

Bill C-4 : The impact of detention and temporary status on asylum seekers' mental health

January 2012

Brief for submission to the House of Commons Committee on
Bill C-4, the *Preventing Human Smugglers from Abusing Canada's
Immigration System Act*

Janet Cleveland, PhD
Psychologist and researcher
Centre de recherche et de formation, CSSS de la Montagne
(Research centre affiliated with McGill University)

Cécile Rousseau, MD
Professor, Division of Social and Cultural Psychiatry, McGill University
Scientific Director, Centre de recherche et de formation,
CSSS de la Montagne

Rachel Kronick, MD
Psychiatry resident, McGill University

Executive summary

Detention of asylum seekers in Canada: Current situation

- In over 95% of cases, asylum seekers are detained because of concerns about their identity documents or a possible failure to appear for immigration proceedings. Less than 5% of detained asylum seekers are even suspected of criminality, security risk or danger to the public
- Asylum seekers are detained either in Immigration Holding Centres or in high-security provincial jails
- Immigration Holding Centres are run as medium-security prisons, with razor-wire fences, security guards, and surveillance cameras everywhere. 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. Wake-up times, meal times and all other activities are regulated by rigid rules. Suicidal detainees are either placed under 24/7 individual surveillance, usually in solitary confinement, or transferred to a provincial prison.
- Detention is for an indeterminate period, until immigration authorities have completed identity checks or other verifications. In 2009-2010, the average detention time was 28 days. Detention review hearings must be conducted by the Immigration and Refugee Board within 48 hours after arrest, then after 7 days, and then every 30 days.
- 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, one study participant was chained to the dentist's chair during surgery for an abscessed tooth. If hospitalized, detainees 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.
- Over the last five years, 650 children (on average) have been detained every year in Canada for immigration reasons, according to official statistics. The real figure is far higher. Many children are not counted in these statistics because they are not personally detained, but rather "accompanying" a detained parent. Children may also be taken away from detained parents and placed in foster care.

The situation under Bill C-4

- Asylum seekers designated under Bill C-4 will be automatically incarcerated in high-security prisons (either in Immigration Holding Centres or in provincial jails) for a minimum of 12 months without any access to release. Even children, pregnant women, trauma survivors, persons who are suicidal, and persons who are mentally or physically ill, will have no right to apply for release.
- Under Bill C-4, children must be detained, just like adults. They will either be imprisoned with their mother, if she is in an Immigration Holding Centre, or separated from both parents and placed in a youth custody centre if the parents are

- incarcerated in a provincial prison. In all cases children will be separated from their fathers.
- Asylum seekers will remain detained until final resolution of their refugee claim, which currently takes two years. Although the government hopes to accelerate the process, bureaucratic delays are inherent to processing refugee claims, especially for large groups. If refugee status is denied, judicial review proceedings will likely last for years.
 - The Minister of Public Safety’s discretionary power to release designated asylum seekers in “exceptional circumstances” does not afford adequate protection. In Australia, which also imposes mandatory imprisonment on asylum seekers, similar discretionary powers are rarely exercised, even in cases involving repeated self-harm and suicide attempts by children.
 - If their refugee claim is judged to be well-founded, designated persons will nonetheless be deprived of the right to permanent residency and to family reunification for five years.
 - All these sanctions will be imposed on people who are not even suspected of criminality or representing a threat. Any group of two or more refugee claimants may be designated as an “irregular arrival”, simply because the government suspects that they may have obtained travel documents from smugglers or that normal processing might be too time-consuming.

Our study: The impact of detention in Canada on asylum seekers

Our findings: Adult asylum seekers

- Our results are based on a systematic, scientific study of a representative sample of 122 asylum seekers held in immigration detention centres in Montreal (Laval) and Toronto, and a comparison sample of 66 nondetained asylum seekers.
- The majority of asylum seekers arriving in Canada (both detained and nondetained) have experienced multiple serious traumatic events and should be considered psychologically vulnerable. On average, asylum seekers had experienced 9 serious traumatic events such as physical or sexual assault, murder of family or friends, and being close to death.
- Detention, even for short periods, is harmful to asylum seekers. After a median detention of only 18 days, over three-quarters were clinically depressed, about two-thirds clinically anxious, and about a third had clinical post-traumatic stress symptoms.
- For previously traumatised persons, imprisonment can trigger retraumatisation, as evidenced by the high levels of post-traumatic stress. Our study shows that detained asylum seekers are almost twice as likely as their nondetained peers to experience clinically significant post-traumatic stress symptoms.
- Numerous scientific studies have shown that being deprived of control over one’s daily life and trapped indefinitely in a demeaning situation is a risk factor for depression. We found that depression rates were 50% higher among detained asylum seekers than among their nondetained peers. Anxiety rates were also considerably higher among detainees.

- In short, our findings show that for asylum seekers, detention very frequently leads to high levels of psychological distress. It places asylum seekers in a position of disempowerment, uncertainty, isolation, and humiliation, in which they are treated like criminals despite having committed no crime.

Our findings: Families and 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. Over time parental distress tends to worsen, and ability to care for children is increasingly likely to be impaired.
- 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 may experience long-term detrimental effects after release from detention, including nightmares, sleep disturbance, severe separation anxiety, and decreased ability to study.

