

APPG on Refugees and APPG on Migration Joint Parliamentary Inquiry into the Use of Immigration Detention

3rd Oral Evidence Session.

November 18th 2014

10.10am-12.30pm

Committee Room 8. Houses of Parliament.

Panel Members Present

Sarah Teather MP (Chair)

David Burrowes MP

Caroline Spelman MP

Lord Anthony Lloyd of Berwick

Baroness Ruth Lister of Burtsett

Baroness Sally Hamwee of Richmond upon Thames

Lord David Ramsbotham

Oral evidence taken from:

Nick Hardwick, Her Majesty's Chief Inspector of Prisons and Hindpal Singh Bhui, Inspection Team
Leader, HM Inspectorate of Prisons

Tacko, ex-detainee, Aderonke, ex-detainee and Barrow, ex-detainee

Grant Mitchell, Director, International Detention Coalition and Dr Alice Edwards, Senior Legal
Coordinator, United Nations Commissioner for Refugees

Sarah Teather: Good morning, everybody. Come and find a seat if you can. There are also some seats up the side if you want to take these.

Well, welcome to the third hearing of our detention enquiry. I'm expecting a few more colleagues this morning but, as is always the case in parliament, people come in and out a little. A couple of people said they were going to be late.

Just to introduce myself, I'm Sarah Teather and I'm chair of this inquiry and also chair of the All-Party Parliamentary Group on Refugees. And we've been running this inquiry jointly with the All-Party Parliamentary Group on Migration, which is chaired by Paul Blomfield, who is unable, unfortunately, to make this hearing today. He's been to all the others but this morning's a diary clash.

I'm just going to introduce my colleagues: David Burrowes, Conservative MP; Baroness Sally Hamwee; Baroness Ruth Lister; Lord David Ramsbotham and Lord Anthony Lloyd. And we're also expecting, this morning, Caroline Spelman, Richard Fuller and Julian Huppert at some point.

Can I just say a huge thank-you to our first witnesses for making time? I'm extremely grateful. We have with us Nick Hardwick, who is Her Majesty's Chief Inspector of Prisons, and Hindpal Singh Bhui. Have I said that right?

Hindpal Singh Bhui: Almost

Sarah Teather: Almost. Would you repeat yourself?

Hindpal Singh Bhui: Hindpal Singh Bhui

Sarah Teather: Thank you – who is inspection team leader. And Nick said to us that you know all of the answers, which is why he was bringing you with him, so we're hugely, hugely grateful because I know you have many pressures on your time. And a number of the panel members said before we started that we found your evidence particularly compelling, actually. It was extremely helpful. And David Ramsbotham, I know, is very grateful that you're here as a predecessor who's taken a particular interest in this issue.

So I'll just open with a question that was really covered quite a lot in your evidence but I would be grateful for you to enlarge on. Home Office policy and guidance states that detention for shortest possible time and used sparingly, and that where possible alternatives should be used. In your experience, does the operation of immigration detention meet those policy goals?

Nick Hardwick: Well, no. First of all, can I say, chair, first of all how much I welcome this inquiry. And we're very grateful for the opportunity to come here this morning and give evidence. And perhaps in answer to that first question, to explain what I mean by that is I think the first and most important thing to say is to understand how serious a step it is to deprive anyone of that liberty, and even more so for a migrant who's been detained without any authority of a judge or the normal judicial experience or normal judicial process we would experience.

And two things happen. We know about the people we see in immigration removal centres, and the immigration detainees held in prisons – let's not forget about them – we know that they are likely to be vulnerable for all sorts of reasons. Even if they don't meet the refugee criteria, even if they've committed offences, they're likely to have been victims of some form of trauma in their own country. They're likely to be very anxious about returning and many will have been in this country for quite a long time. Their lives and contacts and family they have here are all likely to be disrupted.

So you take a group of people who, because of their situation, are particularly vulnerable. And then, without judicial oversight, you put them indefinitely into detention where they're exposed to all the risks that anybody in detention has. There is very little external scrutiny so people who are desperate about their situation may often say or do anything particularly where they don't have access to an effective complaints mechanism to address their concerns. And if they do complain or if they do say something, and make allegations, they fear they're going to be whisked off back to their own country unable to pursue them.

So you have very vulnerable people in a very vulnerable situation. And that should only happen in the most extreme circumstances - that requires extreme circumstances to justify it, in my view, and I think in many of the cases that we've seen that those circumstances don't exist.

Sarah Teather: Thank you. David.

David Burrowes: Yes. Just following on from that and just drawing on your submission, given the lack of time limits and you're saying that in some cases detention is unlawful because it is not for a minimum possible period or because removal is not possible in a reasonable period, there's no maximum time limit either. How does that then impact in relation to the way that case workers manage cases? You have in your evidence drawn on the lack of evidence in relation to that.

Nick Hardwick: Right. What we find, I think, and this may be somewhere where Hindpal can come in, is that without a time limit, cases are not progressed in a sufficiently urgent or determined way so that reviews that happen, if they do happen, are often cursory, and the requirement that there should be a reasonable prospect of someone actually being removed if they're going to be detained isn't met. And an example of that, at least a third and getting on for half of all detainees are released

back into the community. And this poses the question: if they're suitable to be released back into the community at that point, why do they need to be detained in the first place?

I think the Home Office would say, sometimes I think with justification, that the reason people are spending so long in detention is because the detainee is obstructing the efforts to remove them. If that's the case, they can be prosecuted for that. There are solutions to that, and it should be addressed. But it's not. What detainees say to us repeatedly that the cause of their distress and anxiety in detention is not particularly how they're being treated while they're there; it's the uncertainty over what's going to happen to them.

David Burrowes: And in your submission you draw out the fact that there's little evidence during inspection of casework files that existing alternatives to detention are being considered and assessed prior to the decision to detain and on an on-going basis when it would normally be reviewed periodically. Perhaps you could draw out the conditions in the criminal justice system.

Hindpal Singh Bhui: Yes. There are a couple of things, actually, which I think will be useful to say. First is we did a joint thematic investigation with the Chief Inspector of Borders and Immigration. And during the course of that we found that around a quarter of the cases of prolonged detention that we came across were as a result of inefficient case-working. We found that was quite compelling, really. That's not a figure we expected to find.

We also do a detailed case analysis every time we do an inspection of an immigration removal centre. That involves us picking up about a dozen cases randomly, although we do try to find some of the longest detained people. And we're looking particularly at whether or not those people have been detained for a reasonable amount of time and whether or not more could have been done to progress their cases. In virtually every immigration centre that we've inspected, we find cases which we are absolutely certain should have been dealt with more quickly and more efficiently. Things have improved, I have to say, but not to the degree that we would want.

David Burrowes: And obviously you've got both prisons and immigration removal centres: How would you compare contrast with the level of casework management?

Hindpal Singh Bhui: Well, in immigration removal centres, you do have immigration teams who are based on site. So that means the detainees have better access, even though the access is by and large the people who are essentially passing on messages to caseworkers, because they're not working on those cases themselves. That in itself creates a lot of frustration for detainees at immigration removal centres. But in prisons, it's even worse because unless the prison is one of those identified as a hub where immigration teams are on site, you have foreign nationals held beyond sentence without the freedoms that they would gain in an immigration removal centre: for example, having access to a mobile phone, access to the internet, people being able to come in to visit them more often. They don't have any of those advantages and they also don't have the easier access to immigration staff.

Nick Hardwick: And I think, you know, just to add to that, certainly, in terms of immigration detainees being held in prisons – so not people who are serving their sentence but being held under immigration rules – we'll often find people who are told they're going to be detained almost as they come to the prison gates to be released. And you have to ask the question of, well, why was that not done earlier?

And it's not merely that the cases aren't progressed quickly, but they don't start soon enough. If somebody has been convicted of a serious offence, it's likely they're going to be deported, why aren't they getting that process straightaway? Why not get everything started? Why not be clear to the detainee what's going to happen? Why not so that they can start to prepare for returning home, all of those sorts of things? It baffles me, quite apart from the length of time it takes to progress the case, I don't understand why they start so late.

Sarah Teather: And before I bring Sally in, David, I know this was a particular issue that interests you. Do you want to- Is there anything you want to ask that's supplementary or do you feel it's been asked at that point?

Lord David Ramsbotham: Well, it really leads out of that because one of the things that I used to find, and I'm sure you do, Nick, was that there didn't appear to be any overall direction and structure of the whole thing from the Home Office. And therefore I never felt that there was anyone in the Home Office who was responsible and accountable for ensuring that casework was managed properly in all the detention centres – nor did there appear to be a code of practice as to how casework should be conducted, which would lead to consistency.

Nick Hardwick: Well, I think one of the things- I mean, I think to be fair, in some cases, in a hub prison things may work a bit better. But lots of immigration detainees will be held just in the ordinary prison estate and it appears to me sometimes they've simply been forgotten rather than dealt with in a particular way. No one knows they're there. So I'm certain in some cases what happens is the men, usually it's men who are concerned, become institutionalised. They're not kicking up a fuss. The prison officers get used to them being there. The Home Office forgets them and they're just stuck.

Lord David Ramsbotham: But there was another subset of all this, which was that the people who are sentenced to deportation, who are then sent with a prison sentence. And I remember advocating in 1999 that their deportation should be processed while they were in prison so that at the end of prison they go straight to the airport and out, as happens in the UAE.

Nick Hardwick: That was my point. You don't want to start in the final days of the sentence. Why can't you get that organised well in advanced? I have yet to have a sensible answer to that.

Lord David Ramsbotham: But there was another side-effect of that was that of course the people who are sentenced to be deported are then put in detention centres where they should not be. They're disaffected, they interrupt the numbers of the processing in the detention centre and affect that.

Nick Hardwick: Well, I would go along partly with that. Just to be clear about it: my view is unless there are very clear, evident security reasons, if someone is being detained rather than imprisoned, they should be in an immigration removal centre. Once they served their sentence, if they can't, perhaps because of administrative reasons, be removed at that point I think they should, unless there are very good reasons to the contrary, be moved out of prisons and into a removal centre.

Sarah Teather: I think those words that people are actually forgotten, I mean that certainly is the kind of language that we hear from detainees. That's an extremely helpful analysis. And Sally.

Baroness Sally Hamwee: Yes. And, following on from that, can I just ask to check: Are there detainees in prison who have not been sentenced through the criminal justice system? Is prison being used as a direct alternative or is it just sequential?

Hindpal Singh Bhui: On very rare occasions. We would be very surprised to see detainees in prison without an offence against them, a criminal offence against them. It's quite rare.

Baroness Sally Hamwee: And that would be because the IRCs are full?

Hindpal Singh Bhui: Well, it shouldn't be because IRCs are full; it would be because in IRCs the IRCs can't manage them, for some reasons – because the risk is considered to be so great that they would have to be in a prison. The argument for that is actually much less strong than it used to be because many of the IRCs now being built – wrongly, in our view – are built to category B standards. So, in a way, you can't have it both ways. You can't build category B IRCs and then say they have to be held in prisons.

