is harmful for children’s development and health. We will mention only a few.

Increased depression and stress reactivity 60 years after separation

Finnish adults whose parents had sent them to safety in neighbouring countries during World War II still, 60 years later, had higher levels of depression than those who had remained with their families.¹⁵ Persons who had experienced wartime separation also produced higher levels of stress hormones when exposed to psychosocial stress, irrespective of the duration of the childhood separation.¹⁶ Chronic high levels of stress hormones are associated with numerous physical ailments such as hyperglycemia and cardiac problems.

Negative impact of short-term separation on migrant children

Forced separation is particularly likely to be harmful to children who have been exposed to violence in their home country, who leave behind relatives, friends, school and everything with which they are familiar, and arrive in a strange country where they may not even speak the language. Most are unlikely to have close relatives in Canada, and would be placed in institutional care or in foster care with strangers, which is generally more harmful than fostering by relatives.¹⁷

Asylum-seeking Sudanese youth in the US who were separated from their immediate family were at increased risk of PTSD, especially those placed in foster homes with strangers rather than with other Sudanese families.¹⁸ Children separated for over a month from parents detained in US immigration prisons had high rates of sleep disturbance, aggressiveness and withdrawal.¹⁹ On the other hand, when children fleeing organized violence are able to maintain secure attachments to family members they are protected from some of the psychological consequences of trauma.²⁰

Negative impact of lengthy delays in family reunification

Under C-31, “designated” persons who are accepted as refugees will have to wait 5 years before being allowed to apply for family reunification, which will typically result in 6 to 8 years of separation.

When adolescents were reunited with their parents after having been left with close relatives for a few years while their parents settled in the United States, those who had been separated from one or both parents for over 2 years had significantly higher levels of depression and anxiety than those who had not been separated.²¹ Symptom severity increased with length of separation. Family reunification was often fraught with conflict. Especially in cases of lengthy separation, many children felt estranged from their parents, and were deeply distressed at the separation from their alternate caregivers. Some children showed withdrawal, lack of trust, and depressive symptoms, while others showed increased anger and aggression. The emotional scars of long-term separation typically took years to heal.

5. Our study on the impact of detention on adult asylum seekers’ mental health

In 2010-2011, our research team conducted a study to identify the impact of detention in Canada on adult asylum seekers’ mental health. We interviewed 122 adult asylum seekers detained in either the Laval (Montreal) or the Toronto Immigration Holding Centre, using standardized mental health questionnaires. At the time they filled out questionnaires, asylum seekers had been detained on average 31 days. We also interviewed a comparison group of 66 never-detained adult asylum seekers.

High levels of premigration trauma

Asylum seekers in both the detained and nondetained groups had experienced an average of 9 serious traumatic events such as being physically assaulted, having family or friends who were assaulted and/or murdered, and being at risk of death (Table 1). This leads to two inferences. First, newly-arrived asylum seekers are a potentially vulnerable population in mental health terms because they have been exposed to a very high level of premigration trauma. Second, the fact that the detained and nondetained groups have equivalent levels of premigration trauma exposure implies that differences in their current mental health symptoms are due to events they experienced after arrival in Canada, i.e., whether or not they were detained.

Table 1: Premigration trauma events– Detained and nondetained asylum seekers

	Detained	Nondetained
Total (average)	9.3 trauma events	9.2 trauma events
Events by order of frequency	Life in danger Physical assault Family in current danger Threats or harassment by government agents Forced separation Family or friends assaulted Murder of family or friends	Life in danger Physical assault Family in current danger Family or friends assaulted Forced separation Threats or harassment by government agents Murder of family or friends

High levels of posttraumatic stress, depression and anxiety

Our study shows that detention, even for short periods, is harmful to asylum seekers’ mental health. After an average detention of only 31 days, over three-quarters were clinically depressed, about two-thirds clinically anxious, and about a third had clinical post-traumatic stress symptoms (Table 2).

Table 2: Mental health symptoms – Detained and nondetained asylum seekers

	Detained	Nondetained
Posttraumatic stress	32%	18%
Depression	78%	52%
Anxiety	63%	47%

For previously traumatised persons, imprisonment can trigger retraumatisation, as evidenced by the high levels of post-traumatic stress in our sample. Our study shows that detained asylum seekers are almost twice as likely as their nondetained peers to experience clinical PTSD. Depression rates were 50% higher among detained asylum seekers than among their nondetained peers. This reflects a response to well-known risk factors for depression such as disempowerment and the inability to modify or escape from a painful situation, conditions that are inherent to imprisonment.