Our findings: Sun Sea asylum seekers

- We interviewed 21 asylum seekers who had arrived on the MV Sun Sea, after their release from detention.
- All had 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. They had lived under tarps or in bunkers and witnessed loved ones killed or maimed. Many had been injured themselves, and all had been very close to death.
- A majority of the respondents had been tortured, often very severely. For example, one man had been hung upside down, dipped in a water trough, beaten with sand-filled plastic pipes, and subjected to a mock execution.
- Most had been detained for months in overcrowded camps run by the Sri Lankan army after the war. Then, on the MV Sun Sea, there was insufficient food and water.
- Upon arrival in Canada, all 492 Sun Sea asylum seekers were detained: the men in a high security provincial prison for male criminals, the women without children in a prison for female criminals, and the children with their mothers in a secure youth custody centre. Typical detention periods were about 4 to 8 months.
- All the respondents reported that their worst experience in Canada was having been repeatedly questioned by CBSA officers in a very confrontational manner, often concerning the very painful events they had experienced.
- About three-quarters of the Sun Sea respondents 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.

Studies in other countries: The impact of detention and temporary status

Studies of adult asylum seekers

- Numerous studies have shown very high levels of psychiatric symptoms (especially depression and post-traumatic stress) among detained refugee claimants, even after short periods. Symptoms generally worsen over time, particularly among the many asylum seekers who have experienced premigration trauma.
- In the United Kingdom, after a median detention of only 30 days, 76% of detained refugee claimants were clinically depressed compared to 26% of a nondetained comparison sample.
- 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. 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.
- The clearest evidence of the harm associated with long-term detention of asylum seekers comes from Australia, which for years has had policies similar to Bill C-4. In 2010-2011, for example, there were over 1100 incidents of self-harm in Australian immigration detention centres, including 6 suicides, for a population of about 6000 people detained for a median of 10 months. This is over 10 times the suicide rate in the general Canadian population, and involves detention periods similar to those imposed by Bill C-4.
- Australian researchers found that, three years after release, refugees who had been detained over 6 months and then granted temporary status were still very distressed, with half still experiencing clinical levels of both depression and post-traumatic stress. Four years later, a follow-up study showed a substantial decrease in psychiatric symptoms among individuals who had finally obtained permanent residency. This clearly shows the negative impact of temporary status on mental health, especially post-detention.

Studies on asylum-seeking children and families

- In the UK, researchers found that even after relatively short detention (average of 43 days), 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.
- 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. 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. The parents all suffered from major depression and most from PTSD. All parents had persistent suicidal thoughts, and a third had attempted suicide.
- In 2004, after an in-depth inquiry into the impact of detention on asylum-seeking

children, the Australian Human Rights Commission concluded that “Children in immigration detention for long periods of time are at high risk of serious mental harm.” The Inquiry found that many children had symptoms such as developmental delays, bedwetting, nightmares, separation anxiety, sleep disturbance, and depression. A number of children also engaged in suicidal behaviours such as self-cutting, attempted hanging, drinking shampoo or detergent, or voluntary starvation. Previously competent parents, notably women giving birth during detention, were often too depressed to adequately care for their children. The Commission found that the Australian government’s failure to implement health professionals’ repeated recommendations to remove children and their parents from detention constituted “cruel, inhumane and degrading treatment” contrary to the Convention on the Rights of the Child.

- 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. 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.
- Placing children in foster care while keeping their parents detained is not an acceptable alternative in mental health terms. Indeed, scientific evidence suggests that separating children from their parents may be more harmful than detaining them with their parents.

Conclusions

- Even short-term detention has a negative impact on both adults and children that may persist after release. Longer detention tends to aggravate symptoms and increases the likelihood of long-term mental health problems.
- Mandatory detention without access to review for the first 12 months will inevitably cause high levels of mental health problems, particularly depression and post-traumatic stress.
- Detention places asylum seekers in a position of disempowerment, uncertainty, isolation, and humiliation, all of which are major risk factors for depression. Being deprived of any means to challenge one’s detention considerably accentuates the level of disempowerment and increases the likelihood of severe depression and suicidality.
- Detention of pregnant women and new mothers puts the baby at a serious risk of long-term physical and mental health problems. There is overwhelming medical evidence that maternal depression may result in grave and often permanent damage to the child.
- Trauma survivors, both adults and children, also have a particularly high risk of developing mental health problems in detention. Imprisonment can trigger re-traumatisation, as evidenced by high levels of post-traumatic stress symptoms among detained asylum seekers. Our study shows that most asylum seekers have

- experienced multiple serious traumatic events, and are therefore psychologically vulnerable.
- Taking children away from their parents while the latter are detained is generally harmful for the children and should not be viewed as a viable alternative to detention.
 - In 2010, the UK government announced its intention to put an end to the detention of children for immigration reasons. Parents are not to be detained either, as the government recognizes that separating children from their parents is generally harmful. In deportation cases, families may be held for a maximum of 3 days in a secure residential facility. Asylum-seeking families and children may be detained for a maximum of 24 hours at the port of entry, and are usually then released and referred to social services. Although the UK government is still far from fully realizing its promise to end child detention, their policies contrast sharply with the Canadian government's plan to imprison children for one year without access to independent review, and to separate them from one or even both parents during their detention.

Recommendations

For all the reasons set out in this brief, we strongly recommend that Bill C-4 be withdrawn.

If the government chooses to adopt Bill C-4 despite its potentially disastrous effects, at the very least the following amendments should be made in order to minimise harm:

- Children and their parents should be exempted from detention.
- Speedy access to detention review by an independent tribunal should be provided in all cases.
- Pregnant women, trauma survivors, and persons suffering from physical or mental illness should not be detained except as a last resort. If detained, they should be provided with comprehensive medical and psychological support. Vulnerability should be taken into account when deciding whether a person will be released.
- Persons who obtain refugee status should have immediate access to permanent residency and family reunification (i.e., the 5-year delay should be eliminated).