

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

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Bill C-4, the *Preventing Human Smugglers from Abusing Canada's
Immigration System Act*

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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 retraumatisation, 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).

The impact of Bill C-4 on the mental health of asylum seekers

Our research team has recently completed a study on the *Impact of detention in Canada on adult asylum seekers' psychological health*. The study is funded by the Canadian Institutes of Health Research and involves collection of both quantitative and qualitative data in Montreal and Toronto. The team includes:

- Cécile Rousseau, Professor, Division of Cultural and Social Psychiatry, McGill University; Scientific Director, Centre de recherche et de formation, CSSS de la Montagne (Centre affiliated with McGill University)
- Janet Cleveland, psychologist and researcher, Centre de recherche et de formation, CSSS de la Montagne
- François Crépeau, United Nations Special Rapporteur on the Human Rights of Migrants; Professor of international law and holder of the Hans & Tamar Oppenheimer Chair of Public International Law, McGill University
- Delphine Nakache, Assistant Professor, School of International Development and Global Studies, University of Ottawa
- Lisa Andermann, Assistant Professor, Culture, Community and Health Studies, Department of Psychiatry, University of Toronto.

Rachel Kronick, resident in psychiatry at McGill University, conducted a qualitative study on the experiences of detention of children and families.

Before presenting the results of our study, we will briefly describe the current detention system in Canada and the conditions that would prevail under Bill C-4.

1. Detention of asylum seekers in Canada : Current situation

Under existing immigration law, asylum seekers (also called refugee claimants) arriving in Canada may be indefinitely detained in prison-like institutions on purely administrative grounds. Over 95% of asylum seekers who are detained are held because an immigration officer is not satisfied as to their identity or believes that they may not appear for an immigration procedure. Less than 5% of detained asylum seekers are even suspected of criminality, security risk or danger to the public.¹⁻²

In Toronto and Montreal, asylum seekers are detained in Immigration Holding Centres (IHCs), destined exclusively for migrants. There is also a small IHC in Vancouver for short-term detention (less than 72 hours). In all other regions, or when there is not enough space in IHCs, asylum seekers are detained in high-security provincial prisons alongside criminals.

Immigration Holding Centres are run as medium-security prisons, with fences topped with razor wire, centrally controlled locked doors, 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. For example, one of our study respondents was placed in 24-hour solitary confinement because he refused to get up at the 6AM wake-up call. There are virtually no activities except TV, so people have nothing to do except wait and worry. There is a nurse and a part-time family doctor, but no mental health services. Suicidal detainees are either placed under 24/7 individual surveillance, usually in solitary confinement, or transferred to a provincial prison.

All asylum seekers except pregnant women and minors are handcuffed, and sometimes shackled (chained at the feet and waist), during transportation, notably when in need of specialized medical care at a hospital. Detained asylum seekers are sometimes chained during medical procedures. For example, one of our study respondents was chained to the dentist's chair during surgery for an abscessed tooth. Hospitalized detainees, including women who have just given birth, are generally chained to their hospital beds in addition to being under guard. Many respondents told us that they had refused to go to hospital for essential medical treatment or tests rather than face the humiliation of being chained in public. For example, a man who had severe back problems after having been tortured because of his participation in a pro-democracy movement said:

I wanted to go to hospital but I didn't go because they want to handcuff me and chain my feet. I refused. I was shamed to go to hospital like that. I had pain, it was so bad.

Why was it so important for you not to be chained?

Because I am not criminal. I was shamed to go to hospital because people are thinking "Who is he, has he killed somebody here?" In my country, I was looking for freedom and they put me in the political jail, too much bad, I can't say how it was bad. When I come to this country, I come for the freedom. I was shamed to go to hospital with chains, I refuse them.

Detention is for an indeterminate period, until immigration authorities are satisfied as to the person's identity or have completed other admissibility checks. In 2009-2010, the average detention time was 28 days.¹⁻² 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.

Between 2005 and 2010, official Canadian Border Services Agency (CBSA) statistics show that 650 children (on average) were officially detained every year in Canada for immigration reasons.¹⁻² The real figure is far higher. Many children are not counted in these statistics because they are not personally under a detention order. Instead, they are "accompanying" a detained parent. For example, if a woman gives birth during detention and returns to the detention centre with her new-born baby, the latter is not counted in the statistics. In other cases, particularly when parents are detained in a provincial prison, children are taken away from their parents and placed in foster care.

