

BiD Bail for Immigration Detainees

Winner of the JUSTICE Human Rights Award 2010

Shortlisted for the Liberty Human Rights Award 2010



ANNUAL REPORT 2010



*“immigration detention should gradually be abolished ...
if there has to be administrative detention, the principle
of proportionality requires it to be a last resort”*

Report of the UN Working Group on Arbitrary Detention,
UN Commission on Human Rights, A/HRC/13/30, January 18, 2010

Bail for immigration detainees

BID is an independent charity established in 1999 to improve access to bail for those held under Immigration Act powers and provides immigration detainees with free legal representation, advice, and training. The organisation also carries out research, and uses evidence from its casework in policy advocacy aimed at ending arbitrary immigration detention.

During a strategic planning process in the summer and autumn of 2009, the organisation reaffirmed its vision and mission and agreed three organisational objectives which would be delivered through three interlinked work strands: legal casework, research, policy and advocacy, and strategic litigation.

Our Vision

BID believes that asylum-seekers and migrants in the UK have a right to liberty and should not be subjected to immigration detention. While detention exists, it should be sanctioned by a court and time-limited, and detainees should have access to automatic, publicly-funded bail hearings.

Our Mission

BID is an independent charity that exists to:

- Challenge the use of immigration detention
- Improve access to bail for all immigration detainees
- Immediately end the detention of children and their families

Our Core Activities

- Providing free information and support to detainees to help them exercise their right to liberty and make their own bail applications in court
- Preparing and presenting free applications for release on bail or temporary admission for some of the most vulnerable detainees including children and their families
- Carrying out research and using evidence gathered to campaign to achieve our strategic objectives
- Influencing decision-makers, including civil servants, parliamentarians and the judiciary through policy advocacy
- Raising awareness and documenting and publicising injustices through the media and with the general public
- Carrying out strategic litigation in furtherance of our strategic objectives

Strategic Objectives

- BID will improve access to bail for immigration detainees
- BID will push for an end to the immigration detention of children and their families (in partnership with The Children's Society)
- BID will challenge long-term and indefinite detention

“The Special Rapporteur remains concerned about the use of detention in immigration control and the process of refugee status determination.”

Report, 16 March 2010, on visit to the UK in June 2009 of the UN Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante

Chair's report

In this country, the major political event of the year was, of course, the election of a new government. Its birth was not an easy one, and it is perhaps too early to pass judgement on many of the rose-tinted aspirations espoused by those heading the new alliance. But those directly affected by and working in the field of immigration detention could have been forgiven, upon reading the coalition agreement, for feeling more than a twinge of excitement at the announcement to end the detention of children. Would it really be brought to an end? Could it mean that there would, in fact, be no more detention of families with children? And could this announcement, displaying the much-vaunted liberal credentials of our fresh-faced leaders, presage the ultimate end of all immigration detention? After many years of campaigning by numerous individuals and organisations, it seemed as though real change was possible.

Reality did, of course, intervene. As explained in other parts of this report, there has still been no proper resolution to the issue of child detention. It has been a difficult battle and the arguments will continue. But while it might be only fair to withhold a verdict on many of the current government's policies, we are entitled to complain about the non-fulfilment of the promise on immigration detention. The right to be free from arbitrary detention is truly an ancient one. It has been supplemented over many years by numerous national and international documents that protect the vulnerable and the young. For this reason, the law has cast a heavy burden upon the state to justify each and every moment of a person's detention. So when BID and others have convincingly demonstrated the inherent unfairness and inhumanity involved in immigration detention, we are entitled to say that the failure of successive governments in this respect is unacceptable.

I remain confident, however, that we will succeed in achieving a positive outcome. I say this because of what I have seen BID achieve over the year. As this report demonstrates, we are consolidating our success across a range of fields. Our casework and policy inform each other in a way that is leading to some remarkable results for clients, and we are making an impact on the development of the law of detention by intervening in the highest courts on questions of fundamental principle. It is comforting and gratifying to see that our carefully thought through strategic plan has played a real part in guiding the organisation and that this has led to a real sense of participation by all those working within and for BID.

Some particular highlights come to mind. We have had unprecedented media coverage, yet again bringing the issue of immigration detention to the forefront of public attention. Our painstakingly researched report on the role of immigration judges, "A Nice Judge on a Good Day: immigration detention and the right to liberty" was launched at the House of Commons and has led to constructive discussions with the judiciary about the issues raised. And while the issues surrounding detention of children have been rendered over-complex by politicians, the rigorous work carried out in this area has obliged the government to listen carefully to our concerns.

All this has only been possible because of the dedication displayed by all our staff and volunteers. Despite the continuing difficult economic climate, and our funding being drawn uniquely from charitable sources, we are in healthy shape. We have been able to carry out a breadth of activities in pursuit of our core strategic aims and we are able to report advances in all areas. It is a tribute to all those involved with the organisation that such success has been achieved in a stressful field that would ordinarily lower the morale of those working within it, given the continued opprobrium that is directed towards BID's client group.

For me, it has been a privilege to have been a part of all this. I think that anybody who reads the words that follow cannot fail to be moved by the accounts of those who have suffered detention, as well as be impressed by the remarkable courage displayed by so many of them. It is perhaps this that should be uppermost in our minds as we continue to agitate for a different system. Any change will only come incrementally, as recent events have shown. But the stories told in these pages, and in countless other places across the world, are testament to the fact that we have made, and will continue to make, a difference. They illustrate how lives can be transformed through the actions which each of us take and how, when such change occurs, it throws yet further light upon the pernicious impact of immigration detention.

