

detained lives

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doughty street chambers



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“My friend, I feel that I’m locked up in a room and the keys are lost. I’m disconnected from life.”

Ahmed Abu Bakar Hassan, detained 25 months

“I’m living in the dark. Dark life.”

Daniel, detained 20 months

“I don’t want nothing out from them except to let me go, let me go, they have no right to steal my life away.”

Karim Benhamou, detained 8 years

detained lives

the real cost of indefinite immigration detention

executive summary

wasting lives and money

Detained Lives reveals the ineffectiveness and the human impact of the UK's hidden practice of indefinite immigration detention without time limits. It presents the perspectives of people detained for more than a year on all aspects of detention. The research explores whether indefinite detention achieves its stated aims of deporting people, through analysis of London Detainee Support Group's case files. The evidence suggests that indefinite detention simply does not work: as a means of deporting people it is **ineffective** and grossly **inefficient**. The testimony of detainees shows the **human cost** to be vast: the **opaque** implementation of detention without time limits leads many people to despair.

Ineffective

London Detainee Support Group has over the last 20 months supported 188 people who have been detained for more than a year. Only 18% have been deported. Britain is one of the few countries in Europe that practice indefinite detention, yet still has one of the lowest rates of removal of refused asylum seekers. Some people simply cannot be returned, for reasons of statelessness or because their countries of origin are too dangerous. Indefinite detention of these people achieves nothing.

Inefficient

The practice of indefinite detention is an inefficient and expensive means of achieving deportations. The detention of LDSG's 188 indefinitely detained clients has cost the taxpayer around £22 million. Since only 31 have gone on to be deported, the detention of these people has cost around £700,000 for each deportation.

Human cost

Indefinite detention, lasting for years without a release date, causes distress and psychological deterioration that is out of all proportion to the immigra-

tion goals sought. The research revealed significant numbers of indefinite detainees developing mental health problems, self-harming or attempting suicide. Interviewees described their despair at seeing no way out of detention.

Opaque

Detainees experience a lack of transparent evidence-based decision making at all stages. The presumption of detention induces the UK Border Agency (UKBA) to detain even where it is clear that no deportation is likely to be possible in the near future. Release is routinely refused by UKBA and the Asylum and Immigration Tribunal (AIT), based on what appear to be subjective assessments of risk of re-offending or absconding. Meanwhile, detainees are excluded from any meaningful dialogue with UKBA. Immigration officers with decision-making power are no longer based in detention centres. As a result, many detainees find their ongoing detention incomprehensible, having no idea what they can do to bring their detention to an end.

Key recommendations

London Detainee Support Group calls on the Home Office to end its derogation from the EU Returns Directive and adopt a maximum time limit for detention. Detention should only be used as a last resort for the shortest possible time pending removal, in line with the requirements of the 1971 Immigration Act. All decisions to detain should be evidence-based and subject to regular and thorough reviews. Where no imminent deportation is possible, detainees should be released and allowed to live with dignity and participate in the community.

introduction

London Detainee Support Group (LDSG) is a small grassroots organisation that was established in 1993 by volunteers concerned about the welfare of immigration detainees held in detention at Harmondsworth Immigration Removal Centre (IRC), near Heathrow Airport. Over the last fifteen years LDSG's work has expanded greatly, now supporting around 700 detainees per year, both in Harmondsworth and in the new Colnbrook IRC. These two centres, along with eight others around the UK, hold immigrants, mostly refused asylum-seekers, who are awaiting removal to their countries of origin.



LDSG's extensive experience of supporting detainees has allowed the development of diverse forms of support, tailored to the needs of detainees. 50 volunteers are active visiting detainees at any one time, providing regular emotional support to help them to overcome their time in detention. LDSG's advocacy service enables detainees to communicate with the outside world and access services. Last year LDSG launched the new Leaving Detention Advice Project, which helps detainees to exercise their rights to statutory accommodation and support outside detention, enabling them to apply for bail and avoid destitution if released. Finally, LDSG has an established record of using the information and insight gained through front-line casework to lobby for improvements in detention policy.

Over the last three years, a new phenomenon has dramatically altered the needs and situations of the people LDSG supports.

The loss of liberty and prospect of forced return to their country of origin have always been traumatic for many detainees. Yet since 2006 LDSG has observed that detainees were enduring this limbo for ever-increasing periods. Volunteer visitors noted that the wellbeing of the people they were supporting was deteriorating, as many were despairing of ever being released.

Immigration detention without time-limits is not a new policy in the UK, but only recently has extreme indefinite detention become routine. Charities and lawyers working with detainees have always encountered people whose detention has stretched into years. However, until recently these cases were rare; use of long-term indefinite detention appeared exceptional and un-systematic. This changed in April 2006 when, following media criticism of Home Office failures to follow existing policies on the deportation of foreign ex-offenders, a new policy of a presumption of detention was introduced for people due to be deported after serving prison sentences. As a result, detention was no longer used primarily for people about to be removed; instead, the priority became to detain ex-offenders, even where intractable obstacles to removal existed.

The impact on civil liberties of this routine indefinite detention dramatically exceeds that of the proposed 42 day detention of alleged terrorist suspects, as noted by several of the detainees we interviewed. Yet indefinite immigration detention has received a fraction of the wider discussion devoted to detention under anti-terror legislation. It may be that an assumption has developed that foreigners with past criminal convictions do not merit consideration of their right to liberty. Such an assumption is fundamentally discriminatory: detainees have finished their sentences. If they were British they would be released, being considered to have paid their debt to society. The UK has long practised the double punishment of foreigners who are deported after serving their sentences. We now see a radically new development, amounting to triple punishment: foreign ex-offenders who have served their time in prison, as well as permanently losing any status in the UK, are deprived of their liberty under immigration law for periods often far exceeding those of their original sentences.

LDSG decided to carry out research on the effectiveness and human impact of indefinite detention in order to draw attention to this neglected issue. This report is intended as part of a campaign to initiate wider debate on the minimum standards



of treatment that the UK owes to immigrants. The overriding priority is to allow the voices of indefinite detainees to be heard in the outside world.

Around 3,000 people are detained under immigration powers in the UK at any one time. According to the latest Home Office statistics, 2,415 people were held in the UK's ten immigration removal centres and four short-term holding facilities at the end of September 2008¹. The Home Office has separately revealed that 526 immigration detainees who had completed prison sentences were being held in prisons at 1 December 2008². 370 detainees were recorded as being held in Colnbrook and 260 in Harmondsworth. As LDSG works primarily in Colnbrook and Harmondsworth, this research focuses on these two centres, although in practice the prevalence of indefinite detention in Colnbrook has led to a concentration there. Colnbrook has the highest security of any British detention centre: its design is that of a prison, and it informally operates to the security level of a Category B prison.

A measure of the low profile of this issue is that the UKBA publish virtually no statistics on lengths of detention. The quarterly statistics include a table, thoroughly furnished with six footnotes, for length of detention of immigration detainees. Yet, with the exception of 55 child detainees, every entry is listed as "not available"; a footnote explains that this information could only be obtained "at disproportionate cost". "Detained Lives" aims to reveal the true cost of this policy.

¹ Home Office, Control of Immigration, Quarterly Statistical Summary, United Kingdom, p34, <http://www.homeoffice.gov.uk/rds/pdfs08/immig308.pdf>
² Phil Woolas, House of Commons, 13 Jan 2009 : Column 721W, <http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090113/text/90113w0038.htm#09011512000059>

research aims & methodology



The *Detained Lives* research is an initial investigation, employing both qualitative and quantitative techniques, into the emerging issue of long-term indefinite detention. The qualitative section of the research explores the perspectives of detainees themselves, in order to throw light on the human impact of indefinite detention, as well as the systemic factors that generate it. The quantitative research attempts to analyse the extent to which the policy of indefinite detention achieves its (legally obligatory) aim of generating deportations. It is important to note that this research can only provide a glimpse of what is likely to be a much larger national phenomenon, as it is restricted to detainees who have passed through two centres and have contacted LDSG.

For the purposes of this research, focus was restricted to people who had been detained for more than one year under sole immigration powers, excluding time spent serving a sentence or on remand. All immigration detention is indefinite, given the absence of time-limits, and the impact of this can be felt by all detainees. Certainly, a strong case can be made that three or six months constitutes long-term detention. However, given the limited scale of the project, it was necessary to focus on the most extreme cases. Moreover, while most detainees can expect to be deported or released in the foreseeable future, detention of more than a year suggests both a great reluctance to allow release and intractable obstacles to deportation for the individual concerned. People detained for over a year have grounds to fear an indefinite future in detention. Consequently, throughout this report the term “indefinite detention” is used to designate detention without time-limits lasting for more than a year.

The legitimacy or otherwise of UK immigration control and deportations, either in general or in individual cases, is outside the remit of this research and is not considered.

Quantitative research from the LDSG database

LDSG’s casework database was used as the data source for the quantitative research. Details of all detainees accessing support or information from LDSG are recorded on an Access database. A list was extracted of people detained for a year or more who had accessed services between April 2007 (i.e. approximately one year after the introduction of the presumption of detention) and November 2008. This list was analysed by a number



of factors, including length of detention, nationality and outcome of detention, the latter being either release, deportation or ongoing detention.

Qualitative interviews with LDSG clients

A semi-structured interview format was designed in order to probe detainees' experiences of various aspects of what might be termed the detention system: the decision to detain, detention regimes, bail and Home Office decision-making. Interviewees were also asked about their experiences leading up to detention and the impact of detention itself on them and their families or friends. Interviews took place by telephone, in order to protect interviewees' confidentiality and to allow for digital recording.