Nick Hardwick: I think what's also just worth noting on that point, of course a lot of prisons have been converted into immigration removal centres. And so while they may be designated as an IRC, their physical security and the culture in the establishment is still very much that of a prison rather than immigration removal centre. So that was the case I think we found at Dover.

Baroness Sally Hamwee: That rather links into my next question, without- I don't want to put words into your mouth but a lot of what you said and a lot of what was in your submission raises in my mind the question of training of staff. I don't know whether there was anything you would like to say specifically about staff training.

Nick Hardwick: Well, I think training very often is limited. I was in Campsfield recently, which actually was being well run for the most part. But there was one unit where they held detainees when they first arrived, and a sort of separate part of the unit, just before they were due to be removed. When I was there, there was an experienced member of staff and a very, very new member of staff, who, because there were only two of them, the experienced member of staff had to take a detainee off to somewhere else. This new member of staff was left in sole charge of the most anxious and stressed detainees in the establishment. Now, she was doing a pretty good job but I was very concerned and I thought, look, you know, it wasn't fair to her. You're putting someone without experience and training, you know, one of the most responsible jobs in the establishment, as far as I can see.

Baroness Sally Hamwee: And it is more training needed over more practical administrative matters like, as you say, not starting the process of release earlier.

Nick Hardwick: Well training is needed across the board. And I think there's also particularly some specialist training – I know we'll come on to the question of mental health later and where, as you would expect in a prison, you would expect prison officers to have a basic level of understanding of mental health issues. That needs to be the case for staff working in immigration removal centres. You need the medical staff to be aware, for instance, of issues around torture and mistreatment and what to do about that. It's a range of sometimes quite specialist training at different parts of the establishment.

Hindpal Singh Bhui: I think it might be worth distinguishing between the training for immigration staff and for detention staff. So, for detention staff we often find that one element of training which is missing is training in specific backgrounds and experiences of detainees, as opposed to prisoners. So we think that will be very important to help them to understand better the concerns and stresses which face detainees. And linking again to the issue of mental health, understanding better why people do seem to be so distressed in detention.

Now, on the training of immigration staff, I know less about that. But I think one of the issues which comes up for us is not so much the training, it's the system. And I think just going back to this issue of people being forgotten within detention, I think the system allows for people to become forgotten, because if you have no finite time limit on detention, it means that people think that they can push the boundaries forward, push the deadlines forward and forward and forward. And that's a big problem because it means that, you know, going to back to this question of prosecution, we've often found people being accused or detainees being accused of non-compliance with the Home Office. And if they are being non-compliant, then in our view they should be prosecuted for non-compliance and go before a judge who could make an independent decision, but that very rarely happens.

Baroness Sally Hamwee: I'm supposed to be asking you about vulnerable detainees, but I've got one other question if I-

Sarah Teather: Okay. Be quick because we've got quite a lot to get through.

Baroness Sally Hamwee: Yes. I just wanted to know and I should know whether you've compared the costs of holding someone in detention with the costs of not being- being out in the community.

Nick Hardwick No, we haven't, is the answer.

Baroness Sally Hamwee: No. Fine. Okay You've already touched on this but the protection and support of vulnerable detainees – I know Ruth wants to talk about pregnant women—don't you?— but women, people with mental health needs. Is there anything more you want to say about their protection and support?

Nick Hardwick: Well, it's certainly, in terms of the mental health issue, I've been quite surprised about the degree of mental ill health, that we've found often quite acute problems, and the numbers of people who are in treatment at any one time in a particular centre. I think the general evidence from our reports - and also what I would say - is that is certainly. For instance, at Yarl's Wood, we found people who were obviously ill at the airport and appeared to be taken to Yarl's Wood as a place of safety, which was, you know, that's entirely wrong.

I think generally our finding is that for the most acutely ill, then services are generally reasonable. It's the kind of lower-level mental health problems where we think the range of therapies and interventions and support that's in place isn't sufficient to meet those kinds of needs.

And the other thing to say is I think that what's very striking when you go into any of these establishments is just the general degree of distress and sadness there is around the place, and it hits you, it's unavoidable. So, again, on the whole we find, it is not they're sort of being treated badly there, that would be to oversimplify it. It's because of the uncertainty of their situation and the anxieties about what will happen in the future.

Sarah Teather: And the particular nature of the vulnerability of the group, which is the point you were making at the start – that they're a particularly unusually vulnerable group.

Nick Hardwick: You're starting with a vulnerable group anyhow. So you might have, for instance, I don't know, a woman who has been a victim of domestic violence, who may not meet the refugee criteria or whatever it might be, but is still very fearful of being sent back to where she came from, and you can rattle off lots of examples.

Hindpal Singh Bhui: I think there's also a point about where acute need, mental health need, hits indefinite detention. So we have found people who have got severe needs, severe mental illnesses, who have not been treated badly by the centre staff. The healthcare staff seem to have been doing their best. But the fact of indefinite detention allows them to be held for months and months and months without any end in sight. And that starts to be a major problem.

Sarah Teather: Ruth.

Baroness Ruth Lister: To continue on the position of women. In your report on the inspection of Yarl's Wood, which was published last October, you said, and I quote, there were insufficient female staff for a predominantly women's establishment. Could you tell us how that compares with prisons such as HMP Holloway? And what impact do you think it has on women detained there, including pregnant women but not only pregnant women?

Nick Hardwick: Well, I checked that. If you took the Yarl's Wood, I think the male-female ratio was 50:50, one to one, whereas in Holloway the ratio is, at the moment, is 60:40: 60% women and 40% men. So there are more women, so it compares badly with Holloway.

I think that does make a difference in a common sense way. Often the nature of detention is that it's very intrusive and personal. You're dealing with the intimate details of people's personal life, bodily functions and all of that kind of thing, and if you don't have enough staff of the same sex then that's bound to be seen as intrusive.

I remember a very striking finding of Yarl's Wood was when some women talked about male officers doing searches of their rooms. Now, assume for the moment a search is necessary, but it still involves staff going through, in detail, a woman's clothing – all of her clothing; it still involves looking at her most personal things. And of course that's going to be humiliating and difficult for people. If you're doing a search, a bodily search, even if that's being done by two female. You might- The procedure might be delayed so you can get two female staff there. And then even if it's being done by women, you're going to be concerned about who might be there or see it. So I think it creates a level of anxiety. And it's just an awareness, I think, of the sort of needs detainees have- Because any detention or prison experience is so domestic nature, it's about the understanding that perception, of understanding of how a woman might be feeling in that situation.

Sarah Teather: That's a very interesting perspective, actually – that the fact they're being held, you're re-enacting all of the domestic setting. I think that's a very powerful way of saying it.

Nick Hardwick: I think it's very important here. Once you are detained, you start becoming dependent on staff that for the little things in, like, you run out of toilet rolls. You need to ask somebody for them. You need to do some extra laundry. You have to get permission to do that. All these tiny things that are to do with the intimate details of your life where you have to start asking someone for help, you have to start asking someone for permission, that's when the gender mix, I think, is very important.

Baroness Ruth Lister: Are there any particular issues around pregnant women you would want to raise?

Nick Hardwick: Well, I think there are some issues about pregnant women. First of all we would say that pregnant women should only be detained in exceptional circumstances – that would be our starting point. We've certainly seen pregnant women taken on very long journeys – often over several days with overnight stops, which seemed to us inappropriate. There was one case, I can't remember where she ended up now, that went from Northern Ireland to Scotland, down to Manchester and then, I think, down to Yarl's Wood, I think it was, in the end.

Actually, if you looked at kind of medical care, ante-natal care, often if women are detained, it's acceptable. But again it's = some of the domestic issues - if you've got a woman who's pregnant, the thickness of the mattress starts to become an issue. Things like laundry or very basic things, those, in a sense, domestic issues, the practicalities. Their medical needs, these might be met but the practical needs one might have in that situation, they tell us aren't.

Hindpal Singh Bhui: think it's also important to remember that pregnant women are only meant to be detained in the most exceptional circumstances. And again, we look for evidence of this. And on the last couple of occasions that we've looked, we haven't found those exceptional circumstances in the paperwork to justify their detention in the first place.

Sarah Teather: Do you want to follow up with Rule 35?

Baroness Sally Hamwee: Yes. In your submission you say there's been improvement in Rule 35 reports, but the failings still exist. Have you been able to identify first of all what drove the improvements?—because I think it's good to learn from the positive—but also how do you think the operation of Rule 35 could be improved further?

Nick Hardwick: Well, I think that- To be- Well, actually, we had a lot to do with driving improvements because we raised it and pursued it with vigour. I think that did have an impact, actually.

I think that the picture there is inconsistent. So in some cases we've seen cases that- where Rule 35 applies, identified, and people being released under Rule 35 procedures. One case I think, Haslar I think it was, where there were a significant number of releases because of that.

But it is still inconsistent. And what often happens are two things, I think. Two places where the system goes wrong. Sometimes the medical- the medical assessment will describe the injuries, for instance, that a detainee has. But, actually, what they won't do is then make a judgement about their injuries. So, are the burns on somebody's arm consistent with their account of torture, for instance? If you say there are burns on the arm, that doesn't- That actually needs the medics, I think, to make a judgement, and that's an issue we've raised recently with the Home Office.

And then secondly, sometimes we'll find cases where there's been very clear evidence of torture. The Home Office has accepted that that's the case but still the detainee has not been released.

Hindpal Singh Bhui: And also I wouldn't want to get carried away with the idea that there's been a vast improvement, because there hasn't. I think what's really important in this respect is to remember that Rule 35 is meant to protect the most vulnerable people. So a single case that's been badly dealt with is one case too many. And I think we still find too many Rule 35 reports which are written badly, which don't provide any diagnosis, which don't provide a clinical opinion – in which case, what's the point of writing them? It just becomes a bureaucratic procedure. They're received by the Home Office who, understandably, in my view, if there's no opinion and if it simply describes what the detainee is saying, say we've got no reason to take any action, no reason to release. And it goes on like this.

For us it's been amazing that it's been so poor for so long. And so we have identified some improvements in immigration centres we've been to over the last year or two, but that's certainly not enough.

Baroness Ruth Lister: Do you think the guidance could- Do you think there could be guidance on how to write these reports to add- to address-

Hindpal Singh Bhui: I think there is some guidance but the issue is some training in understanding the issues. And I think there still isn't consistent training across the estate for doctors, who are meant to be writing. We've found doctors don't write them; often we find that nurses write them. And there are problems in that as well.

Nick Hardwick: We've had a disagreement with the Home Office about this where a recommendation we have made has been rejected. Our view is that the clinician who writes the report should make a judgement. That would help. And so it's a- Is this- Are these injuries consistent with the account the detainee has given? That's the critical thing. That recommendation has been rejected and but we hold our view.