Rajeev Thacker, Chair

Director's report

How many more trenchant criticisms by judges in cases of unlawful detention, and how many more millions of pound paid out in compensation will it take to compel the government to consider very carefully their use of immigration detention? The revelation that the government paid out £12m in 'special payments' which includes millions of pounds in compensation for detainees wrongfully imprisoned was, quite simply, breathtaking. If you take into account that the cases that go to court are those that are fortunate enough to find lawyers to act for them, and are therefore probably the most egregious, how many more people have been victim of such devastating failures of the state to exercise its very limited powers to detain in a lawful way?

Every day we receive letters in the mail from foreign national ex-offenders held for months and years beyond the end of their sentences, people with families on the outside, who have lived in this country for years, and who find themselves utterly bewildered to be still incarcerated way beyond the end of their sentences, apparently the subject of deportation action but seemingly with no information about their rights, no access to solicitors or mobile phones – the limited facilities afforded to people held in immigration detention – and desperate to make amends for their mistakes and to be allowed to live freely with their families. We give them what limited assistance we can.

And in immigration detention the situation deteriorates each year. Our caseworkers have the very difficult job of talking to people who can, very understandably, be angry, hostile and frustrated, or who are often in a state of despair, having given up hope, too often caught in a Kafkaesque nightmare from which there seems to be no escape – like the man detained for over three years beyond his sentence (equivalent to an additional six year prison sentence) and who has been not only removed but returned twice from his supposed country of origin which wouldn't accept him as a citizen. Or the woman detained, post-sentence, for nine months and separated from her two children for all that time. The children suffered acutely from the separation; all she wanted was to be reunited with them and neither she nor her children could understand why that wasn't possible. Or the couple who claimed asylum on entry only to be imprisoned for entering with false documents and promptly separated, to be reunited in immigration detention after serving half their sentence. The wife became pregnant but was only released at an advanced stage of pregnancy. Her husband remained in detention, and BID secured his release just a month before the baby was born. The damage done by these experiences are long-lasting. We know because we speak to people years after these events who remember them as clearly as if they were yesterday. Children who fear people in uniform as a result of a dawn raid and become anxious and withdrawn. Men and women whose mental health has been irreparably damaged as a result of their experiences.

At BID we bear witness to these experiences and document them through our casework and research and publications. And we act as a bridge for people whenever possible between detention and a better life, putting people in touch with decent, good lawyers who will advocate for them and try and right those wrongs. Our new strand of work – strategic litigation – is beginning to bear fruit as we are acting or have acted as an intervener in several cases – in the High Court, the Court of Appeal, the Supreme Court and the European Court of Human Rights – which centre on different aspects of detention law, policy and practice. And we advocate tirelessly on our clients' behalf with politicians and officials, constantly challenging where we find discrepancies between policy and practice and being their voice on the outside.

The last year has been full of victories of one sort or another. Four cases involving ex-clients of BID's (three family, one individual) won compensation for unlawful detention. Although the money will never compensate those people for what they endured, we hope that it will go some way towards assisting them to create a better life for themselves. And then there was the new government's announcement that they intend to end the immigration detention of children – a cause for which BID has been fighting since 2001. At the time of writing, sadly, that commitment has not been followed through while we await the outcome of a review established by the Immigration Minister. But fewer families are being detained which is a positive step towards the outcome we fervently hope for – that this unnecessary, damaging, expensive and destructive practice should be brought to an end once and for all.

No report would be complete without extending heartfelt thanks to the people who contribute to the difference BID is trying to make for detainees – our trustees who guide and advise us in what we do, the staff who seem to be able to juggle endless competing priorities but still manage to give time and space to people who desperately need their assistance, and our volunteers who selflessly give of their most precious commodity – time. And whoever you are reading this – a funder or a supporter of BID, or someone finding out about BID for the first time – come with us on our journey – be part of the movement which refuses to accept people being deprived of their liberty for the administrative convenience of the state

Celia Clarke, Director

Bail casework and Right to Liberty

About 30,000 people are detained every year under Immigration Act powers in the UK. BID cannot provide free legal representation to everyone who asks for help. So the service we provide has been adapted in response to this over the years. The vast majority of clients receive legal advice and information to assist them to represent themselves in applying for bail. This is done through telephone helplines, the provision of materials and either bail workshops in Immigration Removal Centres (IRCs) or legal advice surgeries. This gives people the tools to do something for themselves which can be a hugely empowering experience. While we acknowledge it is no substitute for publicly-funded legal representation, it is a practical response to the reality that most people face. We still prepare and present bail applications for a limited number of people in detention, assisted by barristers who provide their representational services pro bono. We have to make some difficult choices about who to represent, so we prioritise families with children, survivors of torture, people with enduring mental or physical ill-health, and long-term detainees. This latter category in particular provides a number of cases that are suitable for challenge as to the legality of their detention – a new strand to our work added to our strategic plan last year.

Over the last year our three offices supported a total of 2089 immigration detainees. We prepared 243 bail applications, although only two-thirds of these actually went to court for a variety of reasons. Of those, 51 were released. Our success rate of almost 30% is significantly higher than the national average of 18%. However, one of the most heartening statistics is the large number of those clients supported by us who were released from detention overall, either through temporary admission, or bail. The total number of people released was 747 or 30% of the total, which is a massive increase on what we have reported in past years.