Potential interviewees were identified from members of LDSG's current client group who had been detained for over a year. Selection was based on assessments of the length and nature of their relationships with LDSG. Due to the direct, personal nature of some questions, it was felt that detainees with existing relationships with the organisation would feel better able to respond openly. Clearly this selection process could introduce bias. However, given the relatively large size of the interviewee group, the results should nevertheless be significant and are likely to be broadly representative. In only one respect was the group deliberately unrepresentative: for ethical and practical reasons detainees exhibiting serious psychological disorientation or extreme distress were not asked to participate. Six indefinite detainees were not included for this reason. As a result, the research will inevitably understate the extent of mental health issues and distress in detention; further research is required to specifically address these issues.

In order to obtain informed consent, three conversations were held with all potential interviewees prior to the interviews taking place. Potential interviewees were told of the aims and objectives of the research and were encouraged to consider the potential risks involved in taking part. 32 detainees were approached, of whom three decided not to participate, three agreed but were released before being interviewed, and two agreed in principle but were ultimately unable to be interviewed. Quotes for publication were read back to interviewees and their agreement obtained.

24 interviews were held during November and December 2008. 21 interviewees were held at the time in Colnbrook, two in Harmondsworth and one in Dover. 20 interviewees were or had previously been receiving regular visits from

LDSG volunteer visitors, and three further had regularly accessed our advice service and on-site surgeries. The interviews were conducted by a team of eight LDSG volunteers and staff. Although interviewers with language skills were available and language was not a factor in the selection of interviewees, in the event all interviewees were comfortable expressing themselves in English, with the exception of one whose interview was conducted in Arabic. Digital recordings were transcribed verbatim by a team of 14 volunteers. A smaller team of 5 LDSG volunteers with research experience analysed the interviews by trends.

Some names have been changed. However, 17 interviewees specifically requested that all or part of their real name be used, despite the extreme vulnerability of their current situation.

the legal framework of indefinite detention in the UK

Article 9 of the 1948 Universal Declaration of Human Rights states that “no one shall be subjected to arbitrary arrest, detention or exile”. The term “arbitrary” has been interpreted by the Human Rights Committee as including “elements of inappropriateness, injustice and lack of predictability.”³ Article 5 of the European Convention on Human Rights enshrines the right to liberty and security of person. However, it allows the deprivation of liberty, among other circumstances, of “a person against whom action is being taken with a view to deportation”.

The 1971 Immigration Act allows for the deportation of non-British citizens where the Home Secretary deems it to be “conducive to the public good”, or where they are convicted of an imprisonable offence and the court recommends deportation. In these cases a deportation order should be signed by the Home Secretary, invalidating any existing leave to enter or remain in the UK. The 1971 Act allows for the person to be detained pending the making of the deportation order and pending their removal or departure from the UK.

The restraints on the power to detain are described in case law known as “Hardial Singh” (1984), in which the judgment stated that “as the power [to detain] is given in order to enable the machinery of deportation to be carried out, [it is] impliedly limited to a period which is reasonably necessary for that purpose.”⁴ However, more recent UKBA guidance has stated that there is also “a clear imperative to protect the public from harm”⁵.

All detainees have the right to apply for bail to the Asylum and Immigration Tribunal (AIT). The AIT is also required to presume in favour of release: the burden of proof is on UKBA to justify detention. However, rates of release are low, particularly for detainees with criminal convictions.

The presumption of liberty has been seriously undermined in recent years. A government White Paper of 1998, in dealing with detention, described “a presumption in favour of temporary admission or release”, stated that “individuals should only be detained where necessary”, and that “detention should always be for the shortest possible time”⁶. This presumption of release was rescinded in September 2008 through an amendment to UKBA’s internal guidance for decision-makers. The

amendment stated that “the presumption in favour of temporary admission or temporary release does not apply where the deportation criteria are met”, in other words where the person faces deportation following a criminal conviction. This document prescribed “a presumption in favour of detention as long as there is a realistic prospect of removal within a reasonable time-scale”⁷.

However, the High Court has recently found that the Home Office was operating a “secret” policy of presumption of detention from April 2006, following the resignation of Home Secretary Charles Clarke over the failure to consider some foreign offenders for deportation. Mr Justice Davis found both the April 2006 secret policy and the September 2008 published version to be unlawful, as they are contrary to the presumption of liberty in the 1971 Act. He also found that the 2006 policy had been unlawful, as it was insufficiently published and accessible. He speculated that this may be due to “concerns at being bearers of unwelcome news to the Ministers or through an instinct for ducking an apparently intractable problem or through institutional inertia”, Mr Justice Davis concluded that “the Home Office has, to put it mildly, not covered itself in glory in this whole matter”⁸.

³ Human Rights Committee Report 1990, Communication No. 305/1988

⁴ *R v. Governor of Durham Prison, Ex parte Singh*. [1984] 1 All ER 983, [1984] 1 WLR 704, [1983] Imm AR 198. United Kingdom: High Court (England and Wales). 13 December 1983. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/3ae6b6ce1c.html>

⁵ UK Border Agency, *Enforcement and Instructions Guidance*, 55.1.2, 9 September 2008

⁶ Home Office, *Fairer, Faster, Firmer*, 12.3, 1998

⁷ UK Border Agency, *op cit*

⁸ *Abdi and Others vs Secretary of State for the Home Department*, [2008] EWHC 3166 (Admin)

a uniquely British practice?

the literature on indefinite detention and its alternatives

The British policy of indefinite detention has been subject to widespread criticism by international institutions. It was most recently criticised by the Commissioner for Human Rights of the Council of Europe, whose report urges the UK to consider “drastically limiting migrants’ administrative detention and recommends, in the meantime, that a maximum time limit for administrative detention be introduced into domestic law... It is of particular concern that current United Kingdom legislation provides for no maximum time of administrative detention under Immigration Act powers.”⁷

The Office for the High Commissioner for Human Rights of the United Nations has also called on governments to respect the rights of migrants by “ensuring that the law sets a limit on detention pending deportation and that under no circumstance detention is indefinite.”⁸ The United Nations’ Working Group on Arbitrary Detention identified “the desirability to set a maximum period of detention by law which must in no case be unlimited or of excessive length”.⁹

The UK is one of a small number of European states that has failed to adopt a time limit to detention. For example, the European Union has adopted a maximum limit of 18 months in the 2008 Returns Directive. Although this period has been widely criticised as excessive, the UK derogates and will not implement it. Currently, maximum lengths of detention vary considerably amongst EU member states as follows:¹⁰

EU member state	Upper limit
France, Cyprus	32 days
Italy, Spain	40 days
Ireland	56 days
Portugal	60 days
Greece, Luxembourg	3 months
Hungary, Czech Republic, Slovakia, Slovenia, Romania	6 months
Belgium	8 months
Austria	10 months
Poland	12 months
Germany, Malta	18 months
Latvia	20 months
UK, Sweden, Denmark, Finland, Netherlands, Estonia, Lithuania	Unlimited

However, theoretically unlimited detention does not mean that in practice long-term detention takes place. In fact, Sweden makes relatively little use of detention, with 82% of returned asylum seekers leaving voluntarily in 2008¹¹. Sweden also secures the return of around 80% of refused asylum seekers, far in excess of the British rate.¹²

An emphasis on dialogue with migrants, rather than detention and destitution, characterises the Swedish system, as does a project in Australia that has also seen high rates of voluntary return. A “cooperative welfare-based approach” has been used by the Hotham Mission Asylum Seeker Project, which provides support throughout the asylum process and has reported that 85% of their clients returned voluntarily when refused asylum. Australia is a country that has recently abandoned as a failure a hard-line policy of mandatory indefinite detention of asylum seekers, which research had found to have a positive correlation with mental ill health¹³.

Research around the world has suggested a link between detention of asylum seekers and mental health deterioration, with the effects increasing in relation to length of detention. A study of 70 asylum seekers detained in New York, New Jersey and Pennsylvania concluded that not only were the majority suffering symptoms of anxiety, Post Traumatic Stress Disorder and depression, but that the longer they were detained, the more pronounced those symptoms became.¹⁴ Research in Australia also traced the cumulative impact of long-term detention, which culminated in “grave ongoing psychological injury”.¹⁵ A second Australian study found that “prolonged detention exerts a long-term impact on the psychological well-being of refugees. Refugees recording adverse conditions in detention centres also reported persistent sadness, hopelessness, intrusive memories, attacks of anger and physiological reactivity, which were related to the length of detention.”¹⁶

The need for detention is also questioned by British research into the extent to which people released from detention later lose contact with the Home Office. Many detainees are refused bail because it is felt that they may abscond. However, independent research suggested that at most 9% of asylum seekers bailed from detention subsequently absconded¹⁷.

⁷ Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visits to the United Kingdom on 5-8 February and 31 March-2 April 2008

⁸ OHCHR, Discussion Paper on the Administrative Detention of Migrants

⁹ Report of the Working Group on Arbitrary Detention, Annual Report 2007, Human Rights Council, 7th session, UN Doc. A/HRC/7/4, 10 January 2008.

¹⁰ European Council on Refugees and Exiles, press release, 18 June 2008

¹¹ Centre for Social Justice, Asylum Matters: Restoring Trust in the UK Asylum System, December 2008

¹² *ibid*

¹³ Fazel, M. Silove, D. Detention of Refugees. *BMJ* 332 (2006), pp. 251-252.

¹⁴ Keller A. et al, *Mental health of detained asylum seekers*. *The Lancet* 362 (2003), pp. 1721-1723.

¹⁵ Sultan, A. O’Sullivan, K. *Psychological disturbances in asylum seekers held in long term detention: a participant-observer account*. *MJA* 175 (2001), p593.