Examples of asylum seekers detained in IHCs

Marie, a young woman with a life-threatening disease

Marie, a young woman from sub-Saharan Africa in a forced marriage with an older man, carries the scars of her husband’s violent assaults. During a routine medical exam shortly

after arrival, she learned that she has a life-threatening disease. She was arrested a few days later because of concerns about her identity documents, and remained detained for three months. Already in shock at learning about her illness, Marie felt deeply humiliated at being handcuffed and shackled when taken to an external clinic for medical care. She was also frantic about the well-being of the two young children that she had to leave behind with a friend. Marie cried every day and became increasingly distraught and despairing over time.

Abdi, a young man who witnessed his father's assassination

Abdi is a young man from Somalia whose father was killed in front of him, defending his son from forcible recruitment by warlords. Abdi later tried to hang himself, but was stopped by an uncle who then managed to obtain false documents for him so that Abdi could flee to Canada. Abdi is haunted by memories of his father's assassination:

It's like I see it again. I'm dreaming every day. In my mind I don't believe and I sometimes think I can see again my father. *You feel sad?* Yes, I feel sad. (*He starts to weep*). I feel angry sometimes. He's the only person who help me, he help me too much. I try to forget but it is not easy, I remember many things. If my father not die I would be with him, I wouldn't be here. My father loved me. He did so much for me. In Somalia, it is hard to go to school, and he fight for me to go to school. He's my everything. He help me for everything.

Abdi shows all the signs of post-traumatic stress disorder, combined with intense grief for his father: insomnia, nightmares, intrusive memories, crying every night, suicidal thoughts, increasing despair. He was detained for two months.

6. Our study of the impact of detention on detained families with children

In 2011 our team met with 18 families, either during or after their detention. Unlike the main study with adults, which was limited to asylum seekers (that is, persons whose refugee claim had not yet been heard), the study of detained families included both asylum seekers and persons whose refugee claim had been refused.

Three main findings emerge from our study and an analysis of studies in other countries. First, even short term detention has a negative impact on children, both directly and also because parents often become too depressed and anxious to provide adequate care.^{11-13, 22} Over time parental distress tends to worsen, and ability to care for children is increasingly likely to be impaired. Second, detention of women who are pregnant or have recently given birth may have particularly serious consequences because of the negative impact of maternal depression on the child's physical and mental health.^{13, 23} Third, children may experience long-term detrimental effects after release from detention, including nightmares, sleep disturbance, severe separation anxiety, and decreased ability to study.²²

Examples – children and families

Rapid deterioration of an 11-year-old girl during one-month detention

An 11-year-old girl was detained for one month with her mother, while her father was held in a separate section of the Immigration Holding Centre. Prior to detention the girl was healthy, a good student, with no previous psychiatric difficulties. During detention she developed profound withdrawal (speaking little and spending most days lying on a couch in the common area), food refusal, weight loss, tearfulness, and sleep difficulties. Although her symptoms improved after release, she still had regular nightmares of her mother being grabbed by someone and taken away and was not able to fall asleep without her parents present.

Detention of a mother and newborn baby

Shortly after arriving in Canada, an asylum-seeking woman gave birth by C-section, complicated by heavy bleeding. Two weeks after discharge from hospital, mother and infant were detained because of concerns about identity documents. In tears, she explained how difficult it was for her to care for her four-week-old baby on her own while imprisoned, and acknowledged that she was not able to provide the mothering she would like to because the detention depleted her emotionally. When asked about her perception of Canada she replied: “Canada is supposed to be a civilized country. To detain a mother and baby is not civilized.”

Long-term impact of a traumatic arrest followed by brief detention

A family with two Canadian-born children aged 5 and 7 was detained for 5 days following rejection of their refugee claim. During the arrest, the parents were handcuffed in front of the children. The five-year-old boy tried to escape, and CBSA officers ended up physically forcing him into the van.