Sarah Teather: David, do you want to follow up with the next?

David Burrowes: Yes. In your submission you referenced your last inspection of Yarl's Wood where you found that detainees displaying clear trafficking indicators were not always referred to the National Referral Mechanism and you referenced a case where a detainee without leave to remain had been picked up working in a brothel but no referral had been made and the lack of awareness of the National Referral Mechanism amongst staff. Now, the government has plans to reform the whole NRM process. What do you recommend they do?

Hindpal Singh Bhui: I think simply, actually, it's making sure that people are aware of the process. That's perhaps too simplistic an answer, but that's really what we think should happen. And I think we're talking again about going back to this point about an awareness of the individual needs of detainees, amongst both detention staff and crucially amongst immigration staff. So we picked up those cases from our detailed casework analysis, and you would expect caseworkers who are experienced to see those indicators and to refer on. But we still find too many caseworkers who don't necessarily understand the NRM themselves.

But that's a fairly critical failing, actually: if you are going to be picking up- if you're going to be dealing with detainees who have those sorts of backgrounds.

Nick Hardwick: I should say, if it's helpful, the criminal justice inspectorates as a whole are going to do a joint thematic in the future and looking at trafficking, and I hope part of that will pick up the- what's happening in immigration removal centres.

David Burrowes: Few staff receive specific training on identification of trafficking victims so as good as the NRM could be...

Nick Hardwick: Yes. Exactly. The problem is- The problem, we don't think, at the moment, is the procedure. It's that staff aren't following or aren't aware of the procedure. And you would think, you know, it wouldn't be very difficult to work out if you pick up a woman, an Eastern European woman working in a brothel, she's quite likely to have been trafficked.

And there's actually some very basic knowledge that's missing. It's not terribly complicated. You have to identify the risk of them having been trafficked, the risks, you know, are very apparent there, and make the referral.

Sarah Teather: One of the first detainees who gave evidence, actually, to our hearing. We had a number of detainees give evidence to a standard phone line from inside Colnbrook, and he'd been inside Colnbrook for three-and-a-half years, and he said that he was a victim of trafficking from a very young age, that he'd been trafficked from the age of 16 into Europe and out of Africa. So, I mean, I think it's not just- Our experience would be that it isn't just women in Yarl's Wood that there are very vulnerable men who are also not being picked up. You. Yes. David.

Lord David Ramsbotham: On a broader sense, you in your reports, and I've read a number of them, have made a number of recommendations. And what has been striking is that the same recommendation has been made in establishment after establishment after establishment. And remembering when I had that job, the thing that always worried me was that there was no one, no single person, who was responsible and accountable for picking up those recommendations and making good practice somewhere into common practice everywhere.

And this was compounded by the fact that you had different private sector companies running the detention centres and commercial confidence and all that started getting in. But you had officials in the Home Office who were responsible for the case work. So you were dealing with two different people, and the disconnect between those two. And it all came together in what they used to call resettlement at the end, and I said it's not resettlement because they haven't been settled already; it's settlement. And if there is one thing that there ought to be consistency over, it's in the settling of people when they go out and leave the detention centre. Now, I'm sorry. There's rather a lot in that, but does that still apply?

Nick Hardwick: Well, there are two issues to say as part of that. So first of all is the response to our recommendations, is the point you made first. What I would say, certainly over the last year, I would say that the Home Office have got their act together to that on- to some extent, and certainly I think we've had quite productive engagement with Mandy Campbell, who's the relevant director-general who's now meeting with me on a regular basis, and has engaged with what we are saying.

David Burrowes: Can I just pick up on that, just one point? But you say on your report we have repeatedly recommended that immigration detainees should not be held in prisons unless there are exceptional individual risks to justify this and are concerned that the practice continues.

Nick Hardwick: Let me- Exactly. So our- The points we're making about, on the whole, the treatment and conditions of people in immigration removal centres, so the actual treatment of people there, we do get engagement on. The problem is the broader policy issues and questions around decisions about why people are there in the first place and where they're held – those bigger policy questions in a sense – which aren't decided by, to be frank, by the immigration officials or the people in the centres. They're decided in this place, on those issues, those political questions, often, it's harder to

...

David Burrowes: Sorry, it isn't a political decision, purely to detain in a prison rather than a centre. That is an operational decision and it's a decision about the risks from that. And you've made a number of recommendations that this practice shouldn't continue. You can't just simply blame politics-

Nick Hardwick: No. Certainly- no. I don't mean to blame politicians for that. On that issue-

David Burrowes: You can do; I mean-

Nick Hardwick: No, no. I'm not blaming politicians. But on this issue, I don't think we're disagreeing on this, have they made enough progress on getting detainees out of prison? No. And so I don't have any disagreement with you on that, of course, it is largely an operational decision.

So I'm not- So, we're certainly not saying that they agree to everything we say, that that's not the case. The point that I think is important to make is that what detainees are saying to us now is, on the whole, the issues aren't how they are being treated in a particular centre; the issue is how their immigration cases are being dealt with and the uncertainty of their position. And that's what causes their distress.

Second of all, on your point about resettlement, well, again, that would be the introduction, for instance, of welfare officers in centres is something where they- we think a result of the recommendations we made, that has made some difference. But a third of all detainees are released – at least a third, probably getting on for half, are released back into the community, and that includes some former prisoners who potentially might have committed relatively serious offences. And they're released back into the community without either the practical help they need often to resettle in sufficient detail, or, in some cases, the sorts of work you would expect to happen to address their offending behaviour in some cases, that you would if it was a UK citizen going back in. Because the assumption seems to me that planning is done on the basis that everybody is going to be removed, but we know that not everybody is going to be removed. And therefore actually we need to plan more on the basis of, okay, how are we going to help the people who are going back in the community live productive and sensible lives? And how are we going to deal with those people who have committed offences to reduce the risk that they'll reoffend again?

Sarah Teather: I find that extremely helpful.

Lord David Ramsbotham: So did I.

Sarah Teather: Have you got a short supplementary? Because we're running a bit late.

Lord David Ramsbotham: No. I would like to chew over that because I think that's extremely helpful. But I was interested too in the point that you made, Nick, about the detainees appeared to be complaining more about the casework than treatment.

Nick Hardwick: Yes. Absolutely. I think it's really important. So, right, the answer to this issue, generally, is that it's not a question of if only somehow or other we could improve the way that centres will run, everything would be all right. I don't think that's the case. It's about even the best-run centre with caring staff and effective management where, where controls are minimised. So, one of the best ones will be Dungavel in Scotland, for instance. Even there, the distress people feel because of their situation, because the detention experience hasn't been exceptional enough, that, you know, there hasn't been an exceptional reason to detain and cases aren't progressed, that's what detainees tell us causes them distress and anxiety.

Sarah Teather: The sense of being forgotten, the sense that-

Nick Hardwick: Well, not knowing what's going to happen. Not knowing what's going to happen. So there you are, right? Let's say- It's quite a proper decision, you are going to be- It's quite a proper decision you're going to be removed. But what we look for, for example, is some empathy about you may be going back to a very uncertain and difficult situation. You're going to have links here that are

going to be broken; you'll have people here you're going to be worried about. All of those things and you don't know when it's going to happen. Of course people are distressed about that and worried about it.

Hindpal Singh Bhui: I would just like to quickly come back to this point about detainees in prison. So, it never ceases to amaze us that foreign national prisoners, who are often seen as one of the easiest groups in the system to manage, once they become detainees suddenly become considered to be too dangerous to move to an immigration removal centre, many of which are built to category B standards. So, again, I think it is very important to state that we don't think that immigration detainees should be held in prisons at all.

Sarah Teather: That's extremely helpful. Very, very- Very particular evidence, very specific evidence, really good for our thoughts and a lot for us to consider. Really, really helpful. I'm very grateful to you for making the time.

Nick Hardwick: Thank you for the opportunity.

Sarah Teather: And very helpful. Thank you. Thank you. I'll invite our next group to join us.

Okay. So we have Tacko, Aderonke - Have I said your names correctly? Make sure you correct me if I'm wrong, by the way. And Barrow. I don't know whether you were able to hear much of the previous evidence or whether you've ever been able to hear any of the previous hearings. But, I mean, what my colleagues are keen to hear from you is a bit about your experience, a bit about your recommendations about what you think needs to change. And perhaps if I can open up. I'll make sure I'll begin with you, Taco, because I know that you may have to leave. But if you would like to tell us a bit about yourself.

Tacko: I'm all right. I'm all right.

Sarah Teather: You're all right. Oh great. Okay. So, tell us a bit about yourself and your experience, why you were detained when you came to the UK. Anything you would like to say as an opener.

Tacko: Yes. My name is Tacko. I'm a black African. Proud gay man from Africa. And I'm also a proud member of the civil rights and immigration rights movement for justice. And my hope to come to the UK was that I was hoping to go to the countries where it's integrate and fair, and justice, where I can go and seek help and freedom that I've been fighting for all my life.

But just at the beginning I just want to go back to Nick, which is, to be honest, I've been sitting there and it was so hard for me to sit there and only once, only people who think they're the one helping asylum seekers are just saying nothing that is interesting to any of us who are here or any of the asylum seekers and the detainees who are out there seeking for help. I don't think we are vulnerable; I think we are the strongest people around the world.

I think we are people who are strong, who start fighting from the day you are born, for fighting who you are, fighting for who you want to be. And by coming here, facing a racist system, is not vulnerable. We just go to where we don't know nobody, where we have nothing, where we left everything behind, just going to seek freedom. That is not vulnerable; I think that is strong.

But if we came here facing a system that is using us, arresting you outside because you're working without a paper and giving you work inside a detention centre I think that's using you, but it's not- It's not vulnerable. We're not vulnerable because what we've been through, I don't think any of those big people calling themselves a decision-maker can let their son, their daughter, their member of family, whatever, husband, to go to that detention centre for one day.

So, I don't want to see people who say they are helping us calling us vulnerable. They're the ones who are making us making us vulnerable in the first place.

Sarah Teather: Okay. Aderonke, tell us a bit about yourself.

Aderonke: My name is Aderonke Apata. I am from Nigeria. I am an open lesbian. When I was in Nigeria I was educated to a degree level with a B.Sc in microbiology, and I had my business. But I came into this country because I was fearful for my life, because I faced persecution as a lesbian. And I'd been arrested back in my country by the police, and I had to pay a bribe to get out of jail. I'd lost members of my family. I've lost everything that I had: the good life that I'd fashioned out for myself, I'd lost it. And when I came into this country to claim asylum, I didn't know what the system was all about, but once I was going through all the processes, I started working because I didn't have support from the state at a point. And then I supported myself to develop myself further and have a master's degree in public health and primary care, which I paid for my course. And also I came to the registered managers' award for NVQ-level 4 social care.