“Now I am a free man.
Reason? BID”

CASE STUDY

Mr B is a national of Angola who had been in the UK for 15 years when detained. The Home Office argued that he was being deported pending his removal, despite making no progress on arranging for such removal to take place, and despite the fact that Mr B had a partner and children in the UK. Mr B had become dependent on drugs during his time in the UK and while in detention suffered medical complications as a result. Notwithstanding this, Mr B was kept in detention for 18 months. His prolonged detention had a severely detrimental impact on his health. BID applied for bail for him and fortunately, he was released and given treatment for his drug addiction which BID had also organised. He is still in the UK.

We delivered workshops or legal surgeries in five detention centres to a total of 682 people. Feedback from these workshops has been incredibly positive and confirms that this is a vital service not otherwise available to detainees:

“Many, many thanks for all the kind encouragement and the knowledge I have gained from the BID book. I am so grateful to God I met you guys. The book has indeed broadened my scope and knowledge of detainees and fair trial. Keep up the good work.”

“I am very grateful for the help BID has rendered.”

“I appreciate the work you are doing for us. God bless.”

“Good work”

“I like you to carry on the same system to help people in detention to get bail. It is very good. Your team is very helpful. Thank you.”

CASE STUDY

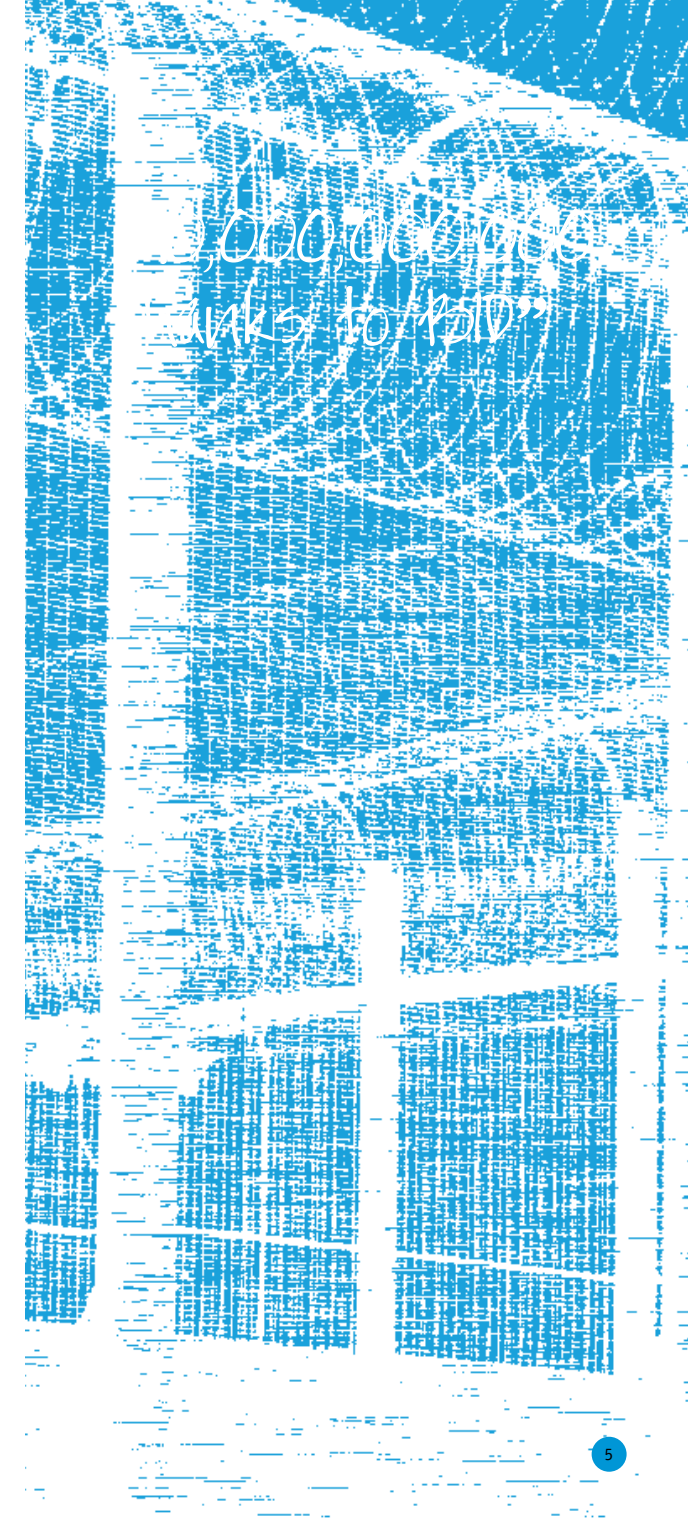
Miss C is a national of Ghana who had entered the UK legally in 1996 but had overstayed her visa. BID represented her after she had been detained for over a year having been caught working illegally. She developed a serious gynaecological condition while in detention but did not receive adequate treatment for it. Her embassy refused to document her until she was properly treated. BID arranged for representation at a bail hearing for Miss C, as well as corresponding with the healthcare department at Yarl's Wood (where she was detained) and the local hospital, to arrange an operation. Miss C was released on bail. In this case, BID continued to have contact with the client, who is unrepresented, communicating with the Home Office, and making continued arrangements with the health authorities for her to be treated before she is removed from the UK.

A sample feedback questionnaire and responses from one of the centres:

Colnbrook

A total of 48 forms were handed out. 11 were returned. This is a 23 % response rate.