¹⁶ Alzuhairi, B. Brooks, R. Momartin, S. Silove, D. Steel, Z. *Impact of immigration detention and temporary protection on the mental health of refugees*. *The British Journal of Psychiatrists* 188 (2006), p64

¹⁷ Bruegel I. and Natamba E., 2002, *Maintaining Contact – what happens after detained asylum seekers get bail?*, South Bank University, quoted in Centre for Social Justice, *op cit*.

the inefficiency and failure of indefinite detention

database research

The research revealed that 188 LDSG clients since April 2007 had been detained for a year or more. Of these, 46 had been detained for more than two years, and nine for more than three years. They had been detained for a total of 318 years. 160 of these detainees were asylum seekers.

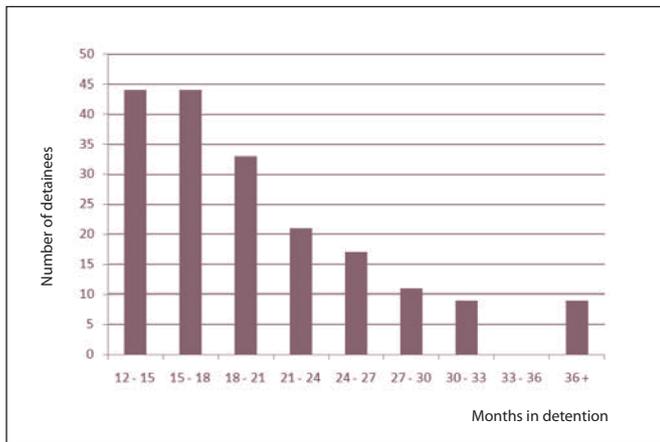


Fig. 1. Chart of detention length of detainees, in months.

Despite this widespread use of indefinite detention, the evidence suggests that it is a highly inefficient means of enforcing deportations. In only 18% of cases has indefinite detention led to deportation. A full 57% of the survey group remain in detention, while 25% have been released. This suggests a gross disjunction with the legal requirement that detention should only take place in order to facilitate removals.

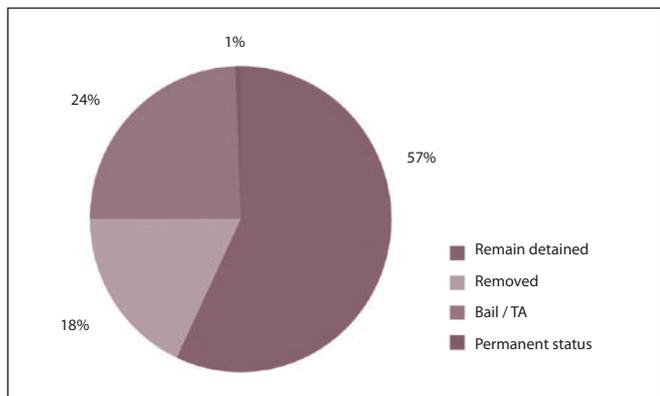


Fig. 2. Chart of detainee outcomes

It is significant that in a quarter of cases, the use of detention was demonstrably futile as the detainee was ultimately released. Of the 43 detainees who were released, 26 were granted bail by the AIT, 14 were released on Temporary Admission by the Home Office, 2 were freed by the High Court following judicial reviews of their detention, and one was granted refugee status. These detainees were detained for a total of over 70 years, an average of 20 months each.

Where deportation did take place, it took an average of almost 2 years and two months. The 31 people deported spent a total of over 66 years in detention.

According to official figures¹⁸, detention in Colnbrook, where the great majority of the survey group were held, cost the taxpayer over £68,000 per detainee per year in 2005/6. Even without allowing for inflation, this would suggest a total cost to detain these 188 people of over £22 million. Each deportation achieved could be considered to have cost the taxpayer almost £700,000.

A clear pattern emerged of the countries of origin of indefinite detainees. The nationalities most exposed to indefinite detention were Algerians (23), Iraqis (20), Somalis (20) and Iranians (19). These figures each amount to more than double the numbers for any other nationality group. It is well known that major obstacles to deportation exist for all four countries.

No forced removals are currently possible to Iraq or Somalia, with the exception of the Kurdistan and Somaliland regions, due to Foreign and Commonwealth Office advice against unnecessary travel. Voluntary returns to Baghdad and Mogadishu are possible, so Iraqi and Somali detainees are told that their detention is due to their refusal to volunteer to return. Given the high risks to life in either country, it is not surprising that few detainees agree to make voluntary returns. None of the 20 Somali indefinite detainees were returned, with the exception of three who were deported to Somaliland. Three Somalis were released (of whom one was subsequently granted permanent status in the UK), but the other 14 remain in detention. Three

¹⁸ Home Office, response to a request under the Freedom of Information Act, January 2007, quoted by Information Centre about Asylum Seekers and Refugees, Detention of Asylum Seekers in the UK, 2007, p6



of the 20 Iraqis took voluntary return to Baghdad, while two were deported to Kurdistan. Four were released, and seven others are known to remain in detention.

Moreover, LDSG has previously documented the extreme difficulties that undocumented Algerians and Iranians experience in obtaining travel documentation from the embassies to allow them to return (see www.ldsg.org.uk). Both embassies routinely refuse to recognise their nationals unless they can provide an original birth certificate. As a result, Algerians and Iranians may face a situation of de facto statelessness, in which many want to return yet cannot. Only three of the 23 Algerians and two of the 19 Iranians were ultimately deported. Six Algerians were released, but twelve are known to be still detained. Six Iranians were released, while eleven remain in detention.

These results suggest strongly that indefinite detention is

generally not due to detainees obstructing deportation through non-cooperation or to individual factors in their cases such as ongoing appeals, but to systemic factors relating to their country of origin.

The research also suggested no clear link between serious criminal offences and indefinite detention. Indeed 38 indefinite detainees faced deportation for immigration-related offences, such as using false documents to work, claim asylum or seek to leave the UK. 11 had no criminal convictions whatsoever.

98 of LDSG's indefinite detainees are still being held in detention. They have been detained for a total of over 181 years, or one year and ten months each. Our research suggests that the majority of them will go on to be released. Their detention, which has already cost around £12,300,000, will have served no purpose.

Fig. 3. List of nationalities of detainees involved in database research

Africa				Asia / Middle East		Americas	
Algeria	23	Nigeria	7	Afghanistan	4	Barbados	1
Angola	5	Rwanda	1	China	2	Cuba	2
Burundi	2	Sierra Leone	1	India	2	Jamaica	9
Cameroon	4	Somalia	20	Iran	19	Total	12
DRC	8	South Africa	1	Iraq	20		
Egypt	1	Sudan	9	Pakistan	2		
Eritrea	3	Swaziland	1	Palestine	4		
Ethiopia	2	Tunisia	1	Sri Lanka	2		
Gambia	2	Uganda	1	Turkey	1		
Ghana	4	Zimbabwe	5	Vietnam	3		
Guinea-Bissau	1	Total	115	Total	59		
Kenya	2	Europe					
Liberia	4	Albania	1				
Libya	4	Kosovo	1				
Morocco	3	Total	2				
						Total	188

the human cost of indefinite detention

the detainee interviews

The majority of the interviewees responded with enthusiasm and commitment to the opportunity to publicly articulate their perspectives and experiences. The interviewees gave powerful accounts of the effects of indefinite detention on their lives and mental health. They showed an overwhelming lack of faith in the system to protect their rights. Analysis of the interviews identified the following themes: life outside detention, the lack of time limits, life in detention, the effects on family members, the bail system, Home Office decision-making and perceptions of the future.