2. Bill C-4: Practical implications

Asylum seekers designated under Bill C-4 will be detained either in Immigration Holding Centres or in provincial jails. They will therefore be in institutions run as high-security prisons. In British Columbia, the most likely destination for boat arrivals, asylum seekers will be held in provincial jails.

The Immigration and Refugee Board (IRB) will be barred from reviewing detention for the first 12 months, so even children, pregnant women, torture survivors, or persons who are mentally or physically ill will have no way to demand early release.³ Refugee claims currently take about two years to process, and although the government hopes to cut processing times, there is no guarantee that this goal will be achieved even in simple cases. In the event of a mass arrival processing of refugee claims will inevitably be slower, if only because of lack of interpreters as was the case for the Sun Sea migrants. If their refugee claim is rejected, designated asylum seekers may apply for judicial review and would be detained until the end of the proceedings. As many legal experts believe that Bill C-4's detention provisions violate the Canadian Charter of Rights, constitutional questions will undoubtedly be raised, and legal proceedings may well drag on for years. The first detention review would be after 12 months, and then every 6 months. For all these reasons it seems plausible that detentions under Bill C-4 will typically last about 12 months, and sometimes longer.

Under Bill C-4, children 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. If a husband and wife are both in a provincial prison they are not usually allowed to communicate, and so far as we know there is no provision allowing imprisoned parents to visit their children in a youth custody centre. In all cases children will be separated from their fathers. There is no provision allowing children to be released into the community during the first year.

Although the Minister can order release, this is purely discretionary and only available in "exceptional circumstances". In Australia, the Minister had very similar discretionary powers but rarely exercised them to release 'boat arrivals', even in cases involving repeated self-harm. One case, for example, involved a 10-year-old boy who twice attempted to hang himself and repeatedly slashed his arms. The government refused to free him despite a recommendation by the detention centre manager, supported by 18 reports by mental health professionals documenting the boy's deteriorating mental health, the repeated self-harm incidents, and the urgent need for immediate release.⁴ Unfortunately, there is no assurance that the Canadian Minister of Public Safety would be any more likely than his Australian counterpart to exercise his purely discretionary and exceptional power to release persons detained under Bill C-4.

Finally, designated asylum seekers who are recognized as refugees will be deprived of the right to permanent status and to family reunification for five years. Studies in Australia have shown that temporary status is associated with high levels of depression and aggravation of post-traumatic stress symptoms.⁵⁻⁹ Prolonged separation from family

implies greater isolation and lack of social support, which substantially increase the risk of physical and mental health problems. Refugees with temporary status are likely to have difficulty finding good jobs and are more exposed to poverty, which is also a major risk factor for physical and mental health difficulties.

3. Our study on the impact of detention on adult asylum seekers' mental health

The goal of our study was to identify the impact of detention in Canada on asylum seekers' mental health. The main study involved adult asylum seekers. The findings of a smaller study involving detained children and families are reported in section 4.

3.1 Study method

For the adult study, we interviewed 122 adult asylum seekers detained in either the Laval (Montreal) or the Toronto Immigration Holding Centre. Permission to conduct interviews inside the two Immigration Holding Centres had been obtained from the Canadian Border Services Agency (CBSA). A comparison group of 66 recently-arrived adult asylum seekers who had never been detained in Canada completed the same questionnaires. By interviewing two groups of asylum seekers who were similar in all respects except that one group had been detained and the other not, we were able to identify the impact of detention on their mental health.

The interview included two standardized mental health questionnaires, the Harvard Trauma Questionnaire and the Hopkins Symptoms Checklist, which are internationally recognized as scientifically valid and have been used for over twenty years with both refugee and non-refugee populations around the world. These questionnaires serve to measure premigration traumatic experience, post-traumatic stress symptoms, anxiety and depression.

For both the detained and nondetained groups, the study sample is highly representative. For the detained sample, researchers visited the Laval and Toronto Immigration Holding Centres weekly in 2010-2011 and invited all asylum seekers who had been detained for at least a week to take part in the study. The nondetained sample was recruited through community and government agencies providing residential and settlement services to asylum seekers in Montreal and Toronto. Researchers did not select or filter participants in any way. All eligible individuals, without distinction, were invited to participate.

3.2 Study results

3.2.1 Premigration trauma

Asylum seekers in both the detained and nondetained groups had experienced an average of 9 traumatic events (out of a possibility of 20), which is an exceptionally high level of trauma exposure. As shown in Table 1, the seven most frequently reported trauma events were the same for the two groups, in almost exactly the same order.