And I got caught working, and I was paying NI and tax, but I was sent to prison for doing that. And I thought that was going to be a plus for me to say I was contributing positively. They wouldn't do it; it was illegal. But I was punished for that. And along the line I have become an activist. I have been detained in Yarl's Wood for nearly one year or over that, where I led a demonstration with over 400 women because of the restrictions that we'd been given in the detention centre. And that was in 2012.

And following that, I've been sent back to prison without any charge. Eventually I got released. And I happened to have won an award for a positive role model in national diversity award in the UK for LGBT people. And recently I was added on as number 44 to the 101 most influential LGBT people in the UK. That's my introduction of myself.

But my experience of the detention centre has not been a very good one at all. Like I said, staying in their indefinitely, I've been to prison when I was sentenced for working illegally, and knew the date that I was going to be released. But when I finished my sentence, instead of being released, I was still kept in prison. I think about two months thereafter, that was when I was moved to Yarl's Wood. And when I go to Yarl's Wood I was there again for another nearly one year. So I didn't know what was going to happen to me. I didn't know where I was going. I was just waking up every day doing the same thing all over and seeing how people are being tortured, how people are being handcuffed, been subjected to all sorts of torture, being deported back to their countries, and these are people who fear going back because of one prosecution or the other – especially people who have been trafficked, people who have been subjected to forced marriage, or even female genital mutilation.

And when I was in detention I had a homophobic attack for a period of one year, which the Home Office knows about. Yarl's Wood investigated it. They gave me a letter to say what I said was true, because half of the population of Yarl's Wood is made up from people from my country, Nigeria, and I had this attack for over one year. Every day being abused, physically, emotionally, psychologically. And even people that I identify with who are of the same orientation with me sexually were also prosecuted because of their association with me.

And I thought it was wrong because that was hate crime but it was never, ever treated as hate crime. It was never reported. I was just left there to go through that torture again. What I've been through in my country, I was going through it again in detention centres, apart from what other people are going through I dare say.

Sarah Teather: I thought that was one of the strongest parts of the evidence you gave, actually. I'm glad that you raised it because I was going to ask you about that. It really worried me a great deal that you'd experienced that it was bad enough that you'd been in detention but you'd not been kept safe in detention. And you'd made the allegation that you felt that people- Your perception was that if people didn't deal with- People didn't deal with it because if they did deal with it, it would have justified releasing you. Is that your understanding?

Aderonke: Yes. My understanding of it is this. As much as SERCO, that manages Yarl's Wood, wants to remain as a good company for resourcing, they wouldn't want to deal with that case by calling in

the police, because I am sure that this only- They saw it that, they wrote me a letter to say all that all that you say is true. So if you were convinced that I was being prosecuted, I had homophobic attacks. Not just once, not twice. And yet you could not release me out of that environment. So you kept me there to continue to be subjected to this psychological effect that I was suffering. And you could not even release me. Even if you say, okay, let us release her on bail and tag her. Because in the community, definitely, if anybody did that I could report to the police and I might get justice. Now, in there I couldn't do anything. I was left in there. I was suffering every day. Being persecuted every day, and they didn't do anything. They didn't want to appear to be an organisation that promotes homophobic attack. And I would think the Home Office also does not want to be seen – otherwise, they should be releasing me on that basis – as the arm of government that promotes such a thing. That's my perception of it all.

Sarah Teather: Can I bring Barrow in? Tell us a bit about yourself.

Barrow: Yes. My name is Bashir Barrow. I come from Somalia, a war-ravaged country. I come here in 1995 during John Major's prime minister. So, I worked in several other places like Jenson House, in Neasden

Sarah Teather: In my constituency?

Barrow: Yes. As night-time security.

Sarah Teather: I didn't know you'd been my constituent. I don't just pick my constituents, you know, to give evidence. That's news to me.

Barrow: Yes. I worked for several other places. But when we talk about detention, yes? Where I come from in Somalia, it's presidential degree. So it's only national security can carry that. And the people they arrest for detention, they will not come back. Maybe they will die there or something like that. That's the phobia I have for the detention first.

And secondly, stigma of detention is: if you go to jail you know the day you get released. But in detention, you don't know the day you got released. So mentally it will eat you, it will finish you.

Sarah Teather: How long were you in detention for?

Barrow: I think 26 months.

Sarah Teather: Where were you held? Just in one detention centre or more than one?

Barrow: Three detention- four detention centres. Two in London, one in Dover- No. Three in London. And the last one was near Gatwick airport.

Sarah Teather: And that all added up to 26 months, did it?

Barrow: Yes, 26 months.

Sarah Teather: And you served a jail sentence first. Am I correct?

Barrow: Yes. The jail sentence, I've served it for one year. So when I get released, then I've been put in for the detention.

Sarah Teather: So more than twice your jail sentence you then spent in different detention centres.

Barrow: Yes. I served it for the detention. I was having indefinite here to remain in this country, they revoke it. When they want to deport me was 2008. They issued tickets. And at that time war Somalia was no go area until now. So I write to the European Court of Human Rights. So the European Court of Human Rights, thank god they saved me, they said you cannot deport to Somalia.

So from there on, I don't know the Home Office, what they carry for themselves, then I've been sent to- What is more gruesome. They transfer me from Dover to another detention in London. It's not- I've got Dover in my bed. I'm there. So, they say you've been transferred to London. I say no

problem. They told me one is called prison. Me and other two guys, the other two guys, they are going to detention. Me, they drop me here. And I wonder how they accepted, you know, one is going prison, how they accepted me. I'm not a category of, you know, a prisoner. One thing I know is judicial custody is only a judge can send you there.

So, from detention then I've been sent to Wandsworth Prison. So, 8 months I was languishing there. I was a prisoner. I'm saying I'm a detainee; I'm not a prisoner. Yet the little bit did you get the telephone, you told your people or something like that, in the detention. But the stigma also is there. You don't know the day you are going out. But I go back to prison and criminals, you know, there, and banged up all the time. Eight months I was, you know, fighting, saying why? Why? I don't know why I've been there. Since 2002 up until now, when I come out they say, all right, they refuse. They say people have to come. So the people, they have to have money in their account. They come; they have money. They said no. Then my lawyer take to the high court; high court released me. Well, the people who come to me to release me, they've gone. They say the previous condition will release you. Then the security of, you know, G4S is behind me and everything. Again, they will tag me. Been tagged. Eight months again.

I've been off the tag. I have to sign every week. They send me- Right. I was- Then later become Bristolian, I was in Bristol for ten years. Then later they send me. Anywhere, we will send you, you have to go. I go. I say firstly I will not go because when I go there, certainly you will stop monetary leave or the house, on one go, and I don't know no one in that place. No. They said you have to go.

Sarah Teather: Yes. I can imagine it makes it even more difficult when you are released if you've been moved around repeatedly, you get released somewhere where you don't know anybody at all.

Barrow: You don't know. So-

Sarah Teather: So, I'm just going to bring my colleagues in a bit, actually, to make sure that we actually get a chance to ask everybody some questions. Ruth, is there anything you want to-

Baroness Ruth Lister: You mentioned your lawyer and I just wondered how easy it was for all of you to have access to a lawyer and speak to them. You know? Did you face any problems.

Barrow: Yes. If I talk about myself, the lawyer, they will tell you to sign the papers from the cases. Then, even sometimes it's difficult to go to- legal aid, they don't pay now this. You've got problems. Even to answer for you the telephone is problems. This is what I've seen, you know, nowadays.

Sarah Teather: Tacko, I seemed to remember you talked about this in your evidence. You want to tell us a bit about your experience of lawyers?

Tacko: I haven't got a lawyer. My lawyer gave me my file back and I wasn't invited to have another one. So, I was without a lawyer and I was better off without a lawyer. That's how crap and how bad the lawyers are in the detention centres. Because they do nothing for you. They are not anyway- They are not any clues, like, they're helping you. Because that's how I see it. That's my experience of seeing people who've been let down by their lawyers and never been to court. My lawyer, let me down day before my appointment] Yes. So it's all been- I don't say ... or anything. But everything is as is because if you have a lawyer who know this is your life. And if you cannot help this person, please tell him. Don't give him 24 hours that he's not had enough to adjourn the case or do anything to not go to that court give him at least there's time that there's no way I could send anything. So I have to go to court. On my last chance of my life to face people who I never face. And it was a first time I've been immigration court. I don't know what to do; I don't know what to say. So how do you expect me to face those people and even know what, where to start or finish.

I don't have, just handing me my file, I don't know what my file is. I can't speak English; I have no one to read my story for me to understand what the papers say; I just need to just go there and believe in God and to hope and to face people who are okay about you which, unfortunately, the ones who I face, they don't care about anyone. The only thing they care about is how to make me lose.

Sarah Teather: I just want to- Somebody's tapping against a table and it actually gets picked up by the microphones. I suspect it's just somebody jiggling their leg, but if somebody is, if they could stop because I'm struggling to hear and I suspect anybody with a hearing aid would find it even more difficult.

Tacko: I don't think the real issue is not about the lawyers, so- It would be- That question is more concrete as this question is an immigration matter because there are more issues that need to be talked about.

Sarah Teather: Yes. I mean, I think- I mean, the legal issue is kind of important for us to know about, really, because it does help people to get access to justice. So, I mean, we'll come back to the other issues. But I would quite like to bring Aderonke in again because she, again, she spoke specifically about this in her evidence.

Aderonke: Yes. Thank you so much. The issue with the solicitors I don't think is different with one asylum seeker or a detainee from another, because what they usually do, for instance in detention centres, where it's very hard for people to access legal aid solicitors, they have only three legal aid solicitors available that we have to choose from. So, if any of them decides not to take up our case, then it means that we don't have access to any at all. And when we do get lucky to have them take up our case, they then come across as if they're not working for us. For instance, in my situation I had to do every little job for my solicitor. It was clear to me that my solicitor didn't understand my case. So it is my responsibility to make my solicitor understand my case and produce all the evidence that I think will be in support of my case.

But what I've noticed is the solicitors would even judge you before you get to the court. And that worries me because the solicitor is supposed to be telling the Home Office. For instance, I had an

argument with my solicitor when she said the problem there is your credibility. Then I said why are you my solicitor? The Home Office wrote everything they want to write, just so that they can damage me. And that's why I have access to a solicitor – to stand up there and then reconstruct the whole thing so that the credibility they're talking about can then be proved. So, why are you telling me it's my credibility it's my credibility? I've heard that from the Home Office. I don't want to hear that from you. I want to tell you the things to put across to you to then correct this credibility thing that you're talking about but you're not ready to accept that.