**“I’m a human being,
I’m not an alien.”**

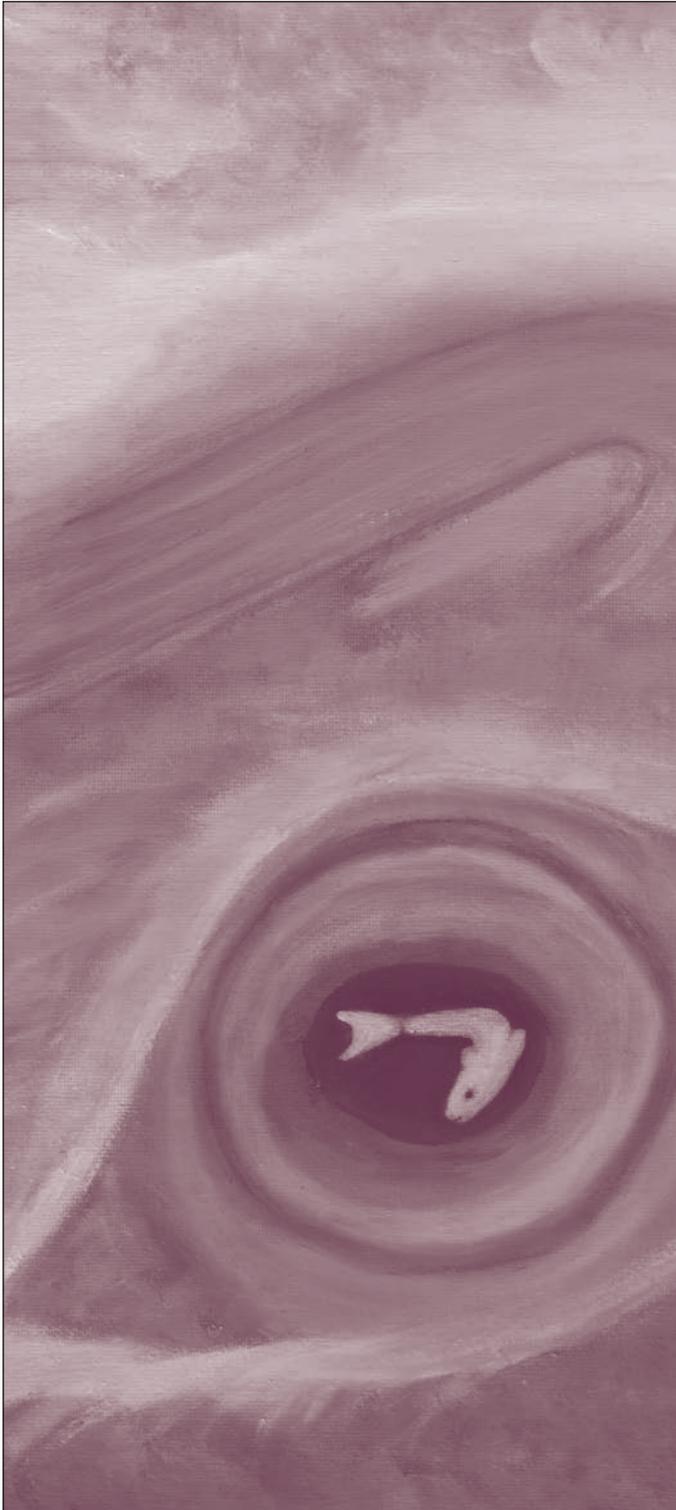
the indefinite detainees

The majority, 20 out of 24, of the interviewees were refused asylum seekers, although four had previously had leave to remain in the UK and the right to work. Eight interviewees were long-term legally resident in the UK, only losing their leave to remain as a consequence of receiving a criminal conviction. Two had lived in the UK for over 30 years and five others had lived here for at least 12 years.

Interviewees were nationals of the following countries: Iran (8), Algeria (4), Somalia (3), Sudan (2), Gambia (2), Democratic Republic of Congo, Ethiopia, Iraq, Morocco and Swaziland (1).

The largest number of interviewees (11) were aged in their 30s. 6 were in their twenties, 4 in their forties and two over 50. One interviewee was under 21.

All had finished prison sentences. Many were for minor, non-violent offences. None had been convicted of the most serious violent offences, e.g. rape, murder or manslaughter. Three had



been given deportation orders for using false documents to work or try to leave the UK, three for theft or shoplifting,

and one for claiming asylum in a false name. This reflects the offences identified in the database research.



Ahmed Abu Bakar Hassan's story

Ahmed Abu Bakar Hassan, 24, is from the Massaleit ethnic group in Darfur. In Sudan he was a political activist opposing the persecution of his people. He was forced to flee the country and arrived in Britain in October 2004. His asylum was refused. When he was told to leave his government-funded accommodation in Birmingham, he slept rough in parks for a while. Eventually he claimed asylum again in another name, not knowing that it was a crime, hoping that he would be given somewhere to live. He served four months in prison, and has been detained since he finished his sentence in October 2006. He has agreed to return to Sudan, despite the danger to his life, but the Sudanese Embassy has refused to admit him. He hopes that telling his story will help other people to avoid mistakes and avoid trouble.

“I was sleeping rough on the streets and parks, such as Southall. I had a very difficult time. That’s why I applied [for asylum] the second time. I didn’t have anything to eat. I was afraid for my life.

If they give me a work permit, I am a young man, I will go and work, I won’t ever depend on anybody or on the state to feed me. I will work.

When I went to prison, I was told that I would spend 4 months. It was good. I started counting down. I thought that’s it. Now I’m here. I’m feeling down and feel everything is over.

I didn’t understand why they took me to the detention centre. They didn’t tell me how long I would stay here for. I didn’t have any idea at all. [When I saw people who had been detained a long time,] I became frightened and scared. I felt worried straight away that I would have the same experience. I started to count and after one or two months, I became worried that the same thing would happen to me.

They asked me for a surety [to release me on bail]. I brought one and they refused it. I brought two people from Bradford who offered £500 and still they refused. [The bail hearings are] not good, not fair. There is no justice. Nothing is known. They didn’t tell me [the reasons for refusing bail] in the court, but later they sent the reasons. Every time it is different. Once: not cooperating. Another: no family. Another: you don’t have a [ongoing asylum] case. Every time a different reason. Frustration, disappointment. Big frustration. I’m not able to describe it. Sometimes I feel there is no hope, but you have to have hope, so I say to myself, I wait for 2 or 3 months and reapply.

Sometimes I sleep, I sit, nothing can be. Some people sleep most of the time. It’s too difficult, it’s too difficult, it’s too difficult. You can’t stand a single day. I don’t wish it on anyone. Every day is the same, I don’t know how we are surviving. It’s not our choice, it’s forced on us.

“Every day is the same, I don’t know how we are surviving. It’s not our choice, it’s forced on us.”

The night is more difficult. The door is locked, no window. I feel suffocated.

My friend, I feel that I’m locked up in a room and the keys are lost. I’m disconnected from life.

My relative made so much effort. He visited me many times. He left his work and came down to London to see my lawyer. Friends came as well. In the end, I asked them not to come as I didn’t want them to be exhausted. I felt sorry for them. They attended the court sessions too. I have true friends who tried hard to do something for me. But I think they got exhausted and tired.

Future? My future? There is no future at all. I have no future at all. I’m lost. I can’t imagine that there is something called future.”

“I just want to live a normal life.”

experience of work and destitution in the UK

Asylum seekers generally do not have the right to work. Out of around 350,000 refused asylum seekers currently living in the UK, only around 10,000 are receiving Section 4 support from the Home Office¹⁹, consisting of accommodation and £35 per week in vouchers. With the exception of a small minority with independent means, the rest, it must be assumed, are destitute, relying on informal support from friends, families, communities and charities or involved in the shadow economy.

As a result of indefinite detention, many detainees feel that their status as a human being has dramatically changed. They often referred to their former occupations when describing this process of change. Work is not only an economic necessity for survival, it can be a basic human necessity for self-respect, particularly for asylum seekers who have left their roles in their own societies. They are often highly dynamic and energetic people: however forced their initial choice to leave, the process of reaching the UK often requires great resilience. They bring this energy to the UK, but it is immediately stifled as a matter of policy. The forced immobility of unemployment mirrors the much more drastic restrictions of detention, but both have similar effects of isolating asylum seekers from society and maintaining them in a passive, dependent position.

Even after a year or more in detention, the interviewees made clear their continued desire to be active and independent. Nine spoke of wanting to work. Former professional identities and qualifications were clearly important sources of self-respect and autonomy: occupations revealed unprompted included a chef, a motor mechanic, a physiotherapist, two plumbers, a welder, a businessman and an academic.

“I’m a human being, I’m not an animal, I’m not an alien come from planet, I’m also a human being who wants to have a girlfriend one day, settle down, get married, have couple of children, pay his taxes, be free, work and live, that’s all what we want. I’m not asking for them to crown me as the king of this country or anything like that, all I’m asking is let me work. I’m a plumber from my own country.”

Karim Benhamou from Algeria and London, detained 8 years

Karim Benhamou, 43, is a plumber from Algeria. He has travelled widely, and speaks Italian, Spanish, French, German and English fluently. He came to the UK in 1995 and claimed asylum. After the refusal of his asylum he was street homeless. He has spent a total of eight years in British immigration detention, which he believes, probably correctly, to be more than anyone else in recent years. He has been detained three times following criminal convictions for attempted theft, shoplifting and using a false document to work, and a fourth time for absconding after false allegations were made against him and he feared going back to prison. Despite his experiences he is a great admirer of the British way of life, supports Arsenal and feels that he is British through and through. He also wants to record that he is very handsome.

“All my problems come from, from haven’t got permission to work.”

Ned Asad from Iran and Southend-on-Sea, detained 17 months

¹⁹ Home Office, Control of Immigration, Quarterly Statistical Summary, United Kingdom, p11, <http://www.homeoffice.gov.uk/rds/pdfs08/immiq308.pdf>

“I would have been a chef, I am good at cooking... but here you have to go to college and I couldn't go, they said no. Every time I try to do right way, the door is closed in my face.”

Rafik Bouzid from Algeria and Portsmouth, detained 22 months

Experience of destitution and homelessness was cited as a major factor in leading several interviewees to their current situation. The undeserved indignity of life on the streets clearly remained a painful memory. The four who spoke of sleeping rough all identified homelessness as the main reason for their offences: using a false document to work, theft, shoplifting and claiming asylum in a false name to access accommodation. They argued that they had been placed in an impossible position, prevented from working or claiming benefits, yet unable to leave the UK due to lack of travel documents. These four interviewees had been detained for a total of over twelve years.

“And homeless, of course, I'm not allowed to work, I'm not allowed to claim [benefits], they don't house me, they don't give me work and they don't give me support, what am I supposed to do? Everybody, the night falls, they have a home to go to, everybody has got a hot meal to eat...”

...wait outside the Underground until it opens up at 5 and I used to sleep on the Piccadilly Line, it's the longest one. I had to, Cockfosters - Heathrow, Heathrow - Cockfosters, two times, up and down, up and down...

I come out, McDonald's, have a wash, everything, go and get a toothbrush, wash my teeth, comb my hair, make myself look decent, as if I have a home because I'm embarrassed to let people see me dirty. I am not dirty even though I sleep on the street.”

Karim Benhamou, detained 8 years

“I was homeless one year, no choice for me, I have to travel from [this] country. I buy fake passport basically, that's why they arrest me and they give me one year sentence... I'd like to work but I'm cold and I'm outside, what can I do? Hungry, no food, no support.”