Question 1: did the BID visit help you to understand how to apply for bail?		
Yes: 10 (90.9%)	No: 1 (9.1%)	No answer
Question 2: Was the advisor easy to understand?		
Yes: 11 (100%)	No: 0	No answer
Question 3: Have you applied for bail since BID visited?		
Yes: 7 (63.6%)	No: 4 (36.4%)	No answer
Question 4: if not, why?		
Answer: Waiting for solicitor. No accommodation		
Question 5: Is there anything you would like us to include in future workshops or visits?		
Answer: No comments		

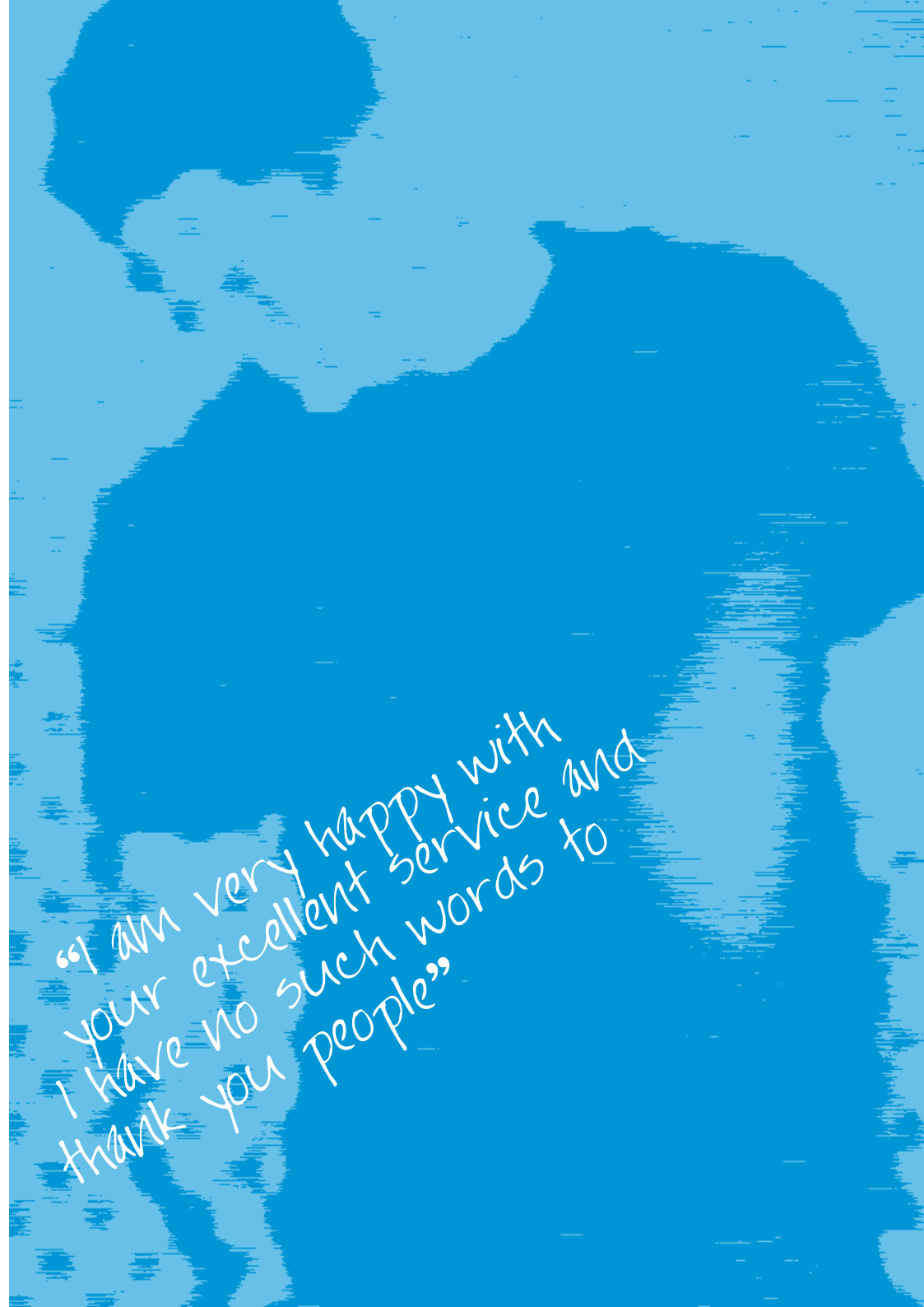


Legal interventions

Consistent with our organisational strategy we have, over the year, increased the number of cases referred to solicitors for judicial review challenges to the lawfulness of detention. But we have also increased the number of cases in which we have been involved either as interveners, or in providing witness statements. Each case has been chosen because any judgment will have far-reaching implications for people in immigration detention. The cases, none of which has yet reached judgment relate to issues as diverse as: whether the government is obliged to follow its own policy if by not following its policy, the outcome would be the same, and whether or not the operation of a secret policy is unlawful; whether failure to co-operate with removal or deportation by a detainee contributes to prolonging that detention, through to whether detention itself involving children is fundamentally incompatible with the statutory duty to safeguard and promote the welfare and best interests of children.

Unlawful detention

A number of cases referred by BID for unlawful detention challenges resulted in judgments of unlawful detention and damages being awarded. In one case, the amount of damages has not yet been decided but two others, one family and one individual were awarded £100,000 each while a second family was awarded £150,000.