These results show that the detained and nondetained groups are closely comparable in terms of premigration trauma exposure. One can therefore infer that differences in their current mental health symptoms are due to events they experienced after arrival in Canada, i.e., whether or not they were detained.

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

	Detained	Nondetained
Total (average)	9.3 trauma events	9.2 trauma events
Events by order of frequency	<ol style="list-style-type: none"> 1. Life in danger 2. Physical assault 3. Family in current danger 4. Threats or harassment by government agents 5. Forced separation 6. Family or friends assaulted 7. Murder of family or friends 	<ol style="list-style-type: none"> 1. Life in danger 2. Physical assault 3. Family in current danger 4. Family or friends assaulted 5. Forced separation 6. Threats or harassment by government agents 7. Murder of family or friends

The results also show that asylum seekers arriving in Canada have generally been exposed to multiple, serious traumatic events. People who have undergone an average of 9 major traumatic events such as being physically assaulted, having family or friends who were assaulted and/or murdered, and being at risk of death, are by definition potentially vulnerable in mental health terms.

3.2.2 Mental health symptoms

Our findings reveal that levels of post-traumatic stress, anxiety, and depression are higher in the detained group than in the nondetained group, as shown in Table 2. Recently arrived asylum seekers often experience high levels of psychological distress even when not detained. However, detention, even for short periods, considerably increases distress levels: over three-quarters become clinically depressed, about two-thirds are clinically anxious, and about a third have clinical post-traumatic stress symptoms. Detained asylum seekers were almost twice as likely to experience post-traumatic stress symptoms as their nondetained peers. Depression rates were about 50% higher among detained asylum seekers than among their nondetained peers. Anxiety rates were also considerably higher among detainees.

These results are all the more striking because study respondents had been detained for quite short periods. The median time in detention when questionnaires were completed was 18 days, with 94% of respondents having been detained less than 2 months. Our study demonstrates that even short-term detention generally has a serious negative impact on asylum seekers' mental health.

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

	Detained	Nondetained
Post-traumatic stress	32%	18%
Depression	78%	52%
Anxiety	63%	47%

This is not surprising. As already mentioned, most asylum seekers have undergone multiple traumatic events such as violence linked to their political opinions, religion, ethnicity, gender, or sexual orientation. Many also undergo considerable hardship to reach Canada. When they finally get here they expect to be safe. Instead they find themselves handcuffed, then locked up in a prison, stripped of their belongings, surrounded by guards and surveillance cameras, their every movement closely controlled. Deprived of their liberty for an indeterminate period, they are treated like criminals. Detention places asylum seekers in a position of disempowerment, uncertainty, isolation, and humiliation, and is generally perceived as unjust and arbitrary. For previously traumatised persons, this can trigger retraumatisation, as evidenced by the high level of post-traumatic stress symptoms. Being deprived of control over one’s daily life and trapped indefinitely in a demeaning context with very little ability to change the situation is recognized as a strong predictor of depression.

3.3 Examples - adults

To illustrate the experience of detained asylum seekers, here are the stories of two people we interviewed during the study. Names have been changed to protect confidentiality.

3.3.1 Marie: Detention of a woman with a life-threatening illness

Marie is a young woman from sub-Saharan Africa who, after her losing her parents, was forced to marry an older man who already had other wives. She carries the scars of her husband’s many violent assaults. Marie claimed refugee status on arrival. At her compulsory medical examination, she learned that she has a life-threatening disease. The next day, her immigration agent decided to arrest her because of concerns about her identity. She was detained for three months. Already in shock at learning about her illness, Marie feels deeply humiliated at being handcuffed and shackled when taken to an external clinic for medical care. She is also frantic about the well-being of her two young children that she had to leave behind with a friend, since she is now unable to work and send back money for their upkeep. Marie reports that she cries every day, although it is worse on days when she is handcuffed. As her detention wears on she becomes increasingly distraught, alternating between periods of withdrawal, tears, agitation, and despair.

3.3.2 Abdi: Detention of a young man whose father was killed in front of him

Abdi is a young man from Somalia whose father was killed in front of him by warlords. He tells us “The day I see my father gone I am saying ‘This is the end of my life.’” In his home country he tried to hang himself, but was stopped by his uncle who then managed to obtain false documents for him so that Abdi could flee to Canada. With tears in his eyes, Abdi tells us that he constantly has images in his mind of his father’s assassination:

It’s like I see it again. I’m dreaming every day. In my mind I don’t believe and I sometimes think I can see again my father.

You feel sad?