Mohammed Ali Saad from Sudan and Manchester, detained 24 months

Five interviewees spoke of their hopes to return to conventional life and work in the UK.

“Because I want to give my family a very good life. I keep promising my son that when I get released I buy him motorbike. That's the only thing now I am thinking at the moment. Go back to my family, find a job, that's it.”

Joseph Lumba from DR Congo and Croydon, detained 2 years and 8 months

I'm doing a life sentence”

indefinite detention without time limits

Most interviewees described discovering that they could be detained indefinitely as a great shock. Nine mentioned only discovering that they would be detained when they reached the end of their prison sentence and were expecting to be released. Four were actually released and only later picked up for detention on the street or at home.

“I packed my stuff, I got ready and everything, thinking my time is up, looking forward to doing something and then suddenly, “you’re going nowhere”. What do you mean I’m going nowhere? My time is finished isn’t it? “No, you got an immigration problem”. *Immigration problem* cost me 25 months.”

Karim Benhamou, detained 8 years

“I come to the parole, and they said to me, this is the first time you are coming to prison and [in] three years you’ve had no problems whatsoever and you’ve done every course we required [you] to – but we can’t release you because you’re under the Home Office or Immigration.”

Shirazi from Iran and Peterborough, detained 2 years and 5 months

“A deportation order came from nowhere.”

Achene from Algeria and north London, detained 21 months

The interviewees described a detention that is both theoretically limitless and in reality very long. They had been detained for an average of 2 years at the time of the interviews. But the majority knew other detainees who had been held longer, leading to widespread anxiety that release could be very distant indeed. Six feared that they will never be released. Four described a coping mechanism of telling themselves that they are serving a life sentence.

“I don’t know, I just think about it as if I am doing a life sentence, that’s the way I have to think. If you had a release date, at least it’s something to put your mind to, but I don’t have that. The way I look at it is, I’m doing a life sentence.”

Liban Al Kadi from Somalia and Sheffield, detained 15 months

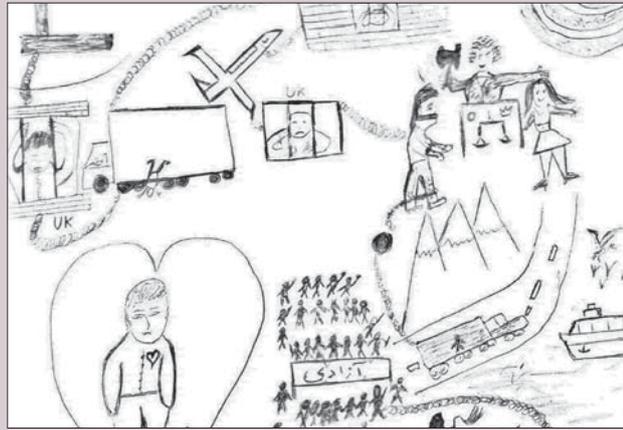
The uncertainty of the lack of time-scale added to the interviewees’ sense of powerlessness and lack of control over their situation. None showed any confidence that they were in a slow but inexorable process that would lead to resolution of their case. Equally, none described any sense that they could return to their country of origin if they chose. The current trauma of detention came across as of far greater concern than a deportation which appeared a remote possibility.

The apparent arbitrariness of the system was a major theme. Interviewees felt themselves confronted by a system of implacable hostility and disinterest. Interviewees described attempting to connect their own and other detainees’ situations and actions with what happened to them, but being unable to discover any link. Minor with serious offenders, the quietly well-behaved with perceived trouble-makers, those who wanted to return with those who didn’t: all stayed detained regardless. Except when they didn’t; and interviewees could discern no logic in the pattern of who was released. The result was an impression of absolute disenfranchisement: nothing they could do seemed to have any impact on the overwhelming fact of their detention, so better to do nothing and wait on inscrutable fate and the Home Office.

“The main problem is, that, you don’t know how long it is going to be, and this is the one thing I think, all detainees will agree with this, that it’s the worst thing about detention... you don’t know how long you’re going to take this. I mean, if you know, one year, two years, three years...”

Reza from Iran and Coventry, detained 13 months

Reza, 32, was a highly successful physiotherapist in Iran, until his political involvement meant that he had to flee in 2000. He came to the UK and was working for Parcelforce and studying English and Computing at Coventry College until he was convicted of a criminal offence. He is a survivor of torture. However, the Home Office disregarded a medical report by an independent doctor and refused him asylum. He has been detained since October 2007. He spends his time in detention meditating, translating into Farsi books on Western and Eastern religion, and painting. He has allowed us to use several of his art works to illustrate this report.



“If the immigration detention does not have a limited time, is it called detention? I don't think it's detention. Because in my point of view, this place is torture... The way they organise everything is torture... Taking my freedom. Obviously when they take my freedom they have control over my mind.”

Ara Navid from Iran and Hertfordshire, detained 13 months

“Why you keep me in detention for 43 months? Why? For what please? I [went] to prison for 72 days... I'm confused, I can't thinking, I can't do anything. I don't know why the Home Office is waiting. I'm going crazy.”

Jafar from Iran and Liverpool, detained 43 months

Interviewees highlighted their exclusion from social and legal standards and expectations of British society at large. Several mentions were made of the debate over the proposed 42 day pre-charge detention of suspected terrorists. The irony of this debate was not lost on interviewees, who felt that they posed a rather less pressing threat to the UK. The speed and activity of a police anti-terrorist investigation seemed an implausible luxury in comparison to the apparent stasis of the deportation process.

A major trend of the interviews was surprise at encountering indefinite detention in the UK. The majority of interviewees had experienced repressive dictatorships or wars back home, and four described bringing with them a perception of the UK as a country of human rights. Their primary response to the reality was disbelief. One interviewee described his difficulty in explaining to a relative in Iran that he was still being held for no crime and had no idea when he would be released.

“We don't have a [time limit] law. Terrorists, they got 42 days. They are protected. They are arguing about 20 days or 40 days, I see it on the telly. They are arguing about terrorists and we are decent people.”

Daniel from Africa and Hounslow, detained 20 months

Daniel has just turned 20. He was a child soldier from the age of 13, and saw his best friend killed. He himself was shot in the stomach. He came to Britain as an unaccompanied minor in 2005. When he was 17 he was sent to prison. He was taken to immigration detention on finishing his sentence in May 2007.

Ali Saifi, 27, lived in Birmingham when he arrived in the UK in 2002. He received no benefits or support from the government as he was never advised that he may be entitled to asylum support. As an asylum seeker he did not have the right to work. He worked informally on building sites for a while, but lost his job because he did not have papers. He moved to London and ended up on the street. He stole food from the market to eat, and was arrested and convicted of theft. Early in his sentence he applied for early deportation, signing to forego his right of appeal. But the Home Office had lost his passport, and the Algerian Embassy refused to give him a travel document. He has been detained since April 2007.

“I can’t believe it’s happened to me in this country. I was coming from my country to be safe in this country. But when I come here I find more difficulty. When I was in my country I never been in prison like that, never in my life I been locked up, but now I’m feeling like I was born in this place.”

Ali Saifi from Algeria and Birmingham, detained 19 months

“Eight years [in immigration detention] on three different occasions, that’s weird for here in England. If it was elsewhere I would have understood it but the fact it happened to me in England where we all endorse democracy and human rights”

Karim Benhamou, detained 8 years

“I never expected, like these things happen. I expected more humanity... This is completely unfair, because once (we) claimed asylum in your country, and you know, it feels like your house is on fire, you’re running out of your house, and you go to another house, and you find that house is on fire as well.”

Reza, detained 13 months

Several interviewees acknowledged their own responsibility for their offences, but felt acutely their inability to move on from their status as an offender. Six interviewees spoke of having made mistakes, but having to continue paying for those mistakes.

“You know, after six years, I try to forget about it, I try to move on. But they just keep trying to say that, because you’ve been convicted once, for the rest of your life, every single thing you say is a lie. They try to humiliate you, and intimidate you, and take everything, do everything they can to break you down.”

Reza, detained 13 months

“I’ve done a crime, I’m not proud of it, attempted theft, shoplifting... I was sentenced in 1996 and recommended for deportation... Ever since I’ve been detained, out for a few months and then back, stay a few years.”

Karim Benhamou, detained 8 years

Many interviewees stressed the disproportionality of a detention they experienced as ongoing punishment. 8 interviewees emphasised 16 times that they were not murderers, rapists or violent offenders. The disjunction between their treatment and that of British offenders, even very serious ones, was a cause of particular frustration.

“I was in prison, I become friends with someone... He tried to commit a robbery with a gun. He just come in prison 3 months earlier than me... About 5 months ago he called me and said “I been released from prison”. I thought oh, my God, good luck to you. But I thought I was supposed to be 6 years less than him in prison, and I’m still inside.”

Shirazi, detained 29 months

Interviewees described passing through a criminal justice system which maintained a reasonably transparent correlation between offences and punishments, to a detention system apparently devoid of limits, causality and comprehensibility. The basic injustice of their exceptional treatment was clearly a major reason for their perception of the illegitimacy of detention. Three interviewees described their situation as discrimination, while five compared their treatment to that of animals.

“We all bleed red. There is no one of us bleed gold.”

Karim Benhamou, detained 8 years

Three interviewees referred eight times to the cost of holding them, to no apparent purpose and their own misery, “wasting our lives and wasting their money”.

“You know what is astonishing about this? Eventually we get out. So all the strategy is a waste of taxpayers’ money and people’s life behind bars.”