"I am very happy with your excellent service and I have no such words to thank you people"

End immigration detention of children project

Legal casework

We were taken by surprise and absolutely jubilant when the new government pledged in May to end the detention of children for immigration purposes, a cause for which BID had been campaigning for nine years. We know that our work over the years, including two public campaigns (No Place for a Child with the Refugee Council and Save the Children Fund in 2007 and more recently, OutCry! jointly with The Children's Society), lobbying of politicians (most recently the Conservatives and Lib Dems in opposition), favourable judgments on illegality of detention in particular cases, and a high profile media campaign all contributed to making this announcement a reality.

During the year BID provided legal advice and support to 62 families in detention and 20 families separated by detention (where the main carer is detained and the children are living in the community either in private or formal foster care placements or living with other family members), lodging 40 bail applications and several temporary admission applications. Twenty of the families in detention were removed while all the rest were eventually released. The average length of detention was just over six weeks. Since the government's announcement, far fewer families have been detained and our last family client was released in June. Since August 2009, 13 of our separated family cases have been released. The average length of detention for our separated family clients released from detention was 317 days.

In line with our new organisational strategy, 27 cases were referred for unlawful detention judicial reviews or claims for damages. This ensures that families and separated families affected by detention are able to use judicial review at the High Court as a remedy for release from detention, as well as ensuring that families are compensated for their unlawful detention. In addition to the compensation awarded to individual clients, we are able to use litigation to ensure improvements to detention through caselaw.

Research

From spring 2009 to early 2010 we carried out a comprehensive piece of research examining whether families were in fact being detained as a last resort as should be the case legally. We collected a considerable body of previously unavailable evidence from 82 families to challenge all the government's main arguments for detaining children.

The research demonstrated that:

- the risk of families absconding is very low;
- the Home Office's mechanisms for assessing absconding risk are deeply flawed;
- families were being detained when their removal from the UK is not imminent;
- in many cases families had no opportunity to opt for voluntary return before they were detained.

Armed with this information, we were able to set out a clear argument that children were being detained unnecessarily, and to address politicians' concerns about issues including absconding which were barriers to change. In particular, we discussed this research in a series of pre-election meetings with Damian Green and his office. Damian Green (the current Conservative Immigration Minister) had consistently voiced concern about child detention and our work with him helped to make a case for the viability of a change in policy that enabled him to bring about an end to child detention following the election. And our research findings were crucial in our recommendations to the UKBA during the 'end child detention review' which they have been carrying out since the announcement. In October 2009, we launched the first peer-reviewed medical research in the UK on the harm caused to child health by detention. The children who participated in this research were referred to the authors by BID, and we commented on drafts of the research. This research received substantial media coverage and greatly assisted with our parliamentary lobbying in making the case that the level of harm caused to children by detention is unacceptable.

Following our medical research launch, in December 2010, the Royal College of General Practitioners, Royal College of Paediatrics and Child Health, Royal College of Psychiatrists and the Faculty of Public Health made a public call for the immigration detention of children to end. BID provided the Royal Colleges with evidence and case studies which were used in the launch of their public statement.

End immigration detention of children project *continued*

Parliamentary

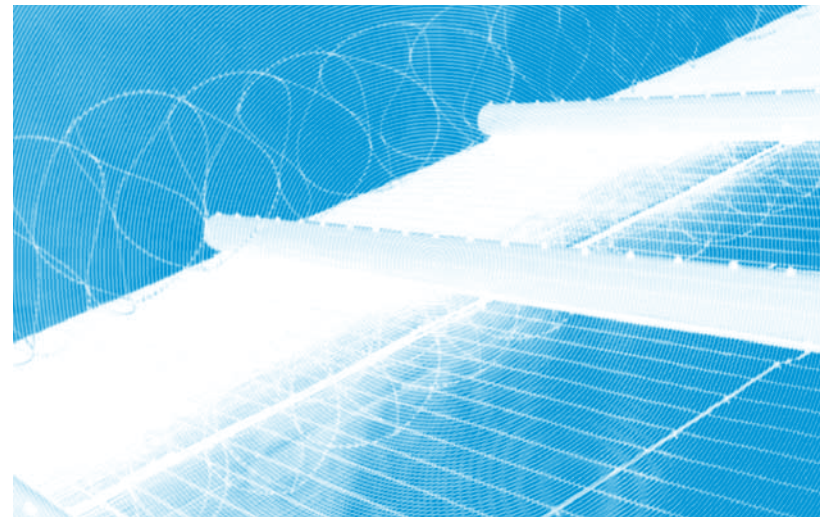
Prior to the announcement that the detention of children would be ended, we were heavily engaged in lobbying both the Liberal Democrats and Damian Green on this issue, as well as raising the profile of the campaign across parliament:

- Over several years, we have lobbied for the UKBA to have a statutory duty to safeguard and promote the welfare of children, in line with the responsibilities of other public bodies following the 2005 Children Act. In autumn 2009, s.55 of the Borders, Citizenship and Immigration Act 2009 came into force, which places a statutory duty on the UKBA to safeguard child welfare. We influenced and supported Damian Green to actively lobby for this legislation, which has started a process of cultural change to a situation where child welfare is prioritised in immigration policy both within the Home Office and by front bench politicians. In this context, an end to detention of children was the next logical step.
- While the Borders, Citizenship & Immigration Bill was passing through parliament, we successfully lobbied peers to propose amendments to the Bill concerning detention of children. This led to considerable parliamentary debate on the issue, and also enabled us to secure a commitment for the Home Office to monitor and produce statistics on the number of children detained every year.
- The media and parliamentary scrutiny attracted by new statistics on the number of children detained led the Home Affairs Select Committee to conduct an inquiry into the detention of children in October 2009, to which we were asked to give oral evidence.
- We briefed MPs and peers to speak in numerous debates, and organised parliamentary events including a roundtable on alternatives to detention with international experts in June 2009.
- We attended the Tory and Liberal Democrat Party Conferences in 2009, spoke at fringe meetings, produced briefing papers and held one-to-ones with influencing targets. We also spoke at a fringe meeting about detention of children during the Liberal Democrats' 2010 spring conference.
- Prior to the inclusion of a commitment to end the detention of children in the Liberal Democrats' manifesto and Chris Huhne's open letter to the Home Secretary in December 2009 condemning child detention, we briefed the party's advisors on detention of children.
- We held a series of pre-election meetings with Damian Green and his office in which we lobbied him on the issue of detention of children, making the case for the viability of a change in policy.
- Prior to the election, BID participated in a meeting with Meg Hillier (Home Office Junior Minister) to discuss alternatives to detention of children.

Policy

- We successfully lobbied civil servants for improved statistics to be released on detention of children, which led to greater media, public and parliamentary scrutiny of the numbers of children being detained and the length of time they were being held for. Following this, we saw a change in practice whereby fewer families were detained for shorter periods of time.
- We raised and documented concerns about families detained at Tinsley House IRC, which resulted in UKBA introducing a limit of 24 hours for children to be held there, while they looked into improving facilities.
- We successfully lobbied the independent UKBA inspectorate to audit decisions to detain children. This inspection has now taken place.

BID has been a leading participant in the review which has been undertaken on alternatives to child detention as a member of the working group of voluntary sector experts and UKBA officials which has been co-chaired by the Diana Princess of Wales Memorial Fund and UKBA. Relationships with influencing targets meant we were among the first organisations who met with UKBA's Chief Executive to discuss the end to child detention in May 2010. Our policy and casework expertise means that we have led the working group's formation of recommendations to the review, a number of which have already been agreed with the UK Border Agency. We also responded in writing to the review, and our response was quoted and endorsed by a number of organisations, including the Refugee Council.



Media

The campaign attracted a great deal of media coverage during the year. Particular highlights were:

- August 2009 coverage of new statistics on detention of children, following our lobbying work for these statistics to be produced.
- October 2009 coverage of research which we launched on the harm caused to children's mental and physical health by detention.
- November 2009 coverage of the Home Affairs Select Committee Inquiry on child detention.
- December 2009 coverage of the medical Royal Colleges' statement of opposition to child detention.
- Support by our media campaign for sympathetic announcements by the Liberal Democrats, HM Inspector of Prisons and the Children's Commissioner for England. For example, sympathetic coverage of the Liberal Democrats' announcements in the Daily Mail included a substantial case study of a family referred to the newspaper by BID.

The media coverage was often backed up by case studies of families who The Children's Society and BID worked with. OutCry! aimed to give families an opportunity to tell their story, which also backed up our case to end detention. Although coverage appeared largely in the left wing press, particularly *The Guardian* and *Independent*, a major success of the media campaign was achieving a crossover into sympathetic coverage in right wing media outlets such as the *Daily Mail* and *The Telegraph*. This impact on traditional 'Middle England' media undoubtedly touched a nerve with key government figures.

Campaigns

The OutCry! public campaign has over 1,200 active supporters, who we keep informed by email, Facebook and Twitter. These supporters have taken online actions to assist the campaign, including writing letters to be published in their local newspapers, emailing their MP, writing to the Immigration Minister and the UKBA, as well as spreading the word about the campaign to friends. One supporter publicised the campaign by standing on the Fourth Plinth in Trafalgar Square as part of Anthony Gormley's "One and Other" exhibition.

We have also participated in other actions, such as the 'One More Card' campaign run at Christmas 2009 by the Methodist, Baptist and United Reform Churches, the End Child Detention Now petition on the No.10 website, and the Citizens UK Sanctuary Pledge campaign in the run-up to the General Election.

Our campaign gained formal endorsements from over 30 key stakeholder organisations, including refugee charities, trade unions, human rights organisations, faith groups, lawyers and medical professionals.

"The work you lot are doing
it's wonderful, I think it's the
best thing we have for us"

Access to bail

Section 4 accommodation: BID has becoming increasingly concerned over problems in allocating Home Office accommodation to immigration detainees who have served criminal sentences. Although entitled to accommodation on release from detention, in the case of many foreign national ex-offenders whom the Home Office deem to be high risk, there has been a delay in allocating them accommodation, thus denying them access to the bail court often for months, as judges will not release without accommodation. Significant work has been done over the year in documenting the problems and liaising with the Home Office. A judicial review has now been mounted by a firm of solicitors in which BID was granted permission to intervene.

Video-link hearings and service of bail summaries: BID and the Refugee Council encouraged the Home Office to agree to a monitoring exercise with detainees about video link hearings. This showed that in around 40% of bail applications UKBA failed to serve detainees with a bail summary on the day before a bail hearing as stipulated in their own guidelines. The bail summary contains the Home Office case for opposing bail and maintaining detention, and it is essential that detainees (or their representative if they have one) have the chance to see this before a hearing in order to prepare their case, challenge inaccuracies, and produce evidence to challenge contested facts in the summary. Unrepresented applicants and applicants who cannot speak English are particularly disadvantaged by this failure. The UKBA has now agreed to monitor the production of bail summaries and to try and identify the blockages to compliance.