Yes, I feel sad. (*He starts to weep*). I feel angry sometimes. He’s the only person who help me, he help me too much. I try to forget but it is not easy, I remember many things. If my father not die I would be with him, I wouldn’t be here. My father loved me. He did so much for me. In Somalia, it is hard to go to school, and he fight for me to go to school. He’s my everything. He help me for everything.

Abdi shows all the signs of post-traumatic stress disorder, combined with intense grief for his father. Since his father’s death a few months earlier he has suffered from serious insomnia, as well as having repeated nightmares. He reports crying every night, and sometimes has thoughts of ending his life, although he assures us that he will not act on them because it is against his religion. He is also increasingly frustrated because his immigration agent refuses to accept that Abdi is unable to obtain additional identity documents from his war-torn country. He adds “It is like I am not a human being. I am trying to tell the truth and he treats you like you are lying.” As his detention wears on Abdi feels increasing despair.

As illustrated by these two examples, many asylum seekers are already highly vulnerable because of the traumatic events experienced in their country of origin, and may have symptoms of post-traumatic stress disorder, anxiety, depression, complicated grief, and a variety of other psychological difficulties. Detention typically aggravates these symptoms by placing people in a situation in which they feel treated like criminals although they have not committed any criminal offense. The longer detention continues, the higher the likelihood of long-term psychological harm and the lower the likelihood of recovery. Vulnerable people need empathic support to overcome the aftermath of trauma, not imprisonment.

4. Our study: The impact of detention on children and families

In 2011 our team met with 18 families, either during or after their detention. Unlike the main study with adults, which was limited to asylum seekers (that is, persons whose refugee claim had not yet been heard), the study of detained families included both asylum seekers and persons whose refugee claim had been refused. Therefore several families had lived in Canada for years, and had Canadian children. In-depth interviews

were conducted with parents, as well as observation of younger children at play, and interviews with older children.

Three main findings emerge from our interviews and the medical literature. First, it appears that short term detention has a negative impact on children, both directly and because parents often become distressed and are less able to adequately care for their children. Second, several families we interviewed had been separated – parents from children, and husbands from wives – during detention. The separation was clearly very distressing for both parents and children. Third, detention of women who are pregnant or have recently given birth is particularly worrisome because of the negative impact of maternal depression. We observed several cases in which mothers had difficulty providing adequate parental care for their children because they were depressed and anxious. This phenomenon is well-documented in cases of longer-term detention.^{4, 6, 10}

4.1 Examples – children

In the following examples, some details have been altered to preserve confidentiality.

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

An asylum-seeking family was detained for one month with their 11-year-old daughter. The mother and daughter were separated from the father in the Immigration Holding Centre. Prior to detention the girl was healthy, a good student, with no previous psychiatric difficulties. During detention she developed profound withdrawal (speaking little and spending most days lying on a couch in the common area), food refusal, weight loss, tearfulness, and sleep difficulties. After a detention hearing at which release was refused, she cried, expressed despair, and vomited repeatedly. She spent most of her time watching television as there are very few other activities, and was not even able to go outside because she had no winter jacket. She eventually received a few hours of language tutoring each day in the last two weeks of detention.

After release, many of the 11-year-old's symptoms improved. Nonetheless, she still had regular nightmares of her mother being grabbed by someone and taken away and was not able to fall asleep without her parents present.

This case illustrates the rapid deterioration of a child in detention over a period of only four weeks. The isolation from other children and the lack of appropriate stimulation and education were important factors. Given the strong medical evidence that childhood experiences affects development and health for the rest of children's lives, the inadequacy of education for children in detention is of serious concern.¹¹

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

A family with three Canadian-born children aged 2, 4 and 7 was detained for 5 days following rejection of their refugee claim. During the arrest, the parents were handcuffed

in front of the children. The four-year-old boy tried to escape, and CBSA officers ended up physically forcing him into the van.

After release from detention the children showed significant psychological problems. The seven-year-old girl, who was previously healthy and doing well at school, became severely withdrawn and had difficulty speaking with adults and peers. Her academic performance declined. She also had regular nightmares and difficulty falling asleep.

The four-year-old boy developed phobias of police, dark-coloured vans, and dogs, and refused to go to pre-school for the first six months after detention because he was too frightened to leave the house. He had regular temper-tantrums, was unable to fall asleep without his parents present, and would not tolerate being in a room with the door closed.

A year after detention, the eldest two children were still struggling with anxiety, sleep problems and irritability, and met diagnostic criteria for PTSD.