Karim Benhamou, detained 8 years

“Living in the dark”

life detained

Interviewees felt that conditions and facilities in detention were not adequate for those forced to live there for years. They described using fully the facilities, including education, English lessons, computers, internet chat-rooms, the gym and TV. The phrase “killing time” recurred. Five interviewees felt that there was nothing to do.

“People watching TV 24 hours. I hate the TV, there’s nothing else.”

Mohammed Ali Saad, detained 24 months

“But the day is long, 24 hours, so no matter what you do you will get fed up with it... We’re not talking about days, we’re talking about weeks, about months, and now we are talking about years.”

Achene, detained 21 months



Small positives were provided by the opportunities to work for pocket money as cleaners, which were mentioned by three interviewees. There was dissatisfaction at the limited nature of the work available in comparison to prison regimes. But the prevailing impression was that no regime could be adequate for indefinite detention.

“I used to speak French better than I speak English. I’ve been trying to sit down and polish it, but I just can’t concentrate to do it. I used to enjoy painting, but I cannot put pencil to paper... The things we do here, anything you do, you need to have peace of mind, a free mind to do it.”

Lawrence, detained 15 months

“I’m not happy the way I live. I want to be at home every second. Every day, every hour I’m stressed. I’m missing a lot of things... I’m living in the dark. Dark life.”

Daniel, detained 20 months

“You go crazy here”

psychological deterioration

“Indefinite detention may raise issues under the peremptory international law rule against torture. Because of the psychological effects that indefinite detention may have on individuals, it may also entail violations of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.” - Alfred de Zayas, ‘Human Rights and Indefinite Detention’, International Review of the Red Cross, 2005; 87 (857). 15 – 38.

Interviewees described a situation of endemic mental disorder and distress. Several were clearly shocked by what they had witnessed: seven described witnessing other detainees, in some cases their room-mates, self-harming or attempting suicide. There was great concern at seeing in detention people evidently suffering from severe mental health conditions, whom interviewees believed should have been hospitalised. This impression is supported by LDSG’s experience of needing to exclude six indefinite detainees from the research for reasons of psychological disorientation and distress.

“I seen very bad things in this place. I hope I come out in one piece. Because there so much people in here getting, getting mad. Going crazy, and they just cut themselves... I’ve seen lots of people cutting themselves. It makes me scared, you know what I mean? I’m sane but you worry what is going to happen to you.”

Rafik Bouzid, detained 22 months

Particularly disturbing was the extent of psychological deterioration revealed amongst the interviewees themselves. Five interviewees with no diagnosed pre-existing conditions disclosed, unprompted, their own collapsing mental health. Interviewees spoke of hearing voices, talking to themselves and memory problems. Two spoke of having harmed themselves in detention; three described experiencing suicidal feelings. Five in-

terviewees worried about their dependence on medication and were concerned for the long-term effects. It is not possible to speculate to what extent these are mental health problems that interviewees will continue to live with after release, or whether they are simply appropriate stress responses to the situation faced.

“I don’t think my life will be the same even if I get released. This place is going to stay with me the rest of my life. I will never, never forget this place, for the rest of my life... The first thing I’d do [if released], I’d go and see a psychologist, the doctor. I feel I’ve got mental problems since I’ve been here. Every one of us has got mental problems here - because you don’t know what is going to happen to your life. You know?”

Omar Abdirahman from Somalia and London, detained 2 years and 9 months

“There’s nothing to do, every night. I start hearing voices, hearing voices, tell you do crazy things to myself. I’m using medication right now. I’m depressing... I’ve never had medication in my life before now, never. Not in my country, never. All this medication, sleeping tablets. I’m coming in here and starting using everything.”

Mohammed Ali Saad, detained 2 years

“You go crazy here. You see people going nuts here, they talking with themselves. Someone talk with the wall, you go crazy. There is no-one, you talk with the wall. You know, I’m shocked when I see people like that. Even myself, sometimes I see myself talking, laughing with myself.”

Ali Saifi, detained 19 months

“They have tampered with my brain in here... I'm losing my mind, the endless process, this hell of imprisonment. Unjustifiable.”

Karim Benhamou, detained 8 years

“When I was a (child) soldier I see nasty injuries, people died, I see a lot of things but this is the first time I've felt... I think I've got something wrong with my mental. I think maybe I've got a mental problem. Forgetting things, getting angry... I need help, I need big help because these people have damaged me mentally physically. Mentally, already I'm ill. I fear. At the end of the day, I'm African, I'm human. Can somebody help me?.. You feel hopeless. I feel hopeless. I feel very hopeless. Because everyone loves to daydream. I want that. Someone needs something, I want that. It makes me feel sick.”

Daniel, detained 20 months

Insomnia appeared to be an almost universal trial of life in detention. 17 interviewees said unprompted that they had difficulty sleeping. Interviewees referred to noise and general discomfort as factors, but it was clear that stress and “suffocation” were major issues.

“In the middle of the night I wake up and I can't go back to sleep. I feel bad. At that time I need my family right there. I feel alone.”

Daniel, detained 20 months



“The thing is, how long, how long?”

the impact on personal relationships

Many interviewees suffered from the separation from their families in the UK. Six have children with British nationality, of whom four have children aged 5 or under. Four have British-resident wives. All interviewees with families living in Britain emphasised the strain of separation. Three described the breakdown of relationships as a result of detention. Several interviewees felt that it was unfair that their children and families should suffer for reasons that they were not involved in. Two interviewees said that they have not told family back home that they are detained, in order not to upset them.

“My mum, every time she comes to see me, she doesn't know what to do and she just cries, she gets really frustrated. And same my wife as well, and my kids. My kids, they just started speaking, and every time, like, when they come to see me, they just cry and say, we want you home daddy, and my wife also.”

Mohamed Mohamed from Somalia and Leicester, detained 13 months

“It's very hard. Especially if you got family and kids, it's hard, you know. I've got kids, and I think about them 24/7, you know... I'm suffering, my kids suffer same time, and my son, here with my missus, she's not been here because of detention, I've been here long, long time. And I split up with my missus, and I'm feeling sad... I split up with my missus because of this whole thing... The thing is, how long, how long.”

Omar Abdirahim, detained 2 years and 9 months

“I have banned my family from coming to see me here. I don't want them to go through the trauma I am going through. I don't know why... your dearest and nearest who have been born here and have got nothing to do with the situation, have got to share your pain.”

Lawrence, detained 15 months

Interviewees with British children stressed the prospect of deportation and the loss of contact. People deported are subject to automatic re-entry bans and have to wait for an undefined period for their deportation order to be lifted. Even then, they may never succeed in obtaining a visa. Deportees who have separated from British ex-partners face the strong possibility of never seeing their children again.

“I'm trying to get my child to have a dad, to know who he is, because maybe when he is grown he's gonna think oh, okay it's not fair... It's no way, to leave your child behind. It's not an object, even people that have a diamond they put them in a safe place but this is a human being, he's going to be emotionally destroyed... It is not me that is gonna lose, it is him. He is gonna grow up without his dad.”

Rafik Bouzid, detained 22 months

Interviewees also described the loss of friends as a cost of detention. Unending detention led friends to forget them, to run out of patience at their inability to pay back favours, or simply to become exhausted with the travelling and hopelessness. Four interviewees described the loss of friends who came to believe that they must have committed a terrible crime to be imprisoned in this way.

“I say to them I'm in detention and they say why you in detention so, how long you going to be? I say to them I don't know. They thought I'm lying to them and I done something rape or murder or terrorist. That's why they don't come down.”

Daniel, detained 20 months

They already made their minds up.

frustration with the bail system

Applying to the Asylum and Immigration Tribunal (AIT) for bail is the only concrete step that all detainees can take to challenge their detention. All interviewees had applied for bail, on average eight times, although numbers of applications made ranged from one to 35. The bail system allows all detainees to have access to an independent judge, who is able to over-rule the Home Office and order their release. The AIT is required to presume in favour of release, with the burden of proof on the Home Office to justify detention. As such, it should serve as an independent safeguard against the Home Office's power to detain indefinitely, reassuring detainees that their detention will not be maintained abusively. However, the interviewees perceived the bail courts as anything but independent.

“The first 14 months I never went for bail because I was waiting to be deported... I went two weeks ago and the judge gave them another 3 months, on top of this 21 months. He said how much time do you need?”

Achene, detained 21 months

Interviewees unanimously felt the bail courts to be hostile. None perceived a fair and transparent system in which applications were judged on their merits. They used language such as “disappointment”, “frustration”, “waste of time”, “not independent”, “distressing”. They described perfunctory hearings, in which they felt that their refusal was decided in advance. While current detainees who have been refused bail may be expected to have negative perceptions, the level of anger expressed was often greater than against the Home Office itself. This seemed to stem from a disappointment that the bail courts were apparently failing to provide independent scrutiny and defence of their rights.

“I been criminal court but this one is like already they made their mind when you go there... I say to them sorry what I’ve done in the past but I did my time and I apologised to them the first time I been in prison. Can’t you give me a chance?”

Daniel, detained 20 months

A recurring theme, raised by five interviewees, was that they had been prevented from speaking at the bail hearings. This was experienced as a basic injustice: they were the ones who had initiated the hearing by applying for bail, yet were given no opportunity to express themselves. In conjunction with the extreme disenfranchisement of detention itself, enforced silence at their own bail hearings was experienced as a painful insult. One interviewee felt that much depended on the individual judge, praising a minority for allowing detainees to speak and making balanced decisions. But he went on to say that in general:

“They don’t let you talk... So we went there, three of us in the same van, I think for all three of us it took maybe ten minutes... I put my hand up, I said “Can I say something?”, [the judge] said “No”, straight away. And then she said to me that [bail was] refused. That’s the only thing I do [in the hearing], I just bring my hand up to say something, she said no... It took two minutes... Not consideration, just “No”.”