After release from detention the seven-year-old girl, who was previously healthy and doing well at school, became severely withdrawn and had difficulty speaking with adults and peers. Her academic performance declined. She also had regular nightmares and difficulty falling asleep. The five-year-old boy developed phobias of police, dark-coloured vans, and dogs, and refused to go to pre-school for the first six months after detention because he was too frightened to leave the house. He had regular temper-tantrums, was unable to fall asleep without his parents present, and would not tolerate being in a room with the door closed. A year after detention, the two children were still struggling with anxiety, sleep problems and irritability, and met diagnostic criteria for PTSD.

7. Our study – interviews with Sun Sea asylum seekers

In August 2010, the MV Sun Sea arrived in British Columbia carrying 492 Sri Lankan Tamil asylum seekers, including 63 women and 49 children. In 2011, our research team interviewed 21 asylum seekers who had arrived on the MV Sun Sea, after their release from detention, as well as a number of lawyers who described the experiences of other Sun Sea asylum seekers.

Extremely high levels of traumatic exposure

The 21 Sun Sea asylum seekers that we interviewed had all experienced extremely high levels of premigration trauma. Almost all had experienced months of constant shelling and heavy artillery fire during the Sri Lankan civil war and had witnessed loved ones killed or maimed. One young woman recounted:

We were all in a bunker we had dug in the ground. There was another family there, with small children. There was not enough room for everyone. We gave the best protected place to the small children, and my uncle and grandparents slept at the top because there was not enough space inside. A shell fell on us. My uncle died that day, and so did my grandparents who had brought me up. My mother was injured. She got shrapnel in her leg and was not able to walk. My aunt also. All those who were not completely inside the bunker were injured or killed.

A majority of the Sun Sea interviewees had been tortured, often very severely. For example, one man had been hung upside down, dipped in a water trough, and beaten with sand-filled plastic pipes. Most had been detained for months in army camps after the war, and all had suffered from shortage of food and water on the Sun Sea. Upon arrival in Canada, all were immediately detained, typically for about 4 to 8 months.

High levels of posttraumatic stress disorder and other mental health difficulties

About three-quarters of the Sun Sea interviewees reported severe and persistent sleep problems, nightmares, and intrusive thoughts consistent with post-traumatic stress disorder. The traumatic images concerned not only memories of wartime trauma in Sri Lanka, but also painful memories of their detention in Canada and fears of being sent back to a country where they might face persecution.

Comparison with C-31 policies

Although the Sun Sea asylum seekers were detained for exceptionally long periods, several of the most vulnerable individuals were released earlier thanks to the persistence of their lawyers and their access to regular detention reviews, which took place after 48 hours, then 7 days, then every 30 days.

Among the first Sun Sea detainees to be released was a couple with a severely handicapped 3-year-old daughter. A woman at an advanced stage of a complicated pregnancy was also released within the first couple of months, as was a woman whose forearm had been shattered by a bullet. Under C-31, all the adults would have remained detained, and the handicapped child would have been separated from her mother and placed in institutional care.

8. Alternatives to detention: Models from Australia, the UK, and Sweden

Australia: Abandoning C-31-type policies

C-31's provisions on designation of irregular arrivals are largely modeled on Australia, which for 20 years imposed mandatory, unreviewable detention on all asylum seekers

entering without a visa, until final resolution of their refugee claim. Starting in 1999, refugees received only temporary status, a policy abandoned in 2008

The Australian immigration detention system has been a mental health disaster, as documented by innumerable government inquiries, scientific studies, and non-governmental reports.²⁴ Close to 90% of formerly detained “irregular arrivals” have subsequently been accepted as refugees and then as Australian citizens, so there has also been a cost in terms of integration difficulties and increased use of health services.²⁵

In March 2012, after months of hearings, the Senate Joint Select Committee on Australia’s Immigration Detention Network issued a report recommending sweeping reforms.²⁶ The Committee stated:

The Committee’s most fundamental conclusion is that asylum seekers should reside in held detention for as short a time as practicable. Evidence overwhelmingly indicates that prolonged detention exacts a heavy toll on people, most particularly on their mental health and wellbeing. (...)

Unsurprisingly, rates of mental illness among detainees are very high, as are rates of self harm and attempted suicide. Committee members witnessed firsthand the aftermath of such desperation during visits to detention facilities. (...)

Accordingly, the Committee is keen to ensure, without compromising the safety of the community, that not one person is held in detention longer than necessary. A number of the recommendations contained in this report are grounded in the desire to build on the successes of the community detention and bridging visa programs already underway.