Documentation research project: BID has carried out a small-scale research project on documentation procedures for foreign nationals facing removal or deportation who have no travel documents. A sizeable proportion of the immigration detainees that BID works with are not in possession of any form of travel or identity document and are not able, for a variety of reasons, to provide the UKBA with sufficient information to enable their re-documentation and subsequent removal. In addition, foreign embassies and high commissions in the UK vary widely in their approach towards and speed in acknowledging their citizens and providing travel documents. Foreign national ex-offenders typically face major re-documentation hurdles as a result of loose ties with their country of origin after many years in the UK.

Obstacles to re-documentation therefore have the capacity to leave immigration detainees in de-facto indefinite detention, facing little progress in their case and without guidance from UKBA on the steps that could be taken to conclude the documentation process in a timely manner and thus end their detention. The report will be published next financial year. Difficulties with documentation have been raised as an area of concern by BID with John Vine, Her Majesty's Chief Inspector of the UKBA.

Research report 'A nice judge on a good day: immigration bail and the right to liberty'

In 2009-2010 BID undertook a substantial piece of research on the immigration bail process to address long-standing concerns on the process itself and the outcome of many bail applications. In particular BID has been concerned that the bail process remains inaccessible for too many detainees, and that there are too few safeguards to check against unfair practices that may affect bail outcomes. BID examined 65 bail applications, 36 prepared by BID where our clients were represented by a pro bono barrister, and 29 applications where detainees were representing themselves in court. Court observations were carried out and structured attendance notes completed for each hearing, either by the representing barrister or a trained observer in the case of unrepresented applicants. Detailed file reviews for the 36 BID clients uncovered patterns of UKBA case management and immigration judge decision-making that suggested widespread failure of immigration and criminal justice agencies to engage with bail as a means of progressing immigration cases and minimising the use of detention.

The research findings suggest the need for a re-think of the immigration bail process so that its importance as a check on the use of detention is reflected in structures and safeguards that ensure uniformity and fairness in the process behind bail applications, as well as decision-making and bail outcomes. The final report, *'A nice judge on a good day: immigration bail and the right to liberty'* contained detailed recommendations for reform that in BID's view must be carried out to ensure that immigration bail is a meaningful and effective mechanism that allows detainees to challenge their detention. In July 2010 BID held a parliamentary launch of the report hosted by Simon Hughes MP, and addressed by Baroness Helena Kennedy QC, Alison Harvey (General Secretary of the Immigration Law Practitioners Association), and Amanda Shah, former Assistant Director Policy at BID and the author of the report.



Challenging long-term and indefinite detention

The objectives for this new strand of work are as follows:

- Engagement with foreign nationals subject to deportation action in the criminal justice system to improve BID's existing bail casework with post sentence detainees held in prisons and IRCs, and exploration of new means of support to clients held in prison.
- To build an evidence base on policies and procedures relating to foreign nationals further upstream in the criminal justice system relevant to their transition from HM Prison Service/Probation Service to UKBA's detention estate. This will help us to better identify and inform opportunities for referral for judicial review or other strategic litigation where stated policies are not being followed, and to make the case for change with agencies of the Ministry of Justice and Home Office.

BID has undertaken some initial fact-finding visits to prisons. We have begun to identify contacts within the Probation Service, and have been building networks with organisations and individual researchers who are working in prisons with foreign nationals subject to deportation action.

Background research is also underway to collect data on risk assessment processes and other processes relevant to foreign nationals in the criminal justice system. In this the research and policy team is working closely with legal staff supporting long-term detainees, where ex-prisoners are overrepresented as a group.

Consultation responses

During the year BID has written detailed submissions on the current Healthcare Operating Standards contained in UKBA's Detention Centre Rules, and the consultation on Draft Practice Statements and Practice Directions of the Asylum and Immigration Chambers of the First-Tier Tribunal and the Upper Tribunal.

Legal bulletins

We have produced four new bulletins for detainees in the last year

- Bulletin on the LSC Detention Duty Advice Scheme (March 2010)
- Bulletin for detainees whose solicitor has refused to make a bail application for them (December 2009). This bulletin explains how to appeal this decision and contains template letters for detainees and a leaflet for detainees to give solicitors on legal aid funding for bail.
- Bulletin for Zimbabwean, Sudanese (non-Arab Darfuri) and Somali detainees. (December 2009). This bulletin explains UKBA's policy on forced returns for nationals of these countries.
- Bulletin on bail applications for families in immigration detention (October 2009)

"I believe your work is wonderful and helps people to believe they are not alone, and gives them hope. Thank you."

BID South

“...Prison kills you a little bit every day...” (Paddy Hill). I happened to read that comment in a newspaper whilst I was thinking back over the year and preparing to write this report. Paddy was talking about the irrevocable damage that can be done to long term prisoners and let’s not pretend that an immigration removal centre is anything other than a prison filled with people locked up for indefinite periods of time.

This year was more challenging than last year, and last year was more challenging than the one before. When I looked at the annual statistics I was pleasantly surprised when I realised that 200 of our clients had been released this year, compared to 161 last year. It would be easy to leave it at that and simply congratulate ourselves for getting more people out of detention. However, our success conceals some serious flaws in the system. UKBA has actually removed fewer of our clients this year, 147 in fact compared to 165 last year. Only 9 people were removed within 28 days of their detention. Which begs the question, why are they detaining more people for removal, if they can’t actually remove more people?