Shirazi, detained 2 years and 5 months

Interviewees expressed particular frustration around the reasons for refusal of bail. They complained at the lack of consistent reasons for refusal: “every time a different reason”. Lack of family ties was also cited as a common reason for refusal: it is considered that an applicant with no close family in the UK is more likely to abscond. But most asylum seekers have no close family here, and none have

any way of acquiring family from detention, so nothing they could do could improve their case for bail against this objection. One interviewee was bemused to be refused bail on these grounds:

“That I haven’t got family ties in this country, but how strong can you get, when you got [British] wife and kids, but that’s what they say to everyone, that you haven’t got family ties.”

Ibrahim Muhammad Bojang from London and West Africa, detained one year

Many interviewees expressed frustration that their crime was used over and over as evidence that they might re-offend or abscond, even where they were first offenders and had never absconded. They were confronted with the unchanging, unchangeable fact of their offence and the impossibility of proving that they would not re-offend or abscond. The logic of this argument is that nothing that they can do will allow them to be released.

“You’re a failed asylum seeker, you’ve been convicted once, and you might breach the bail conditions. I mean, since I was outside [after release from prison], I was signing every week, every month, and I never breached the condition... And they try to make our picture, like [we] are very dangerous people, they cannot be trusted, I mean every time we go for bail hearing, they put so many horrible things, and they, actually, incriminating you in front of your family, in front of your friends, and you feel like, why the hell did I go for bail? What’s the point?”

Reza, detained 13 months, refused bail 11 times

Three described having been refused bail repeatedly or months previously because their deportation was “imminent”. Interviewees recognised the irony of a deportation that was perpetually imminent yet never actually arrived.

“They refuse because they say “your deportation is imminent” – always the same thing.”

Achene, detained 21 months

“Some of them [Home Office presenting officers] little bit play with truth, like for example “in two weeks time we are going to find travel documents”. “Ok” [the judge] says, “in two weeks time” and everything and then you go there again and they said no. This time it never finishes there is no time limit.”

Ned Asad, detained 17 months

“They know that, I know that, and the judge knows that”

barriers to return

“There are numerous cases of persons held in indefinite detention because they have no nationality, or their nationality status is unclear... In some instances persons have been in detention for years... because the State does not know where to send them and refuses to release non-nationals on its territory.” - UN High Commissioner for Refugees, UNHCR Brief on Statelessness and Detention Issues, 27 November 1997

Many interviewees were aware of the apparently insurmountable barriers to their return. Nine spoke of their difficulties in obtaining travel documents from their country’s embassy. This issue was particularly stressed by Iranian interviewees. They believed that all involved understood the impossibility of obtaining Iranian documents, yet the AIT and Home Office made ever more suggestions of possible ways that the detainee could try to obtain documentation, including contacting the Iranian authorities directly or through family members in Iran. Interviewees experienced great difficulty in proving that they had taken these steps, in particular where they required the involvement of family members.

“The Immigration say that detainees are persons supposed to be detained for their removal. But because problems with their countries of origin or sometimes administrative delays, while they’re trying to obtain the travel document. And with the delay, detention continues for many months without Immigration Service coming any closer to actually removing the person.”

Ara Navid, detained 13 months

“They don’t even try to do it, because they know the Iranian Embassy does not issue emergency travel documents, they know that, I know that, and the judge knows that... And the judge... actually has been dealing with my case for three times and, he realized that something is funny, because this man’s been cooperating, and this is not a case that his identity is not clear for Immigration, why he is still not get the travel [document] that he went for? And they said, the Iranian Embassy does not cooperate, which is obviously not my fault. Some country, they don’t recognise their own citizens, it’s whatever politics that they’ve got. But none of this are our fault.”

Reza, detained 13 months

“They said they had the right to keep me here until they got emergency travel documents. Which they can never do... And I did even cooperate... I sent fax to foreign minister in Tehran, I sent letters to my mum, I sent many letters to get any documentation, they cannot... Immigration said no, you’re not doing your best. [The court] said we don’t believe you sent the letter out. I asked them why they don’t ask the detention centre to get a confirmation. They said they don’t have time for that.”

Hassan Ravandy from Iran and London, detained 21 months

Seven interviewees emphasised unprompted their wish to return. These interviewees felt an acute sense of injustice: not only was the Home Office failing to arrange their departure, but they were forced to endure the indefinite wait in detention. Some felt that they would have a better chance of going home if they were free and able to visit their embassy themselves to negotiate for documentation.

“Don't talk to me like a number”

communication with the Home Office

Interviewees described an almost total absence of constructive dialogue with the Home Office. All detainees have a designated caseworker responsible for progressing their case, but for several years no officers with decision-making power have been on-site at detention centres. The Criminal Casework Directorate, responsible for the great majority of indefinite detainees, is based in Liverpool, a substantial distance from any detention centre.

“Tell me, what beautiful thing in this country, it make you damage your brain and your health and you stay two years behind the door?... Do they think I'm happy, staying behind this door, missing everything in life?... I'm gonna go back to my country... England is not paradise. I'm happy [to] go back to my country... Deport me. I want to deport myself.”

Mohammed Ali Saad, detained 2 years

“When I see I'm not welcome here, I understand, and I want to go. But how can I go when I'm detained?”

Reza, detained 13 months

“I feeling like I am kidnapped... They wearing something in their face, like how they kidnap people, they put something to cover their face, I never see them.”

Ali Saifi, detained 19 months

“They sent me a letter saying your deportation is imminent from this country, and that's it, fair enough, thank you very much, I started cooperating with them to deport me.”

Achene, detained 21 months

Only two interviewees had ever met their caseworker. Around half did not even know their name. Six mentioned that their caseworkers changed constantly. The little information that interviewees received came via their monthly report, by which the Home Office is required to update detainees on progress in their case. Four complained that their monthly reports were always identical. One interviewee mentioned that his monthly reports used to come every four or five months.

“I want to go home. 19 months is enough for a human being... I give them my ID, my everything, I tell them I want to go home, but still they telling me “Your embassy...” ... Okay, you didn't take me home, release me, let me go outside and do something for myself for my life, let me move myself, I want to go to my embassy and meet them and talk to them and see what happens for my travel document.”

Ali Saifi, detained 19 months

“They keep changing my case worker. I never talk to them. I never meet them, I don't know who they are.”

Joseph Lumba, detained 2 years and 8 months

Interviewees emphasised that they did want dialogue with their caseworkers. Four described more or less futile attempts at communication, in which caseworkers failed to respond to letters, were changed without notice, or simply hand-wrote a perfunctory response on the back of the detainee's letter.

“That’s what they say, we don’t want to talk to you. If there is anything you want you have to fax us... I feel bad, he is the one who is dealing with my case and he can’t even talk to me like a human.”

Daniel, detained 20 months

“They don’t even speak to you. My caseworker put the phone down on my solicitor. We can only fax them. We are not allowed to speak to them. I asked for them to come and meet me and hear me out, never. You don’t know if they exist.”

Lawrence, detained 13 months

“Talk to me like a human being, don’t talk to me like a number.”

Ali Saifi, detained 19 months

“I see blank.”

what future?

Many interviewees viewed the future with nothing short of despair. Almost half described their future as gone, absent or empty. They saw clearly the bleakness of their prospects in the UK even if released, a survival existence on vouchers and the ever-present risk of return to detention. Some foresaw only the definitive loss of family members. Others were unable to give any form whatsoever to their image of the future.

“If you go out, you got another detention centre waiting for [you]. You’ve got to sign in, [you’re] not allowed to go out, [you’re] not allowed to get money in your hand because they give you voucher for eat. It’s not a life... At this time I don’t see any future for me.”

Mohammed Ali Saad, detained 2 years

“The future, what future are we talking about? I use to see my future but now I cannot see it to be honest.”

Achene, detained 21 months

“I see blank. I don’t see the future.”

Joseph Lumba,
detained 2 years 8 months

A glimpse of the extent of this wasted opportunity for the Home Office was provided by interviewees’ reports of positive relationships with on-site immigration officers in centres, with whom there seemed to be regular communication and an element of trust. However, interviewees expressed frustration that on-site officers have no influence on decisions and were often as confused as the detainees themselves as to why they were still detained. Given that the Home Office routinely ascribe indefinite detention to detainees’ own failure to cooperate adequately, this apparent lack of interest in engaging with detainees is surprising in the extreme.

“Empty to be honest. Without my boy it's empty, it's nothing. To be honest my future is nothing, it's nothing to me.”

Rafik Bouzid, detained 22 months

“I don't see my future. Everything is going against me. I've lost my family and everything. When I think about [the future], it's just a blank, a black page, that's it, nothing on it, just a dark black page.”

Liban Al Kadi, detained 16 months

Some interviewees did maintain a sense of optimism. Hopes for the future were associated by nine interviewees with a possible return to “normal life”, involving family, work and day-to-day routine. These interviewees retained a sense that they could get their lives back, “go back to society” and become again like everybody else.

“You know, I am looking to start a family, to make a good life, you know, like business, like education, like something – I like to help people. Help, you know. There's many things I want to do in the future, everything.”

Mojtaba from Iran and Manchester, detained 21 months

“If I get outside I will look after my life, I will move to my country, I want to be like my father what he done when he bring me [up]. I want to get children, I want to get married, I'm 27 now. They should understand but they not understand.”