In short, although detained only 5 days, the children have continued to experience long-term debilitating symptoms after release. The severity of the children's symptoms appears to be due to the combined effect of three factors: the harsh circumstances of their arrest, their detention, and the continued precarity of their status since their release. In particular, the sudden eruption of security officers into their home, seeing their parents handcuffed, and being forced into the van, clearly constituted a traumatic event for the children.

4.1.3. Detention of a mother and newborn baby

Shortly after arriving in Canada, an asylum-seeking woman gave birth by C-section, complicated by heavy bleeding requiring multiple transfusions, and was hospitalized for a week. Her husband had been unable to escape from their home country, so she was alone and fearful for his safety. Two weeks after discharge from hospital, mother and infant were detained because of concerns about identity documents. During the research interview she is markedly tearful and describes how difficult it is for her to care for her four-week-old baby on her own while imprisoned:

The guards are nice to the baby, and love the baby. They give me gifts. But it is not good to be in detention with a baby. . . The guards are not allowed to hold the baby so if I go to the bathroom I have to put him in the bed. You need help, support when you are by yourself. I was told I couldn't carry heavy things after my caesarean-section, but the guards are not allowed to carry the baby carrier, so I have to lift it myself.

The mother was advised by health care professionals to eat a special diet while breast-feeding, especially given the complications during delivery, but was told that she would have to eat the regular food offered in the detention centre.

She reported that the experience of detention, coupled with the hardship she was fleeing had taken away her “confidence” in herself, and that she felt that she was being punished. She said “I try to be strong when I see [my baby],” but acknowledged that she was not able to provide the mothering she would like to because the detention depleted her emotional strength.

When asked about her perception of Canada she replied: “Canada is supposed to be a civilized country. To detain a mother and baby is not civilized.”

4.2 Separation of children from parents: not an acceptable alternative

Under current immigration legislation, detained children are always separated from their father and sometimes from both parents. In Immigration Holding Centres, men are in a unit separate from the one in which children and their mothers are detained, although fathers are allowed to spend brief periods each day with the rest of the family. In some cases one or both parents are detained and children are placed in foster care. This option is often presented as a more humane alternative, but both our study and the medical literature suggest that separating children from their parents may be even more harmful than detaining the children with both parents.

One study of Sudanese youth seeking asylum in the USA found that when children were separated from their immediate family they were at increased risk of PTSD.¹² Moreover, children who were placed in foster homes rather than housing with other Sudanese youth or families also had higher rates of PTSD. Another study demonstrated that children whose parent was separated from them due to imprisonment had significantly higher stress reactions than other refugee children.¹³ Similarly, other studies have shown that when children fleeing organized violence are able to maintain secure attachments to family members they are protected from some of the psychological consequences of trauma.¹⁴ In sum, the scientific evidence suggests that separating asylum seeking children from immediate family, or placing them in foster homes can be detrimental to these children’s mental health and development.

5. The Sun Sea asylum seekers

On August 13, 2010, the MV Sun Sea arrived in British Columbia carrying 492 Sri Lankan Tamil asylum seekers, including 63 women and 49 children. All were immediately detained: the men in one high-security prison, the women without children in another prison, and the children with their mothers in a secure youth custody facility. As appears from a confidential CBSA memo obtained by a Vancouver Sun journalist through Access to information, government policy was to systematically seek continued detention, first on identity grounds, and if identity was established, “on any other available grounds”¹⁵. Children and their mothers were detained for up to 7 months, while adults without children were typically detained about 4 to 8 months.

Our team interviewed 21 Sun Sea asylum seekers after their release. Almost all had trapped between opposing forces during the final phase of the Sri Lankan civil war, and

had endured months of constant shelling and heavy artillery fire. They had lived under tarps or in bunkers and witnessed loved ones killed or maimed. One man described how, in his dreams, he was still haunted by the cries of a gravely injured woman, unable to stop and help her because he was running for safety with his young son in his arms. Many had been injured themselves, and all had been very close to death. Fifteen of the 21 respondents reported having been tortured. One man, for example, described being hung upside down for hours, lowered into a water trough, beaten with plastic pipes filled with sand and subjected to a mock execution. After the war, many were confined for months in overcrowded camps run by the Sri Lankan army, often short of food and water and exposed to arbitrary arrest. On board the Sun Sea, all respondents had suffered from lack of adequate food and water. Then, upon arriving in Canada, husbands were separated from their wives, and fathers from their children, and all were detained. In addition they were repeatedly questioned by the Canadian Border Services Agency (CBSA), anywhere from 3 to 20 times depending on the individual. Interviews lasted between two to eight hours. Officers would ask the same questions over and over again, confronting them about minor inconsistencies, often implying that they were lying. Often, the questions dealt with the extremely painful traumatic events that they had recently experienced. Many respondents became increasingly distraught as their detention continued, in some cases to the point of becoming suicidal.