To this end, the Committee recommends that all reasonable steps be taken to limit detention to 90 days, and that where people are held any longer, the reasons for their prolonged detention be made public. In associated recommendations, the Committee advocates use be made of community detention wherever possible, while any necessary assessments are conducted.

The Committee went on to write that its recommendations were grounded in “the growing recognition that detention on the scale applied over the past decade is simply not justified nor sustainable. (...) Given the enormous human and financial cost of held detention, the Committee has reached the fundamental conclusion that less harmful, far more cost-effective alternatives are available and should be pursued.”

The Australian government started to implement the Committee’s preliminary recommendations in November 2011, even before the final report was issued.²⁶ Australian policy is now:

- To detain asylum seekers (“irregular” or not) only until health, security and identity checks are completed;

- Upon release, to issue a “bridging visa” until final determination of the refugee claim, which is comparable to normal asylum seeker status in Canada;
- All asylum seekers except those with adverse security assessments or problematic behaviour are eligible for release on a bridging visa;
- Time in detention and the asylum seeker’s vulnerability, such as torture or trauma experiences, are factors that may lead to swifter release on a bridging visa.

In short, Australia has now tacitly recognized that its previous C-31-type policies have been a failure, and has shifted to policies aimed at minimising the use of detention for all asylum seekers.

United Kingdom: No detention of asylum-seeking families with children

In 2010, the UK government announced its intention to put an end to the detention of children for immigration reasons.²⁷ Parents are not to be detained either, as the government recognizes that separating children from their parents is generally harmful. Asylum-seeking families and children may be detained for a maximum of 24 hours, and are usually then released and referred to social services. They may not be further detained unless deemed inadmissible or dangerous.²⁸

Sweden: Management by caseworkers

In Sweden, there is a ban on separating children from their parents, and families with children may not be detained more than six days.²⁹ Upon arrival, asylum seekers are housed in supervised accommodation, managed by caseworkers, while their health and support needs are assessed. They are free to organize their time and to move around with minimal supervision. They are then released, on condition of staying in touch with their caseworker. The caseworker explains the refugee determination process, ensures that the asylum seekers receive legal representation, and if necessary, provides referrals to counseling and medical care. In this system that combines monitoring and support, the large majority of asylum seekers comply with immigration decisions, even when they face a deportation order

9. Conclusions

The scientific evidence from Canada and other countries around the world consistently shows that even short-term detention leads to high levels of depression and post-traumatic stress symptoms among asylum seekers, while longer-term detention aggravates symptoms. Detention is particularly harmful to children’s development and wellbeing. Separating children from their parents to hand them over to child protection services while their parents are detained is likely to be even more damaging, both to the child and to the family as a whole.³⁰

Australia, which served as the model for C-31’s provisions concerning designated irregular arrivals, has now recognized that these policies are a failure and is committed to decreased use of detention for all asylum seekers and permanent status for all refugees.²⁶ The United Kingdom has recently decided to put an end to the detention of asylum-seeking children and their parents.^{27,28} Sweden places asylum seekers in residences supervised by social workers rather than in detention centres.²⁹ In many countries there is

increasing recognition that asylum-seeker detention must be governed by the principles of proportionality and individual risk assessment, grounded on the premise that no human being should be incarcerated unless they have committed a criminal offense or represent a threat to public safety.³¹⁻³³

Recommendations

For all the reasons set out in this brief, we strongly recommend that Bill C-31 be withdrawn.

If the government chooses to adopt Bill C-31 despite its potentially disastrous effects, at the very least some of the most vulnerable individuals designated as part of an irregular arrival should be exempted from detention in order to minimise harm. More specifically, we propose that:

When a group is designated as an irregular arrival, the following persons should be exempted from detention:

- Minors under 18 and their parents
- Pregnant women
- Persons with a mental or physical illness that may be aggravated by detention, such as major depressive disorder, posttraumatic stress disorder, suicidality, or certain types of cardiac problems.

Persons claiming to be in any one of these categories may submit an application for detention review to the Immigration Division of the IRB, which must be heard within 7 days. If the IRB decides to order conditional release, placement in a supervised community residence should be one of the options considered. Any option involving separation of minors from their parents should be excluded.

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