Ali Saifi, detained 19 months

“I don't want to be rich. I just want to live a normal life like everybody. A job I wake up to, I go, I work, I come back home, I have nice woman, a couple of kids, I got a house, I got a tiny car like a VW, just a bit of money in the bank like everybody, in case somebody fall ill or some emergency, that's all what I want and ordinary as possible. I don't want nothing out from them except to let me go, let me go, they have no right to steal my life away.”

Karim Benhamou, detained 8 years

Interviewees felt acutely a sense of lost time, that their lives are passing without them and will soon be gone. Days in detention accrue nothing, they vanish without trace, unlike prison days which mark steps towards a release date. Seven interviewees worried about ageing and whether they will have time left to catch up the wasted years.

“I am over 40 years now, I was born in 1967, I have no much left to sort out my life now... I have to accept it and move on so I can start a new life there... I've been waiting for them for 20 months now.”

Achene, detained 21 months

“Each day I'm getting a day older. In terms of human life, [what] is maybe an hour outside, in here it's like a lifetime. People age quicker than the people outside.”

Zyad Al-Saadon from Iraq and Medway, detained 19 months

“My beard is getting whiter every day... I feel like I'm 85 years old, like my life is gone, it's wasted.”

Karim Benhamou, detained 8 years

“Sometimes you sit, and you think about your life and you think, oh my God, it's not just one day, two days, three days, but three years, and three years where somebody gets from 27 to 30 – he's quite missed out on his life.”

Shirazi, detained 2 years 5 months

“And my time will run out, I'm not enjoying my life. Especially at this time, Christmas, you see it on the TV. People laughing. Seeing people enjoying their life but I'm living low life. This life is hard... a couple of days ago my birthday... three birthdays in detention.”

Daniel, detained 20 months

analysis and conclusions

The Detained Lives research demonstrates the failure of the UK's blind reliance on immigration detention as a panacea to the challenges of immigration control. Asylum seekers and foreign ex-offenders are seen as a problem that can be resolved with sufficient toughness. Indefinite detention is the logical culmination of years of increasingly repressive immigration policies: yet it does not work. LDSG's evidence shows that indefinite detention is a largely ineffective means of deporting people. This exercise in futility has an enormous human cost to the lives of those on the receiving end.

The research makes clear that indefinite detention is a reality and may even have become routine, given that one small charity has worked with 188 indefinite detainees over an 20 month period. The importance of this in itself should not be understated: indefinite detention corresponding to no criminal sentence is an extreme measure. In no other corner of society does anything comparable take place: the criminal justice and mental health systems only hold people indefinitely in rare and extreme cases. The reluctance of society to tolerate 42 days detention without trial of terrorist suspects stands in stark contrast to an immigration system that gives little respect to the civil liberties of foreign ex-offenders.

The in-depth interviews with 24 indefinite detainees make clear the devastating impact of indefinite detention. The despair and psychological deterioration described so vividly by the interviewees accurately reflects the situation which LDSG volunteers regularly encounter in their visits. Losing their liberty is as painful and damaging for asylum seekers and ex-offenders as for anyone else. British ex-offenders are assumed to have been rehabilitated, so are released; yet stateless foreigners cannot be forgiven, so can be incarcerated many times longer for the same offence. Society's lack of attention to the situation of these indefinite detainees calls into serious question its commitment to human rights, which by definition must be universal. Stateless people who have no state to represent them seem very easily to be deprived of these rights.

In order to assess this cost to detainees' rights, not to mention the taxpayer, it is necessary to consider the aims of detention. Under British and international law, detention of immigrants must be justified by the pursuit of deportations. However, by this standard indefinite detention is an abject failure. The fact

that only 18% of indefinite detainees in contact with LDSG have been deported suggests that prolonging detention only rarely succeeds in overcoming the barriers to deportation. Given that almost half of the indefinite detainees were from four nationalities, a clear pattern is discernable of circumstances which can make deportation impossible. Moreover, other European states have achieved far higher rates of removal of refused asylum seekers without resorting to indefinite detention.

UKBA have sought to justify the automatic detention of ex-offenders by reference to the importance of public protection. This factor in itself cannot legally justify detention; but in conjunction with pursuit of deportation, however remote, it has become central to the reasoning behind indefinite detention. This has developed from the political priority attached to the need to reassure the public, following the exposure in April 2006 of failure to consider some foreign ex-offenders for deportation.

However, this political need to appear tough seems to have taken precedence over the development of a policy that actually works. Public protection might be achieved by keeping criminals off the streets, but this can only be temporary. It is significant that even the criminal justice system does not pretend to guarantee public protection, confining itself to the more achievable goal of delivering justice. Some British ex-offenders are at a high risk of re-offending, yet their release from prison is not dependent on proving complete rehabilitation. However, the immigration system, with its elusive aim of complete and perfect immigration control, aims to exclude absolutely the possibility of foreign nationals re-offending. Stateless people frustrate this aim. Since they cannot be deported, indefinite detention becomes the improvised alternative.

Moreover, policies designed to improve immigration control could be seen as actively compromising public protection and causing crime. The marginalisation and exclusion of refused asylum seekers, preventing them from working or claiming benefits, is designed to encourage voluntary return, but in practice leads some to commit crimes. By a spiralling logic, the criminalisation of attempts to work leads to the requirement for draconian measures to protect the public from those so criminalised. It remains unclear in what way the public requires protection from the risk of re-offending of someone like Ahmed Abu Bakar Hassan, whose offence was to claim asylum



in a false name.

Yet the perceived risk caused by these “dangerous” foreigners appears to be given more weight in decision-making than considerations of the likelihood of deportation taking place. The interviewees described being repeatedly refused bail for reasons which did not address the obstacles to deportation, such as the assumed risk of re-offending or absconding created by their crime or lack of family ties. The logical conclusion of this reasoning was that detention could continue forever, since their crime or lack of family would not change. The draft Immigration and Citizenship Bill threatens to further entrench this logic by obliging the AIT to give weight to a number of specified factors in assessing suitability for bail: all are factors that would justify continuing detention, while likelihood of deportation is absent.

The desire to exclude detainees from the UK appears matched by their exclusion from the process that leads to their detention. Interviewees had no meaningful dialogue with UKBA. They did not feel themselves to be in a process leading to deportation or release, based on transparent and comprehensible assessments of the available evidence. Interviewees described an impression of stagnation, in which they were detained for long periods with no progress towards resolution of their cases, yet they could be released at any time, apparently at random. They felt forgotten and abandoned, “behind the door”, trapped in the limbo between an exclusion already decided upon and an unrealisable deportation. That so many wanted their names to be included in this report, despite the vulnerability of their situations, demonstrates graphically their desire to be heard as individuals.

recommendations

- **The UK should end its derogation from the EU Returns Directive and adopt a maximum time limit for detention.**

Only a statutory limit can prevent abuse and reduce the unacceptable stress experienced by indefinite detainees. Other EU states achieve far higher rates of removal without requiring indefinite detention. The UK should follow best practice within the EU and implement a limit of one month on detention.

- **The UKBA should accept the decision of the High Court in “Abdi and Others” and reinstate the presumption of liberty for all detainees.** Detention should only be contemplated for the shortest possible time in order to facilitate imminent deportation. Depriving someone of their liberty on administrative grounds is an extreme step that should be taken only as a last resort.

- **Likelihood of imminent deportation should have priority in decisions by UKBA and AIT to initiate and continue detention.** Other factors should only be considered relevant where it is established that deportation is possible within one month.

- **The detention of mentally ill people should end.** The distress and psychological deterioration caused to mentally unwell detainees is unacceptable and disproportionate to the requirements of immigration control. Where detention in a secure mental health unit is not appropriate, community-based alternatives should be used.

- **Decision-making by UKBA and the bail courts must be evidence-based:**

- Assessment of risk to the public should take as a baseline standards applied by the criminal justice system and Probation Service. The Probation Service should produce probation reports on all foreign nationals on completion of their sentence, in the same way as for British nationals. These reports should be supplied to UKBA, and should form the basis of risk assessments.
- UKBA should commission further independent research into absconding rates, in order to identify factors affecting the risk of absconding. A clear evidential basis should be

required in order to assert a high risk of absconding in an individual case.

- UKBA should publish its internal management information on procedures and timescales for obtaining emergency travel documents from all national embassies. This information is known to exist, but is not provided to the AIT when assessing the likelihood of imminent deportation in bail hearings.

- **Where deportation is not imminent, community-based alternatives to detention should automatically be used.** UKBA should study the successes of the Swedish and Australian models, which have achieved high rates of voluntary return through an emphasis on dialogue with asylum-seekers in the community.

- **Where detention is used, on-site Immigration officers should be reintroduced in detention centres in order to improve communication with detainees.** Monthly case review meetings should involve UKBA caseworkers and detainees. Legal representatives should be funded by the Legal Services Commission to attend where necessary, and should in any case be able to maintain regular telephone contact with UKBA caseworkers. All parties should work to agree and follow a clear action plan leading to deportation or release.

- **The UK should meet its obligations under the 1954 Convention Relating to the Status of Stateless Persons and introduce a statelessness determination procedure.** Immigrants who cannot return to their countries of origin should be granted temporary or permanent leave to remain in the UK, based on objective assessment of when, if at all, return will be possible.

- **Immigrants residing in the UK should have a basic right of participation.** This would include many of the rights and responsibilities of UK citizens, including the right to work. This is necessary to avoid the social exclusion and crime generated by the current policy of marginalising undocumented migrants. It would also decrease the need for detention by reducing the risk of re-offending or absconding.



Mohammed Ali Saad was released shortly after being interviewed for this research.

Karim Benhamou was finally deported, after 8 years in detention.

At the time of going to print, all other interviewees remain in detention.

In memory of
Solyman Rashed
Simbarashe Hokonya
and Ester.

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