A young woman recounted how her treatment in Canada intensified the distress linked to trauma endured in Sri Lanka:

The worst thing that happened to me here was that CBSA kept asking me questions about the incident that caused me so much heartbreak (*She starts crying*). We were all in a bunker. There was another family there, with small children. There was not enough room for everyone. We gave the best protected place to the small children, and my uncle and grandparents slept at the top because there was not enough space inside. A shell fell on us. My uncle died that day, and so did my grandparents who had brought me up. My mother was injured. She got shrapnel in her leg and was not able to walk. My aunt also. All those who were not completely inside the bunker were injured or killed. CBSA asked me again and again to repeat this story, again and again, although I was crying. It caused me so much stress and pain.

Over two years after this event, she still had nightmares about the incident almost every night. Overall, about three-quarters of the Sun Sea respondents reported major sleep problems, nightmares, and intrusive thoughts. Typically, respondents described being unable to asleep because invaded with images of being re-arrested and questioned by Canadian authorities or being deported to Sri Lanka to face persecution. One youth, for example, reported nightmares of a prison guard shouting out his number to summon him for a CBSA interview. Many respondents also reported nightmares and vivid memories of wartime trauma, most often images of shelling and dead bodies.

The Sun Sea asylum seekers are exactly the kind of people targeted by Bill C-4, and they were detained for periods similar to what may be expected under the bill. These are

people who had already undergone tremendous suffering before arriving in Canada, and whose psychological health was further damaged by lengthy detention and repeated questioning. Their situation is emblematic of what one can expect if Bill C-4 is adopted.

6. International studies on the impact of detention on adult asylum seekers:

Scientific studies from around the world unanimously show that detention negatively impacts asylum seekers' psychological health.¹⁶ Studies also show that the prevalence and severity of psychiatric symptoms generally increase with length of detention. This is particularly true for individuals who have experienced serious premigration violence, as is the case for most asylum seekers. However, even short-term immigration detention is likely to lead to high distress levels.

6.1 Studies in the United Kingdom and United States

In the United Kingdom, researchers compared a group of asylum seekers and failed claimants who had been detained for a median of 30 days with a community sample of nondetained asylum seekers. Despite the relatively short detention period, 76% of the detained group was clinically depressed compared to only 26% of the non-detained group.¹⁷

In the United States, a study of asylum seekers who had been detained for a median of 5 months found that 86% were clinically depressed, 77% had clinical levels of anxiety, and 50% had clinical levels of post-traumatic stress disorder. A few months later the same people were re-interviewed. 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.¹⁸ This study is particularly relevant because the duration and conditions of detention are similar to what may be expected under Bill C-4.

6.2 Studies in Australia

The most directly relevant scientific studies come from Australia because their asylum seeker detention system is, to our knowledge, the only one in the world that is closely comparable to the proposed Bill C-4 regime. Since 1992, Australia has imposed mandatory, indefinite, unreviewable detention on all asylum seekers entering without a visa, until final resolution of their refugee claim. From 1999 to 2008, refugees received only temporary status and were barred from bringing their family to Australia. Since 2008, Australia has gone back to granting permanent status to all refugees. However, it continues to detain all those who arrive without a visa, a majority of whom arrive by boat.¹⁹

The Australian immigration detention system has been a mental health disaster. Close to 90% of formerly detained 'boat arrivals' have subsequently been accepted as refugees and then as Australian citizens, so this can also imply a cost for the host society in terms of integration difficulties and increased use of health services.^{4, 20}

In November 2011, the Australian government announced a further softening of their detention policy following repeated riots and a wave of suicidal behaviour among detained asylum seekers (see details below, s. 7.1). From now on, asylum seekers arriving by boat will generally receive “bridging visas” (similar to temporary resident visas in Canada) and be released into the community as soon as health, security and identity checks are completed.²¹ In short, even Australia is now tacitly recognizing the failure of its mandatory, unreviewable detention regime for boat arrivals.

