

Helen Bamber Foundation Briefing
for the Westminster Hall debate on the
Detention of Vulnerable People
on Tuesday 14 March from 2.30pm to 4pm

The Member in Charge of the debate is Anne McLaughlin MP

About the Helen Bamber Foundation

The Helen Bamber Foundation (HBF) is a UK registered human rights charity. Its clients are survivors of state-sponsored torture, human trafficking, slavery, war, and domestic, gender, or sexuality-based violence. HBF works with survivors from all over the world, including Afghanistan, Albania, Eritrea, Iraq, Nigeria, Sri Lanka and Syria.

HBF delivers a specialist Model of Integrated Care, which deals with the complex needs caused by trauma resulting from atrocity. The charity is widely regarded as a leading authority in the treatment and documentation of the physical and psychological impact of interpersonal violence, and is considered by the Home Office as the foremost respected body in the field related to extreme human cruelty.

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Introduction

The Helen Bamber Foundation (HBF) has serious clinical concerns about the impact of immigration detention on the mental health of vulnerable people, and in particular about the Government's proposition in the Adults at Risk Policy that an individual's immigration history can outweigh indicators of vulnerability, including experiences of rape, torture, trafficking, domestic violence or other extreme human cruelty.

The impact of detention on mental health

1. Scientific research has consistently shown that people who are detained experience more mental health problems than comparable groups who are not detained. Longer periods of detention are even more harmful to mental health.
2. It is extremely difficult to treat people with mental health problems effectively in detention settings, as they are not set up for this purpose.
3. It is particularly harmful to those who have a pre-existing mental or physical illness or a history of trauma.
4. Supporting the detention of vulnerable people is therefore supporting a system that causes harm.

The impact of detention on vulnerable people, including survivors of traumatic experiences

5. An individual's psychological vulnerability is determined by their history of traumatic experiences and their mental and physical health. People who have experienced extreme trauma are more likely to experience Post-Traumatic Stress Disorder (PTSD) and other severe mental health problems.
6. Traumatic experiences almost invariably involve a degree of loss of autonomy and confinement. These harmful experiences are replicated in the detention setting. Detention is therefore particularly harmful to individuals who have a history of trauma.

The current Adults at Risk Policy

7. The Home Office's new Adults at Risk Policy states that vulnerability can be outweighed by immigration factors, for example failing to claim asylum immediately on arrival, failing to report as required etc.
8. The Helen Bamber Foundation believes this to be inappropriate. Factors such as poor immigration history or non-compliance may in fact themselves be indicators of significant vulnerability, and should not be

presumed to reflect wilful “immigration abuse.” A poor immigration history, e.g. as an over-stayer (following legal entry with a visa) or criminality (for example, entering the UK with a false passport), cannot be a basis for assuming that a person does not have a genuine claim. From our clinical perspective and our experience over many years of caring for and treating victims of torture or cruel, inhuman and degrading treatment, there are many reasons why individuals may not claim asylum immediately on arrival, or only do so when faced with imminent removal.

9. Individuals who have PTSD perceive themselves as being in current danger, even when they are not. PTSD can cause individuals to re-experience traumatic events as if they are happening in the here and now, thereby re-living the trauma repeatedly. Re-experiencing may in particular be triggered by experiences such as detention which replicate their experiences of being confined. Such psychological fear can impact on the individual’s willingness to contact the authorities and may be directly relevant to an apparently poor compliance history.
10. Survivors may also be distrustful of the authorities as a result of negative experiences in their home country, lack of trust being a common feature of PTSD.
11. Those who have experienced sexual violence or rape may feel shame, guilt or self-disgust, which are powerful psychological responses that can inhibit disclosure. Victims of trafficking may fear consequences for themselves or their families in the home country if they inform on their traffickers. They may have been subjected to ritual ceremonies (juju, voodoo) involving threats of violence or reprisals if they divulge what happened. Traffickers also often provide detailed false stories for their victims to tell, with warnings of further violence if they stray from the narrative they have been given.
12. Further, people with a genuine asylum claim may delay claiming asylum because they fear that if they become known to the authorities, they will be removed. These beliefs are often fuelled by what individuals are told by people smugglers or traffickers who bring them to the UK, members of their community or other asylum seekers they meet. Such distrust may be increased by other experiences, for example, being arrested and detained in the UK.
13. Any blanket assumption about the mendacity of an asylum seeker’s behaviour is inappropriate and must not be allowed to negate a genuine claim for international protection.
14. Adults at Risk remain at risk.

Case example - Immigration Detention:

In a recent (March 2017) case, indicators of trafficking and abuse from an early age prior to being trafficked to the UK were apparent. A marked deterioration in mental health and suicidal ideation was recorded. A Rule 35

report from a detention centre doctor noted extensive scarring that was in keeping with a history of torture. A negative reasonable grounds decision was issued prior to the Rule 35 report, and turned on the credibility of the applicant as the trafficking claim was not raised when first questioned in the UK. Threats by the trafficker not to tell anyone of the exploitation at the time of initial questioning, were not given any weight. Indicators existed that the individual had been re-trafficked after coming into contact with the UK authorities initially.

Detention had been maintained for four months on the following basis (quotes in present tense as in the original:

- entry into the UK occurred *“in a clandestine manner”* (back of a lorry),
- *“you have no close ties in the UK to ensure your compliance”* (Indicators were present that the individual had been trafficked).
- *“given the clear evidence of non-compliance with immigration rules, it is considered that you are highly unlikely to be removable unless detained”* (Indicators of re-exploitation in the UK were not considered against the failure to report previously).
- *“Whilst it is noted that you have encountered physical torture and are suffering poor mental health as a result of this, the doctor has not diagnosed any serious physical or mental health conditions that are likely to worsen within the detained environment during the duration necessary to effect your removal. (“Together the literature, which spans a 25-year period and a number of legal systems, tells a consistent story of the harmful effects of detention on mental health.” (Shaw Review, page 306)*
- *“when balancing your vulnerability against your negative immigration factors, the negative factors outweigh the risks”*
- *You are removable on an emergency travel document which can be arranged while your asylum process is being concluding, depending on available flights and escorts your removal is likely to be effected within 14 weeks”.*

At the time of writing, this person had remained in immigration detention under the Adults at Risk Policy for four months with a further three and a half months being proposed to effect removal.

The detention of vulnerable people is contrary to what Stephen Shaw or Parliament intended.

The Adults at Risk Policy – safeguards for vulnerable people in detention

The overriding of vulnerability due to any immigration factors as a result of the Adults at Risk Policy has reduced safeguards for vulnerable people.

Further, Home Office caseworkers routinely disregard clinical concerns raised by the Helen Bamber Foundation. Prior to the Adults at Risk Policy (12 September 2016), vulnerable people identified by the Foundation were released from immigration detention. This safeguard no longer remains.

Conclusion and recommendations

1. Detention is unsuitable for vulnerable people, irrespective of immigration factors, because it adversely affects their mental health and according to research, causes further harm.
2. The Adults at Risk Policy appears to override all vulnerability by any immigration factors.
3. Safeguards for vulnerable people should be increased rather than being reduced.
4. A blanket presumption of immigration issues overriding significant indicators of vulnerability impedes the identification of vulnerable individuals, and determining whether an individual's asylum claim can be decided fairly in a detention setting.

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