So, in a way, my solicitor was judging me. And then this issue of legal aid where solicitors have to weigh cases to say you meet the 50:50% merit before they can take on the case. In my view, it is limiting the access to justice, because most solicitors would judge you straight then and say it does not meet the merits, so I'm not going to take you on. Instead of them, to listen to you, and see the facts in your case, they wouldn't. They don't even have the patience because sometimes when you call them and you talk to them about something previously, they can't remember. So it's like you're going over and over again so they don't have the time to even scrutinise the cases before then, and they've judged people.

And I've heard, in fact, when I was refused and I was going to appeal, my solicitor said I cannot find any area of law. And I could. And I put them to her and she said, no, I'm not going to do it. So I said to her you're working for the Home Office or are you working for me? Because I can see the judgement here. And eventually I had to take my case by myself. Even up to the time that I had to lodge my case at the judicial review by myself. Most of us in the detention centre, we are self-taught solicitors because we are in very, very, very precarious situations.

When the solicitor will just talk to you, like, a few hours, then you will have to start thinking how do you get out of this. We've never had any education about law but now we're nearly an expert, which I think is a shame.

Sarah Teather: I'm going to bring David in.

Lord David Ramsbotham: Can I just ask a question around this? Because I've heard reports of so-called legal advisors impressing themselves on detainees and others and charging large amounts for not a great, very good, legal advice. And I was told that there was a- Detainees were informed as to who were officially recognised and who were not. Is that so or not?

Aderonke: It does happen in the detention centre. Like I said, there were just three that were recommended. Out of the three, the guards will still tell you the ones that you should go for, out of the three solicitors – that they have the list there. And when you do go to them, you get rejected because they won't weigh the cases and they say, look, they've not met the merit.

So the ones that they've said are not really good, so to say, are the ones that you go back to, who'd eventually probably take the case and at the end of the day don't view again. So, sometimes, some of the guards would give advice which I don't think they should have. They are not in that capacity to give legal advice. But, because detainees, they live with the detainees so to say, because they come there, work most of their times, and they say how the detainees can struggle to get through all of this. So, maybe they give advice in that form to say, okay, you go to this, don't go to that, go to this, because from experience we know this one is good, this one is not good. So maybe that makes them legal advisors. I mean, giving legal advice which I don't think they should be giving, because they're not trained to do that.

Sarah Teather: Do any of my colleagues want to come in at this point? Sally.

Baroness Sally Hamwee: Going back one stage, Aderonke, you said that when you got here you didn't know what your legal situation was, what the rules are, understandably. Apart from talking to lawyers or failing to get advice from lawyers, what about any explanations from detention centre staff about your legal situation? Did any of them help you understand what the rules were?

Aderonke: No, not at all. Because what they do is they, in the library, they just leave all of this information there. And it's so unfortunate that if you don't go to the library and go through all of the papers, you might not come across any information that would help you. And for people who do not- who cannot read, who do not have an understanding of the English language, then it becomes more and more difficult for them. Because even if they say, you don't know what it is. And there are some of us who probably are lucky and we can read that going to the library might not be the primary thing to do. You want to sit down and say where am I going to? How is this case going to be resolved? How am I going to win my case or am I going to be released on bail? That will be the thing that will occupy people's mind. Not going to the library to go and read books, because they wouldn't tell us at induction where you can get help, where you can get all this information from. And I think more of that needs to be done. And if they have to look for translators or interpreters who won't tell other people who English is not their first language or who may not even have the use of English language, so that they can understand, because I didn't know anything. It was just out of curiosity, what's happening in the library, seeing people sitting down there and going there.

Because going to read wasn't my preoccupation in the detention centre but it was just the people who go there, maybe to take films, to take books, or read the magazines or read newspapers. I wasn't very interested in that. What I was interested in was how I would get out of it. But I did stumble over some.

Sarah Teather: Tacko, you indicated- Yes.

Tacko: I know it's not my question but I'm the total opposite. You see, it was thinking how to get out, but I was in the hands of people I trust, people I thought if I leave everything to them, they will help me, which is the immigration, which I was totally wrong, because what I was getting, I never go to the libraries trying to find any information. I never read. I never try to, I couldn't because the language is not my first language. And I was too shy even to ask someone: can you read my letters? Because it's too private. I'm born in a country where people do not share their personal life like everyone. In terms of advice, we don't have any. The only advice I used to get was from the detainees. And, you know, we don't have and not want, people have been loved and people have family friends who are about them outside, who want to offer them lawyers, who want to give people good lawyers from outside who can help them and who can advise them. But they don't allow you to have that. They want you to use their lawyers. So that's what they want you to do. And another case, right? because when you- when you get their lawyers, they know when to dump you, and you won't have a chance to get another one.

So that's how the system works in there. So, in terms of what you're getting there, legal advice, basically it's nothing. You don't get nothing. So if the best thing in terms of legal help is allowing people to get the lawyers they want to work with. You cannot work with the lawyers who don't trust you. Yes?

It's the same within the Home Office because if you don't trust me, how will you help me? How will you stand in front of the Home Office and say my client is capable, my client has this and this. So it's totally wrong to say that it's only two or three firms entitled to work with because you are a detainee.

Sarah Teather: One of the things that- We may make all sorts of different recommendations at the end but one of the things that a number of people have been very keen to persuade us is that there should be a time limit on the amount of time that you can spend in the detention, and I wondered what all three of you thought about that – whether or not that's the right recommendation for us, whether you think there should be a different recommendation. What would your recommendation be if you were sitting here?

Aderonke: My recommendation would be to shut down detention centres.

Sarah Teather: Yes. That's definitely a popular one.

Aderonke: Yes. I might want to expand on that. Because I've been in a detention centre. Everybody's talking about the effect that it's got on individuals. We are cut off from our families, and there's always a right to family life. Most of us have been in this country for quite a long time. For instance, I've been here now over 10 years. I have a sister here. I have a strong community; I have friends; I have developed relationships. Even though the Home Office will tell you in their decisions letters that you're making such relationships illegally because you know that you're illegal, and I can't understand why you're forming a relationship illegally. I can't understand how you make a judgement or a decision that somebody is having a relationship illegally.

So the point I'm trying to make here is the fact that some people have made argument for how much it costs the taxpayers. But there is more to that that cannot be quantified, which is the effect that it's got on us, the detainees. Even our friends outside. We all know where Yarl's Wood is situated.

Sarah Teather: Hmm. It's in the middle of nowhere. Yes.

Aderonke: Middle of nowhere. I live in Manchester, for instance, and most of my friends live in Manchester. For them to come and see me in Yarl's Wood would probably mean a whole day's trip for them. And if they were working, they're going to have to take time off for that day. And for their employers to allow the employees to leave work, we know what that will cost them if they are not on leave, on annual leave or sick leave. And I don't think because of me my sister will want to lose that job, just do that she can come and say hello to me.

And not just that. The fact that I was locked in was really traumatic to my sister and to other people who know that I was in there. And there are even other people who are not related to us in terms of blood but who are just our friends – people who live with us who know us as human beings. They didn't see us as figures like the Home Office would look at us. The fact that they remember that we were locked up, it might not be evident now but I'm sure it was depressing for them at a particular point in time. And then when we look at the overall number of people that have been locked up and the effect that it's got on all of the people, then when I'm talking about how much rise there will be in the depression in the community, and then we're looking at people who have lost their relationships because they've been locked up. And I'll tell you one secret today. If anybody was locked up in a detention centre, they lose their families, they lose their friends. Because if you call your friend, for instance, and say, ooh, I've been locked up, please can you start seeing what you can do, if you call that number back, you cannot get through. It is that bad because they are scared. The people who are there are scared. They don't want to be monitored. And I don't know what this is all about thinking that they're going to be monitored. And I think that is probably because of the experiences that they've had in the past – that why should I bring myself in trouble and get deported or get detained or get charged or something like that?

So, in effect, we become isolated, we become depressed, we have mental torture. And when most of us come out of detention we end up in psychiatric hospitals. I was there for one year. There was not a ticket issued to me. I was working outside. I was taken to prison for working. But I was offered a job at the Home Office. In fact, I had my job description – it's got UKBA as my employer in detention centre for £1 an hour, when I was working and earning £45,000 per annum outside. To me, it is modern day slavery. It is all about corporation.

This is why I am saying that detention centres should be scrapped. The money that the government is spending on detention centres could be spent outside wisely, in the community for people, not in detention centres.

Sarah Teather: I'm going to ask Barrow: What would your key recommendation be if you were the panel?

Barrow: Yes. My key recommendation is, yes, same to close the detention. Because it hits your brain, in your head. So it's better to be closed because it's not fit for the purpose. It's not fit for a

human being to be going in detention. Because you're thinking all the time when will you get released. And the treatment you are getting here, they send me prison. I got- I get the highest honour in the prison. My behaviour and everything. I sue the Home Office. I get for unlawful detention. I'm the only one who's sued the Home Office. I'm destitute at the moment. I don't have nothing. Nowhere to sleep, no money, no nothing.

Sarah Teather: You're not even on section four? You're not even getting any- Nothing.

Barrow: No. I'm not on section four.

Sarah Teather: You're not getting anything at all.

Barrow: Just living with friends and the good people of, you know, charities and so on, yes? Refugee Action, Refugee Rights, all those people.

Aderonke: Sorry. Before you move on, just to add to what we're saying, I was working outside and being sent to prison, I was employed in a detention centre, and I was given an employee of the month award, and I had a £10 voucher to go and spend. Yes. I've got my certificate. It's still with me. It's funny now but when you sit down and think about it, you cannot rationalise what is happening here. Why should I be kept and then used and then be awarded for the same thing that I was sent to prison for?

Sarah Teather: I think Souleymane actually raised this point when he became the first- he was here the first time, when our first detainees were giving evidence, he'd been working illegally, picked up for working illegally, and then was forced to work legally but for-

Aderonke: I had not had my papers in detention centre, which I still have not got yet. So why was I employed by the same people and then been given an award?

Sarah Teather: Okay. Tacko, I'll give you the last word and then I'm afraid we have to wind up because we've got some more people to hear from.

Tacko: Yes. With my experience that I have, I had in detention centre, detention centre should be sat down a long time ago. We had an uprising at Oakington Detention Centre in December 2010. And the reason why is because all that's happening, that people have in the detention centre. Like, Aderonke had it, Barrow had it, I had it, all detainees had it. When Kenyan guy die, that was the days, all the detainees saying, this is the day to end this detention centre. Because we never called it a detention centre. Anyone who's been to Oakington, you ask them and they call it torture centre. They'd be- They used to torture people in a way that there's no outside world, okay? No decision-maker, no one who cares. Even if they know this is what happens in the detention centre, outside world, when I come out, it's totally different from when I was in the detention centre, because the detention centre, immigration and the police worker here in the UK. And the way they treat me, that's how I feel that country is. When I was in the detention centre I was not thinking like I can live in the UK for long, because that's what- how I thought white people are in the UK. And when I came out, actually, the normal people, the people who are outside are lovely people. I know I have a big family here. I know loads of people. They are good people. But the system is racist as hell because- I keep using the word racism because racism at first, in here, is crazy.