6.2.1 Suicide and self-harm in Australian immigration detention

In 2001, at the height of the previous wave of mandatory detentions in Australia, rates of suicidal behaviour were about 40 times higher for men in Immigration Detention Centres (IDCs) than in the general male population, and nearly twice as high as among male criminal prison inmates. For women detainees, rates were about 25 times the community average. Boys under 18 detained in IDCs were almost 3 times as likely to engage in suicidal behaviour as boys in the general community. A significant number of children under 12 were suicidal, which is very unusual. Suicidal behaviour included actual suicides and serious self-harm such as attempted hanging, throat-slashing, wrist-cutting, drinking shampoo or detergent, voluntary starvation and lip-sewing.²²

In 2010-2011, with about 6000 people in Australian immigration detention centres, there were over 1100 incidents of threatened or actual self-harm, including 6 suicides.²³⁻²⁴ This is over 10 times the suicide rate in the general Canadian population.²⁵ On Christmas Island, where most asylum seekers arriving by boat are detained, the situation was particularly alarming, with 620 self-harm incidents in six months.²⁶

Current rates of suicidal behaviour amongst asylum seekers in Australia are particularly relevant to the debate on Bill C-4 because 63% of those in immigration detention in Australia as of September 2011 had been held for less than a year, with 34% detained for less than 6 months.²⁷

The rate of suicidal behaviour in immigration detention is currently so high that Australia’s Ombudsman has recently launched an investigation into the “deteriorating psychological health of detainees” and the “upsurge in the number of incidents of self-harm and attempted suicide”.²⁸ The Australian Parliament is also currently conducting a “comprehensive inquiry” into immigration detention, largely in response to riots in immigration detention centres as well as grave concerns about detainees’ mental health.²⁹ This is only the most recent of a string of inquiries into the innumerable severe problems inherent in long-term immigration detention.

6.2.2 Combined impact of mandatory detention and temporary status

An Australian study found that, three years after release, refugees who had been detained over 6 months and then granted temporary status still had very high levels of mental

health problems, with more than half still experiencing clinical levels of both depression and post-traumatic stress disorder (PTSD). Temporary status was the strongest predictor of depression and one of the main factors contributing to PTSD, with a much larger negative impact on mental health than premigration trauma.⁵⁻⁶ Four years later, a follow-up study involving the same individuals showed a substantial decrease in psychiatric symptoms among those who had finally been granted permanent residency after initially receiving only temporary status. By contrast, the mental health status of those granted permanent residency from the outset remained stable.⁷ This shows that the change from temporary to permanent status was a decisive factor in the improvement of the refugees' mental health

Another Australian study found that refugees who had been detained and then granted temporary status had much higher levels of PTSD, depression and anxiety than refugees from the same country who had quickly received permanent status without being detained.⁸ At follow-up two years later, refugees who still had only temporary status were even more anxious, more depressed and generally more distressed, while the mental health of those granted permanent status remained stable or improved.⁹

In sum, asylum seekers who were first detained and then granted temporary status had serious mental health problems that persisted years after release from detention. The severity of psychiatric symptoms was proportional to length of detention. Temporary status was linked with continuing high levels of mental health problems, which decreased substantially once refugees were granted permanent status.

7. International studies on the impact of detention on children and families

Scientific studies from around the world have shown that detention is harmful to children, both directly and also because their parents are often too depressed and anxious to provide adequate parenting.³⁰

In the UK, researchers found that detention of children was associated with post-traumatic stress symptoms, major depression, suicidal ideation, behavioural difficulties and developmental delay as well as weight loss, difficulty breast-feeding in infants, food refusal, and regressive behaviours.³¹ Importantly, these children were detained for relatively short periods of time (on average, 43 days), suggesting that even brief detention can be detrimental to children.

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 had frequently contemplated suicide, and five had either slashed their wrists or injured themselves by banging their head on the wall. In younger children developmental delays were common, as were attachment and behavioural problems such as separation anxiety and bedwetting. The parents all suffered from major depression and most from PTSD. All parents had persistent suicidal thoughts, a third had attempted suicide, and the others reported that the only reason they refrained from suicide was because of their children.¹⁰

In 2004, the Australian Human Rights Commission published the findings of an in-depth investigation into the impact of detention on asylum-seeking children.⁴ During the period covered by the inquiry, the majority of children were detained for less than 12 months. The Inquiry found that many children had symptoms such as developmental delays, bedwetting, nightmares, separation anxiety, sleep disturbance, and withdrawal. A number of children also developed more severe symptoms including mutism, stereotypic behaviours, refusal to eat and drink, self-harm, and suicide attempts. Anxiety and depression interfered with children's ability to learn and develop normally. Previously competent parents often became so demoralised that they were unable to adequately fulfill their parenting role. In particular, women who gave birth during detention were frequently too depressed to care for their babies. And even the most functional parents were profoundly frustrated at being powerless to provide a caring and nurturing environment for their children. The Commission concluded that:

“Children in immigration detention for long periods of time are at high risk of serious mental harm. The [Australian government's] failure to implement the repeated recommendations by mental health professionals that certain children be removed from the detention environment with their parents amounted to cruel, inhumane and degrading treatment of those children in detention”, in violation of s. 37 a) of the Convention on the Rights of the Child.