So, when the Kenyan guy died we just say we don't care where you're going to be tomorrow because it could be me tomorrow that's going to die. That is worse than anything else you can think of. So, we caused that uprising to show the Home Office how angry we were. And that was the beginning. And the reason why you're seeing the uprising and the demonstrations happening outside the detention centre is also a sign. And, if you see most of them are black and most of them are ex-detainees and most of them are women. It's a sign of the people who are mostly tortured in this country. Because that is just a way to show how much they've been tortured in this country. The detention centre will cause big problems and I believe that it will cause a big problem in the UK because when I was coming here with the label of an example that the outside world thinks about

the UK when they talk about the democracy and people's right, it's totally different if you are here as asylum seekers and live in what is the reality of the UK.

So, that's what I think and I think that.

Sarah Teather: Thank you. Thank you very much, all of you, for giving evidence. We're extremely grateful to you for giving us your time, particularly Tacko as you've had to take some time off work. So, thank you. We're grateful, and I'll invite the next group to come up.

Okay. Very, very grateful to Dr Alice Edwards, who is senior legal coordinator for United Nations Coordinator for Refugees, and Grant Mitchell, who's director for the International Detention Coalition. Very, very grateful to you for joining us. We heard that we had actually scored a great coup in getting both of you to come and speak to us, so we're very, very grateful to you for giving us your time.

I think you've both managed to hear most of the evidence today and we're grateful to you for sitting through that. And it may be that we have some questions that we would like to ask you but it may be that you've reflected on the things that have taken place earlier and have particular things that you would like to say.

I mean, I would like to open, really, with the same question that I first put to Nick Hardwick and his colleague. The Home Office's enforcement instructions and guidance say that wherever possible, alternatives to detention are used. So, the guidance is one thing but in your opinion how closely is this guidance actually followed. Alice?

Dr Alice Edwards: First of all, thank you very much for allowing UNHCR the opportunity to speak to this inquiry. We've just launched a five-year strategy to assist governments to end the routine detention of asylum seekers, refugees and stateless person. So it comes at a very good juncture for us, and the United Kingdom is participating as a focus country in our global strategy. So, this all kind of coalesces very well and we wish you the best with your work.

In terms of the enforcement structures and guidance, in essence they provide a reasonably checklist of kind of criteria to be assessed – with some exceptions, which I think we'll probably come to later. We've got no direct information. We haven't systematically monitored the application of those guidelines. But one of the criteria for entry into the detained fast track, which is a pre-occupation for UNHCR, is whether or not a case can be decided quickly. And the other criteria do not seem to be applied to the same extent – in other words, reasons for absconding et cetera, rather than focused purely on whether the case can be decided quickly. Of course we have strong reservations in that regard. I think this is- We don't know of other jurisdictions that have that as a criteria for reasons for detention. Certainly it would be a reason to put someone through an accelerated procedure, either a prioritised processing, if they have a manifestly founded case and they look like they're likely to be recognised as a refugee. Or, alternatively, UNHCR does have guidelines for accelerated procedures for persons whose cases perhaps are manifestly unfounded.

But the combination of processing, accelerated processing, and automatic detention in and of itself is problematic and there are-

Sarah Teather: You said there are no other countries that do that.

Dr Alice Edwards: We don't- We have- There are some other industrialised countries that have mandatory detention but it's not related to accelerated processing. So the UK is somewhat unique in having a detained fast-track – in other words, accelerated processing with detention, automatic detention attached, and, in fact, you can only really say that it's rather perverse that persons who have manifestly founded cases – in other words are highly likely to be successful – would be the ones also in detention. That seems to be highly counterintuitive of a good practice and that's something that we would like to see changed.

In terms of kind of whether alternatives to detention are used wherever possible, one of the things we note with the UK alternatives is that they are the very traditional alternatives. So, reporting and bail. While these are, in other jurisdictions, reasonable alternatives, they're not the forms of alternatives that we are currently seeing work in an effective manner in other countries.

Baroness Ruth Lister: What are?

Dr Alice Edwards: I wondered whether you wanted to move on to that. Maybe I can give you a couple of examples, and I know the international detention coalition have done extensive research on this. So perhaps they can add. What we are kind of proposing is living within the community with some of these reporting requirements but with a full spectrum of kind of support, including case management. In Canada, for example, they have two systems. One is the shelter system and, by shelter we don't necessarily mean homeless shelters but shelters that are specifically tailored for asylum seekers and migrants et cetera in which persons get appropriate care. They get information about the asylum procedure; they get access to lawyers et cetera. And they might be released to those facilities for reporting or they may report to the immigration authorities.

And the other programme they have in Canada is called the Toronto bail programme. So it is a bail-like system but they actually enter into a contract with the individuals. They set out the rights and responsibilities of the individuals who are released to the Toronto bail programme, as well as the expectations of the Toronto bail programme, what they will require of the individuals during this timeframe. This is all funded by the Canadian government based in Toronto.

So, in essence, the Toronto bail programme requires that they sign, that they agree to be released to the Toronto bail programme. And one of the interesting things, apart from the contract, is that they agree to engage in meaningful activities. And this is kind of either they need to be engaged in vocational training and education or, in the Canadian context it's possible to work or engage in other meaningful activities. They claim, and this is well documented, that they have what they call a lost client ratio of 3.75%. In other words, only 3.75% of persons released to the Toronto bail programme abscond or disappear.

Sarah Teather: That's a tiny number. Do you know what the number is for the UK? Do you have any sense?

Dr Alice Edwards: No. I don't have those figures for the UK.

They also follow people all the way up to return, so that includes absconding in the return phase. So, I think there's a lot that can be learned from those programmes.

And the other is Hong Kong. Hong Kong is has instituted, because of litigation, in fact, because their own policy on detention was considered unlawful, they then entered into an alternative arrangement with the international social service, which is an international NGO but the local Hong Kong branch. And 5000 persons who are asylum seekers or tortured detainees or other migrants are released to the Hong Kong programme. They get assistance with providing- with finding accommodation in the community, and they have home visits to make sure they are living adequately et cetera in the community. So they have a food and other service section; they have an accommodation section; it's quite an elaborate and sophisticated system that would work reasonably well in other contexts as well.

But I guess the research that we've done and also the IDC has done: there are really five things that make an alternative work: and one is really treating people humanely and with dignity throughout the process; the other is around information – a person is far more likely to comply with all kinds of requirements, whether it's their asylum procedure, whether it's reporting conditions. If they understand their rights and obligations, in other words their duties to report et cetera, and the consequences for not reporting, so that they understand the severity of not reporting – in some cases that may well be going to detention.

The other is that there's appropriate legal advice – we've just heard from the others – so that they have appropriate access to the system. And then the whole range of material support accommodation et cetera so that they can live within the community appropriately.

And finally the fifth is individualised case management seems to make a real difference in whether people are able to navigate these processes, and so therefore they're more likely to appear when required, understand the need to appear et cetera.

We also conducted some research that may be worth mentioning now by Cathryn Costello and Esra Kaytaz, from the University of Oxford, on the perceptions of asylum seekers. And, of course you've heard, not only today but in your other hearings, from asylum seekers. But it was- It's really interest research. They look at why people abide by the law generally, and then they do empirical research with asylum seekers, and it's exactly the same research as you or I, why people comply with the law, generally around because they know what the law is – they understand that it's needed and they understand the rationalisation for it. So, in essence they found that generally asylum seekers are law abiding.

And these five-point contexts can really impact on whether they're able to be law-abiding. If systems are too difficult and too tough, of course, you can push people into the margins. And then the whole system tends to break down.

Sarah Teather: That's very helpful. I'm going to bring Grant in. I know David's very keen to get in but I want to make sure that Grant has got in right from the beginning to add anything.

Grant Mitchell: Thank you. Just to add to Alice, a bit of background, I've worked on alternative detention programmes in Sweden and in Australia and through our organisation now we have members in 50 countries.

So, we've looked at this issue and how governments in some countries are managing our population really well in the community and in other countries they're detaining them and struggling to still effectively remove people who had no right to be in that territory.

So, for us we've tried to distil why some models work and why some struggle. I've been to the UK I think three or four times and visited detention centres and some of the early alternatives, going back three, four, five years. I think what struck me here was the very strong enforcement pushing for a return, return, return, for people sometimes who've been in a country for a very long period. But if you look at the Swedish and Australian models that worked with the same population, they actually had quite high levels of voluntary return, even cases after six, seven, eight years. And it really came down to what UNHCR's findings are – that it's really way you engage people, that you aren't just pushing a return, putting everything through the lens of return but looking at how to resolve the case.

So there's this new language that a lot of governments are using, which is case resolution. How do we- You know, rather than just relying on detention, thinking that is the solution to manage this issue of irregular migration, how can we resolve the case in the community?

So the two things we found for the countries that seem to have effective, both management techniques for preventing unnecessary detention and long-term return for refused cases is: Countries having a screening tool – some way of identifying populations so you only detain when necessary and you don't detain those who shouldn't be or are vulnerable.

And, secondly, as Alice mentioned, case management – and case management, it seems, from what I've seen here has been tested, little pieces of it in different pilots, but never holistically, and not, I think, with a concerted effort of bringing in stakeholders to develop the tool.

So, the case management system in Canada, the case management system I ran in Australia, which had, I should say, a 96% appearance rate, and in Sweden which is a voluntary return rate of 75%, all of those three models were developed in collaboration with experts, NGOs, and not just a return

lens – not just an enforcement lens – but how to effectively and humanely, and cost-effectively, resolve a case.

Sarah Teather: David, do you still want to come in or is that...

Lord David Ramsbotham: Yes, because it's been fascinating, this morning, how much casework has been- has come up. It came up from the chief inspector of prisons and it came up from the previous evidence. And one of the things that has interested me is that the Home Office has a millstone around its neck, in that there are between 200- and 500,000 unresolved cases, at least that was quoted when we had an immigration bill. And the problem is that if you've got that number of unresolved cases, your whole system is choked, and you cannot process people speedily because you've got this massive amount of cases to be dealt with. And I recommended during the passage of the bill that what they should do is get in the staff to clear those cases, to get rid of them, and then they could function a proper system. But they can't function a system that does things speedily, which is what you're advocating, of course, because of this tremendous thing.

And I remember as Chief Inspector of Prisons going to Birmingham where a group had gone on hunger strike. They'd been in England for more than 20 years and suddenly they'd found that their cases were not resolved, so they were picked up and dumped into Birmingham. And why? Have you identified this? And, if so, have you recommended to the British government that they should do something, speaking from the United Nations point of view?

Dr Alice Edwards: I guess one of the comments to make is that the numbers for asylum seekers are at a low at this point in time compared to earlier in the 2000s. So, in terms of kind of the numbers, not for the return cases, because UNHCR is more focused on the asylum system than the broader immigration system, but the numbers that are relatively low – I understand around 20,000 cases through the year, which is a manageable amount compared to neighbours in Germany and elsewhere who have far higher.

The numbers I understand from Sweden at this last count – we were just in Israel together and the Swedish government was presenting and they said they have about 70- to 80,000 asylum seekers this year.

Sarah Teather: I think that's such an important figure. When you think we've got ourselves into such a pickle. Just repeat that point again for me. Our numbers in comparison with other countries are staggeringly low.

Dr Alice Edwards: Yes. Well, they've remained constant so when you have constant numbers they think that's the opportunity to be able to do something with them. Therefore you can make assessments and of course the return population is probably, I don't know the statistics, but probably larger. But I think there is a need to do triage. There are certain populations that you should- potentially there's a possibility for regularisation, et cetera. If persons who are not going to be returned, either because, for example, the European Court of Rights said children who've been in this country for a certain period of time cannot be returned. So there are a lot of caseloads, I think, if you looked at them rather than as a whole, you can chip off parts of them and deal with. But the other point- Yes?

Sarah Teather: Do you know what the resourcing is of the Swedish system? Do you have any idea? I mean, if they've got 70,000 cases.

Grant Mitchell: They're going to reach 100,000 next year so it will be the highest level since- From Yugoslavia it's-

Sarah Teather: They're taking a lot of Syrians at the moment, aren't they?

Grant Mitchell: Yes, but what's fascinating is actually looking at the way their reception system works. It's not just focused on detention of cases that are refused, and it's not an end-of-process model. So they actually, as Alice said, the numbers so large they have to triage and identify who

needs critical on-going case management. But there are two- The Swedish system is still functioning to the point that up to 75% of refused asylum seekers have voluntarily returned. And detention is only used as very much a minimum for high-risk, multiple-time absconding cases and even then it's only an average of for five days. So they're actually getting a compliance outcome for a large number of people but they're managing them in the community.

So if really, I think instead of investing in just detention infrastructure and detention estates, they've put a lot more into what they would call their reception system. But we could definitely get back to you on more details of perhaps cost analysis and numbers of case managers to- the ratio.

Lord David Ramsbotham: But it's these long-term unresolved ones which need to be resolved. They're not all going to be returned. Of course not. They need to be resolved.

Sarah Teather: I'm going to bring Sally in, actually, because she's been trying to get in.

Baroness Sally Hamwee: Well, I just wondered. I mean, that 20,000 against 70 or 80 or 100. I mean, I gulped as well and I wondered whether you had figures for other countries so we might have any other comparisons.

Dr Alice Edwards: Certainly UNHCR publishes our annual asylum seekers statistics from industrialised countries, so- And this based on reporting by governments, unless they do not report, and then we do an estimate based on previous years, et cetera, and there's a certain formula which kind of-

Baroness Sally Hamwee: So that's where we'd find it.

Dr Alice Edwards: Yes. So it is available and we can certainly make sure you-

Sarah Teather: If you could send it on so that we've got the link, that would be really, really helpful, actually. Yes. Sally, go on.

Baroness Sally Hamwee: I wondered- I was also going to ask you if you've had any comparative, I suppose this is all part of the same question, comparative figures about the costs of, on the one hand, keeping an asylum seeker in detention and, on the other, that person being in the community. That's probably all wrapped up in the same-

Grant Mitchell: Yes. We've had this discussion. The research that both our organisations have from about 2012, '11, is it on average the figures are about 80% cheaper to manage somebody in the community. It varies.

Sarah Teather: How much? Sorry.

Grant Mitchell: 80%.

Sarah Teather: 80% cheaper.

Grant Mitchell: 80%. And it varies. We saw, and I think it was in Canada, I think upwards of 90% plus cheaper and in Australia it was around 65% cheaper to have someone in the community with support of their basic needs.

Dr Alice Edwards: Yes. So, from the research, just as an example, research we conducted in 2000- and- I think it was published probably from 2011, there was a saving of \$167 CAD per person per day to go to have the whole Toronto bail programme functioning rather than immigration detention. And-

Sarah Teather: And that sounds like quite an elaborate programme as well, from what you've said.

Dr Alice Edwards: Yes. It's a very streamlined type of programme, and that amounts to over \$60,000 CAD per person per year. So, when you just start adding up. And that's the saving. That's not the cost, obviously the cost is greater if they're in detention. But I think it's relatively significant. We've

got some other statistics, but they are dated at this point in time, and we have talked about the need to get more information about that.

Baroness Sally Hamwee: Any other- Any links on that that you can send us so that we can pursue it.

Dr Alice Edwards: But just to say, the costs don't- The cost is accrued costs. You know? This is the cost of being in detention versus the full cost of the alternative. They don't cover, for instance, the cost of the- the mental health costs, the physical costs et cetera, of detention once released. So, we're also aware that there are kind of shortcomings in- the difference would even be greater, I think, if those other costs – the unforeseen costs of detention and the long-term costs of detention were taken into account.

Sarah Teather: Have you made any attempt to try to quantify those costs at any stage?

Dr Alice Edwards: We've had some discussions with institutes on it. It's more expensive than we're able to fund at this point on computer modelling et cetera so that they can project those types of costs that we are looking at.

Sarah Teather: David?

David Burrowes: Yes. UNHCR welcomed the reference in the Home Office guidance – enforcement instructions and guidance, that alternatives to detention should be used wherever possible, so the detention is used only as a measure of last resort and there should be presumptions over temporary release.

Now, your report says that effectively that that guidance of doesn't appear to be- have a reality to it. And I just wondered where you think- what would shift that to give real application to this guidance? Is it through formalising reviews? Time limits? Or is it practically one of actually ensuring that there is out there the real community support alternative options? What would shift to mean- make a reality of this guidance?

Dr Alice Edwards: I guess it might well be a combination, although in certain circumstances one might work alone, so certainly time limits in our 2012 detention guidelines, guideline number six is a requirement – or not a requirement – but a recommendation to impose mandatory time limits. This is to avoid arbitrary detention and obviously prolonged detention. But also to avoid, from a government's perspective, you know, litigation costs et cetera which are increasing in a number of countries.

So, time limits, but I think the community will have the struggle of what that time limit will be. We've also had the struggle of what should that time limit be. The longer it is you do see some systems, there's a tendency to let people stay until the maximum time limit rather than perhaps the time limit that they should have been in detention. So, I think coupled with the time limit you need appropriate detention reviews, and I understand in the UK system that it is most- it is done through the Home Office, these periodic reviews, and it's- it goes up the ladder of seniority in the Home Office. At the same time you could apply for a bail hearing but this is not automatic and we know that from NGO reports that this is quite difficult to access, not least also because of access to lawyers in order to know how to do that.

And then of course there's the whole judicial reviews system, the administrative reviews system. And, coming back to Canada, which is another good practice in this area, they have the immigration and refugee board that carries out the detention reviews in the detention facility, where that works and where they're in close proximity to an urban area.

I guess it would be the equivalent of the first tier tribunal in the UK. And so they carry it out in detention with appropriate lawyers and persons can be released under certain conditions or released without any conditions. So the combination of those two things: the time limit and the reviews are very necessary. I think in the UK system in fact you could even streamline, rather than Home Office with judicial review, plus bail hearings, I mean, it's quite a complex system to navigate

for your average asylum seeker and other. And to have detention reviews that are provided automatically to check – to appropriately check.

David Burrowes: So, without that, we obviously have this guidance. So, what can give it effect now without those legislative changes?

Grant Mitchell: Well, can I actually- I think that positive in the UK is you have that guidance and you have- There's a presumption against detention in writing. And there's been a lot of hard work here in the UK to try to apply that to children and families, for example. That's a lot of work that's been done. So, I think the challenge is then how do we implement that and expand that for other populations.

Sarah Teather: I was going to- This was going to be my question, actually, because this was my pet project when I was in government, so I was quite- and I noticed you'd put that in the evidence.

Grant Mitchell: We here back when those discussions were happening way back a few years ago now. But I think, just looking at- Rather than commenting on the UK but just on what other countries have done. I mean, if you look even at some of the Anglo countries, New Zealand and the United States, both that have been through big shifts in detention reform the last four years. Similar questions, challenges, as here in the UK, in terms of how do you- If there's an assumption of risk. You know? If someone's undocumented, you don't know them and they've no right to be in the territory, they should be in detention. So there's been a shift away from that in both those countries. And I think the circuit breaker, we were just in a meeting with the US, the US head who implemented and developed something called the risk classification assessment tool, which was a fantastic kind of circuit breaker in the US, for a country that is the world's largest detainer – half a million people a year – who, under President Obama in 2009 wanted to reduce that to only high-risk-cases, and they realised the only way they could do that is by understanding the populations. So they developed this screening tool which is basically both risks to the state, risks of absconding, by risk to the individual vulnerabilities and so on. And I think that's very much assisted in reducing unnecessary detention.

But then in other countries where we've worked like Belgium, Australia, New Zealand, they've worked in, as I said before, investing in some community models. So, I think just putting detention programmes in place and not having alternative options is going to make it hard, then, for an officer, who has someone in front of them to feel confident they won't detain them, because you can- you only- as an officer you don't want to detain someone who may end up a concern.

So, I think both the risk-assessment and community models together seem to then instil more confidence in the authorities to be able to implement alternatives.

Sarah Teather: Do you think they had, in the countries that you're mentioning, particularly where they've gone through a shift in practice, because that's really interesting to me- I mean, all my work in this area suggests that there is a particular culture in the Home Office. Certainly my own experience as a government minister when I was trying to negotiate with the Home Office was that they have a very, very aggressive enforcement mentality. How did countries like the US, where they've changed their practice, change the culture inside the organisation to make sure it actually filtered down to really happening on the ground? Because we're coming back- We're getting at the same question that David's getting at. We've got some guidance that says this shouldn't happen like this and yet the culture inside the Home Office still presumes that, you know, you have to be an extremely exceptional woman who's very pregnant not to be detained, whereas that's the precise opposite of what the guidance says.

Grant Mitchell: Well, from an NGO point of view, from the UN, I think the US was very interesting. In 2009 President Obama was very committed to reforming immigration detention and creating a new position, an NGO liaison, within the department of homeland security. Created a working group with NGOs. I sit on that working group; I've been on it for five years – the only non-American on the

group – I'm Australian – and it's been a very practical, operational place to explore how to resolve. We're trying to find the middle ground of two issues. One is: How does the state resolve the case that they think something needs to happen; and then for the individual how can we be sure all their options are explored?

So, I think that working group is a great model.

In other countries it has been litigation. I mean, we've seen places like Australia where there were so many- because we have indefinite. We have very much the English system – on steroids.

And the litigation was so high, the long-term indefinite damage of detention meant that we reformed a whole lot of our system – introducing case-management screening, alternative [and so on.