In January 2012, UK media reported that four asylum-seeking children had won a 'six-figure' settlement from the government in compensation for the negative impact of their 13-month detention.³² During detention, the 12-year-old girl became depressed, developed a hand tremor, refused to eat, and her hair started to fall out. The 7-year-old girl had recurrent nightmares, and all children experienced intense 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.

Finally, detention of pregnant women and new mothers is particularly problematic because of the high risk of depression. Depression in pregnancy is associated with increased risk of obstetrical complications, including miscarriage, premature delivery, intrauterine growth restriction, and maternal high blood pressure. The babies of depressed or stressed mothers are more likely to have a small head circumference and elevated levels of stress hormones, and are at increased risk of language difficulties, cognitive impairment, attention deficit hyper-activity disorder (ADHD) and behavioural dysregulation in later life. In summary, detaining pregnant women puts them at risk of depression, which can have serious negative consequences for their baby. If mother and infant remain in detention after the baby is born, the likelihood of long-term psychiatric and developmental problems is even greater.

8. Conclusions

Deprivation of liberty is an extreme measure, usually reserved for criminals or individuals who constitute a threat to public safety. Under Bill C-4, however, asylum seekers who are exercising their right to seek protection from persecution and who are not even suspected of criminality or dangerousness will be incarcerated for at least a year without access to review by an independent tribunal.

There is considerable scientific evidence that even short-term detention leads to high levels of depression and post-traumatic stress symptoms among asylum seekers, while longer-term detention tends to aggravate symptoms. Individuals who have experienced premigration violence are particularly at risk.

Our study shows that the vast majority of asylum seekers detained in Canada have experienced serious and multiple premigration traumas such as being physically assaulted, receiving death threats, or seeing other people being killed, and are therefore psychologically vulnerable. On arriving in Canada, asylum seekers are in need of support to overcome the aftermath of trauma. Instead, under Bill C-4, they will be treated like criminals: handcuffed, locked up, under constant surveillance, their every movement closely controlled. For previously traumatised persons, this can trigger retraumatisation. Our study showed that even after brief detention (about three weeks), detained asylum seekers were almost twice as likely as their nondetained peers to have serious post-traumatic stress symptoms.

In addition, detained asylum seekers were far more likely to be depressed than those who had not been detained, even after a brief imprisonment. Depression is strongly linked to feeling powerless, both in terms of lack of control over one's daily life and loss of hope for a better future. Taking away asylum seekers' right to demand release may prove even more damaging than detention itself, depriving them of their sense of agency and their ability to make their voice heard.

In Australia, C-4-type policies of long-term, unreviewable detention have resulted in very high levels of self-harm and suicidal behaviour among detained asylum seekers. When refugees were granted temporary (rather than permanent) status upon release, they continued to experience high levels of depression and post-traumatic stress disorder for years after being released. In most cases, symptoms did not abate until they finally received permanent status.

Multiple scientific studies have shown that detention is harmful to children, both directly and because their parents are often too depressed and anxious to provide adequate parenting. Detained children often develop mental health problems such as depression, nightmares, sleep disturbances, separation anxiety, developmental delays and reduced ability to learn and study. Some children become suicidal and self-harm.

Detention of pregnant women and new mothers may have especially grave consequences because of the very high incidence of depression among detained asylum seekers.

Depression during pregnancy may cause serious, and sometimes permanent, harm to the baby's physical and mental health. Depression in new mothers is a major risk factor for attachment problems, which may result in long-term emotional and developmental problems for the child.¹¹

Under Bill C-4, detained children would always be separated from their fathers and in many cases would also be separated from their mothers. Taking asylum-seeking children away from their parents to place them in youth custody centres or other forms of foster care is likely to be very damaging to the children and destructive of the family unit.

In 2010, the UK government announced its intention to put an end to the detention of children for immigration reasons.³³ 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 private apartment (with kitchen, lounge, bedrooms and bathroom) in a secure residential facility equipped with on-site healthcare and a children's play area. 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. They may not be further detained unless deemed inadmissible or dangerous.³⁴ 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.

9. 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 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).

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