So, I think there've been two ways we've seen that happening.

Dr Alice Edwards: And just from our perspective I think there's enough research now to show that detention does not deter irregular migration or discourage people from seeking asylum; that the figures of persons seeking asylum have remained relatively constant and they fluctuate depending on the country conditions.

So, detaining people doesn't actually, as a deterrent, doesn't work, and behind some of these proposals are kind of the deterrent or the fear factor. And the other is that we've got enough examples now, I think, through the research and through governments speaking to governments – that you can manage your migration system efficiently with limited reports to detention. I mean, at UNHCR, of course, we understand that detention is part and parcel of the migration and asylum management system, but it shouldn't be routine and it should be on the exceptional side for particular persons who need to be detained and with the proper checks and balances in that system.

Sarah Teather: So, my colleagues have questions from that. They want to- We have a set of questions but you managed to cover an awful lot of them right at the beginning and I don't want to kind of repeat. I had another question but I just want to make sure I wasn't hogging it.

Baroness Ruth Lister: Can I just check? I mean, maybe it was in your written evidence and I've forgotten but I mean you talked about Canada, it sounds like quite a good model. What proportion are actually detained?

Dr Alice Edwards: I'm not sure what proportion, but very few. They have gone through some legislative changes since the research we conducted. We will be holding a global roundtable on alternatives to detention which the UK will be invited to participate in Toronto in April in 2015 as part of our global strategy. But I don't- They've gone through some changes but they- It is partly this- you say an enforcement mentality in the UK. Well, in Canada, in the past they've been very proud that they've had a welcoming attitude and that only people who need to be detained should be detained. And I think it does go back to kind of how you- how you explain alternatives to detention, how you explain how they work and why they work.

I think there are a lot of misconceptions about persons needing to be detained, otherwise you won't be able to process their cases efficiently, otherwise they will disappear into the society, and evidence shows that that's just not the case.

Sarah Teather: Yes. This point that you were making earlier about pull factors, really, and that pull factors have absolutely no impact on who comes and no impact on who absconds, and there was a point, I think, Grant, you made in your evidence was around alternatives to detention. There's a perception that kind of the heavy enforcement methods would somehow increase compliance, whereas, actually, you were saying that compliance has increased much better by better engagement, which was the point you were both making. But I'm just- This feels very counterintuitive to a UK mentality. And you only had to listen to the arguments around the Mediterranean search and rescue to hear all of that all over again and the kind of perception that

some people needed to drown in order to teach other people that they couldn't- You know? It was awful and shocking to me but there is genuine- genuinely, that perspective is hard-wired into the Home Office mentality, and I- I'm kind of wondering what you as international organisations are doing to try to change that perception. I suspect the UK is not the only country that has that perspective. It must have some currency within Europe as a whole or else that decision, for example, wouldn't have been taken.

Grant Mitchell: You're very right. It is counterintuitive in a way that you could, especially if the history is that we need to detain to manage. Detention equals the management of this population. So, then, suddenly not to detain them gives the sense that they'll all disappear and they won't comply and this is a worse problem. But in fact we've seen all of these models in various places where supporting someone through the process, the information provided, their trust in the system, that they are compliant. And also the fact that no country, UK included, can ever have the bed numbers in detention for every irregular migrant; you need to manage cases in the community like every other country.

And I think- But it is- It does seem counterintuitive. I was- Just to mention Australia. So, I ran- We went through a very, very big culture shift from full enforcement through to what they now call status case resolution to be entirely effective and fair in managing a case in the community where possible. And that was a massive culture shift for a department that just thought they should lock everyone up and remove them that way. And I think they were surprised by the outcome. In the end they set up a working group with the Red Cross who ran the programme, IOM, to explore return options for cases that were refused. And the outcomes were very large – 65+% voluntary return. And I think when they started to see the benefit of the programme, the benefit of collaboration, that caused some shift.

I think there've been a few false starts here in the UK with UKBA and community groups, perhaps. Perhaps this is an opportunity now.

Sarah Teather: Yes. I mean, the Glasgow trial, for example, and early legal help was not very well red or very well run, which I remember you pointed out in your evidence. That was a huge frustration to me when I was trying to persuade the government to adopt that method when I was a government minister and then they did begin to and then they dropped the trials. So and shortly after I came out of government, very frustrating it was too. Caroline, I think you're desperate to-

Caroline Spelman: Yes. Just picking up that thing. I do apologise for not being here at the beginning of your presentation – I had another meeting which overran – but I wondered if you could give us your perspective on the position with legal help around the world. As a constituency MP that was a dispersal area for asylum seekers for a long time, I saw endless cases of asylum seekers whose lawyers had not done a good job for them at all – as in: not corresponded with them, not done the things that they had promised to do, had taken the money for providing legal advice but essentially hadn't provided the service, and I wondered how other countries approached this. There are obviously some legality issues around one's appeal for asylum, and then its resolution, but in other countries do they hire solicitors like our asylum seekers have to here? And how good is the compliance? How good is the tracking? How good is the service that's available in other countries?

Grant Mitchell: Well, it depends. Sweden and Australia, I think that there is free legal advice for the primary and up to secondary at the appeals stage for asylum cases. Not for further- not throughout the judicial system; that would be on their own- they're to fund that themselves. But it is an issue. I mean, it is really- I actually don't know in the UK the funding situation but in terms of, you know, we've tried in Australia to, you know, certain requirements of people who can operate as a lawyer for refugee protection cases, the types of training they must have. But I'm not even sure for Canada and elsewhere.

Dr Alice Edwards: Yes. I mean, I guess part of the whole functioning of the system is an appropriately functioning legal support network. I don't have that information to hand on the comparison with other countries. We know some countries it's free legal support throughout the process but we know others – the United States, for example – there's no free legal aid for asylum seekers et cetera and they will have to- my understanding is they will have to find the funds for that. But of course it is- It is one of the bedrocks of the system and, of course, if you fund the legal aid system, cases will proceed, hopefully more swiftly – that you'll have asylum applicants et cetera properly advised, and then their cases are properly resolved, rather than being seen as an excessive cost within the system. In fact, it may have benefits of speeding up the processes if done properly.

But we also are aware of, and in my past experience as well, of lawyers who are not properly trained in this area. We also have some circumstances and I remember in the UK as well where persons will go to their community groups for their lawyers who may be good marriage lawyers or divorce lawyers but not necessarily asylum lawyers but will take on those cases and they're not necessarily the best place to do that.

Sarah Teather: It was striking, actually. I thought from two of our former detainees who said they'd had to represent themselves because they exhausted any free help or useful help from their lawyers. I thought that was particularly striking. David?

Lord David Ramsbotham: Just a short observation, really, picking up on your point about the aggression. I mean, the independent asylum commission, we describe it as a culture of disbelief, and we went and found that there was an undue influence of the prison service in the old immigration and nationality directorate. And I found, going into detention centres when I first started inspecting them, I was shocked to find that the immigration detention centre rules were prison rules, which of course don't apply to detainees. So we rewrote them based on your rules and others. But it's an old history. It's longstanding in there. And I remember discussing with them the independence of the independent Canadian immigration review board, which has always seemed to me to be a very good model to follow, and it had nothing to do with the officials in the Home Office, which has always seemed to be an obstruction to making clear progress.

Dr Alice Edwards: Having a claim properly assessed in detention is more difficult than, A, getting access to lawyers, understanding the process. We heard from testimony today how difficult it is, and this is one of the reasons why you need both the asylum and migration system to be functioning as well as the detention regime appropriately. I mean, our own research of detained fast-tracked, has, I mean- You've just seen my colleagues note significant and repeated errors in the refugee status determination within the detained fast-track. Now, we don't say that same- We're not at that same level when we talk about the asylum procedure outside detention. There is something inherently flawed about being locked up while trying to fight for your life, to be able to remain in the country, and all of the anxiety and the stress that comes with that when you're in detention, of not knowing.

And also the lack of time limits, as we heard, this idea that you just don't know how long you're going to be in there, likewise how long your claim is going to take: are you in there for just as long as your claim takes place? In the detained fast-track, there are no limits on the period. So it can quickly go from being a speedy process to a longer process without perhaps the necessity of detention being re-evaluated in an appropriate way.

Grant Mitchell: Just to add on time limits. I mean, it is a concern that the UK doesn't have time limits; equally my country, Australia. But if we look internationally, the majority of countries do have time limits – I'm sure you've had people submit on that. I've actually worked with a number of governments on the introduction of time limits. I was just in Taiwan who the government had introduced a 15-day time limit because they have many migrant workers who become undocumented there. And their question was, okay: we want to limit it: How do we make sure we can effectively manage them within the 15 days? And that's again where I think a country like Sweden is a good country to look at, because of both the numbers but the process that they have to

keep that detention time to five days. It's quite fascinating. I was a case manager in Sweden – that's where I was trained in 1993 to 2002 – so I got to see in practice how they do it. I mean, it's very, very interesting how, and it makes sense. The authorities know their decision on an individual. They know if the asylum case will be refused, generally, or- and they can often do some preparatory work in assessment to determine whether they're likely to be able to be removed or not – so that they can actually prevent detention that way.

So, before someone even goes anywhere near the detention system, in Sweden, there would be a lot of prevention work done. And then obviously, you know, over time, getting a better sense of the population of who is unlikely to be removable at all.

But just in terms of time frames, we saw everything from, you know, the new New Zealand law in 2011, which was a 96-hour initial investigation allocation through to 28 days for processing of at-risk cases. And that's quite similar to Sweden, for example, which has- And I think one of the questions was, you know, is it one set time limit or are there different categories of time? And so countries tend to manage the time differently. So, France, for example, it's 45 days; in Taiwan it's 15 days. But in South Africa and New Zealand and Sweden they will have a limit of between 24 and 96 hours for initial identification, which could then be extended for processing between 28 days. Well, between 2 days and 28 days and upward. So, it very much varies.

But I think it's interesting the recent research that has just come out of Italy and correlates to some Dutch research last year, which was that having someone in detention longer than 45 days, there is no increased outcome on return. So, in other words, the person is generally removed within 45 days or they're less likely to be.

So I think it's a question of, you know, having time limits that ensure people are not in for a long detention, which is not in the interest of that individual or the state.

Sarah Teather: You've both given us such really interesting case studies from other countries. I mean, the evidence that you had kind of- it covered it briefly but from my perspective, any detailed case studies you could give of good practice I would find really interesting to read and other members of the panel would be happy to hear from you. You seem to have so much knowledge that we would like to get at, and I'm really conscious that it's already 25-past-12 and I really should have wrapped up at 20-past-12. I'm going to give one final opportunity to anybody else who has one last question but I think- No. I think I'm going to have to say thank you very much. It's been a really, really good session today. Thank you.

Grant Mitchell: Thank you.

Sarah Teather: We're very, very grateful to you. Thank you.