We continue to give priority to the most vulnerable and long-term detainees, as evidenced by the case below:

An Iranian national entered the UK and claimed asylum in May 2005. His claim was refused, but he was frightened of return to Iran and used a false document to stay in the UK. He was caught and sentenced to 12 months in prison for that and then detained under immigration powers in March 2009. This client was mentally ill, probably as a result of the torture he had suffered, and consequently hard to help. Luckily Medical Justice were willing to prepare a report and he had a solicitor prepared to make the necessary effort. His case was successfully appealed and he was finally released and given legal status to remain in the UK in May 2010. This was an appalling example of poor decision making on the part on UKBA from start to finish.

Another well hidden fact is that within our caseload is an increasing number of people being held for extreme lengths of time. A Jamaican client was detained for an unbelievable 1636 days before finally being deported in February this year. About 80 clients have been detained for more than a year, 25 for more than 2 years, 6 for more than 3 years and 2 for more than 4 years.

The problem of long term detention was recognised when our offices got together for strategic planning and we expect that many more cases will be dealt with by the High Court this coming year. We said last year that we would refer more cases for judicial review

and we have been doing that. Six detainees have been released by the High Court this year and 12 more cases are in progress. It is almost a certainty that immigration judges will continue to refuse bail, even when detention has become clearly unlawful.

CASE STUDY

A Moroccan national, entered legally in 1986 and extended until granted ILR as a spouse. He was detained following a 10 month prison sentence in August 2006, but not transferred to an IRC until November 2008, which is when he came to our attention. Despite his full cooperation and good record in prison/detention he was refused bail 4 times and two attempts were withdrawn between January 2009 and September 2009. By then we had referred him to a good solicitor who successfully expedited a JR of detention and the High Court granted bail as interim relief in November 2009. His detention was subsequently found to be unlawful and he has been awarded a substantial amount of compensation. This was an excellent result, but as he pointed out, no amount of money will make up for the loss of over three years of this man’s life.

And finally, an important point to remember is that our report only highlights the cases of those who have contacted us for help. There must be many, many more suffering in silence. It is essential that we continue highlighting the deficiencies of this disgraceful system, and do all we can to secure the release of our clients in addition to working towards bringing the use of immigration detention to an end.

We acknowledge with great thanks the contributions of the volunteers who have helped us during the year who are listed at the end of the report.

BID Oxford

“Can I just say that without BID my wish would not have come true. I was detained from xx-xx and I did not think it would have been possible to spend Christmas with my son and my partner of 7 years. So without your service I would have spent my 3rd Christmas detained. I found your service BRILLIANT and the BID staff fantastic. Please continue the work you do because there are people like me out there who need you. God bless you all.”

BID Oxford supported detainees held in Campsfield House, Lindholme and Brook House. When detainees were moved to other centres, we continued to act for them. We also represented clients in cases when they were moved to prisons. One of our most compassionate cases was the case of Mr A who was moved to three different prison locations in 12 months. We managed to follow him throughout these moves and run 10 bail applications for him until finally securing his release.

As with BID South and BID London, an alarming proportion of clients are being held for longer periods. A quarter of our clients have been in detention for over 12 months, with 7 that we know of detained for periods in excess of two years. The total cost of detention for the 7 individuals for just two years (and some have been detained for longer) using the latest estimated costs of detention of £120 per day, amounts to in excess of £611,520 of public funds.

We helped a total of 310 people, listed 67 bail applications, 12 of which were successful - 34 were refused and 21 withdrawn. In addition we had 22 one-off enquiries from migrants detained under immigration powers in prisons and provided them with assistance. We began running workshops again at Campsfield House IRC in March 2010. They had been suspended for a number of months. 80 people were provided with advice on bail. We also held individual legal advice sessions in the centre and provided help to 91 clients in this way. Some of them subsequently applied for bail themselves or were represented by BID.

We also experienced problems with Section 4 accommodation, with 6 or 7 cases being held up for longer than three months. Our information contributed to BID's intervention in the legal case in the High Court. We also provided assistance to solicitors firms who were lodging bail applications on behalf of their clients.

Financial information

SUMMARY INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31ST JULY 2010

	Restricted Funds Notes £	Unrestricted Funds £	2010 £	2009 £
Incoming resources				
<i>Incoming resources from generated funds:</i>				
Voluntary income	-	182,122	182,122	192,542
Activities for generating funds:				
Investment income	-	441	441	4,147
Other income	-	1,543	1,543	408
<i>Incoming resources from charitable activities</i>	460,989	-	460,989	348,104
Total incoming resources	460,989	184,106	645,095	545,201
Resources expended				
Costs of generating voluntary income	-	18,197	18,197	19,730
Charitable activities				
Right to liberty	79,169	4,008	83,177	67,534
Bail casework	143,297	109,199	252,496	244,215
Detained families	124,018	6,708	130,726	114,644
Research and policy	66,185	15,016	81,201	63,022
	412,669	134,931	547,600	489,415
Governance costs	-	11,835	14,835	11,233
Total resources expended	412,669	164,963	577,632	520,378
Net incoming / (outgoing) resources	48,320	19,143	67,463	24,823
<i>Reconciliation of funds</i>				
Total funds, brought forward	49,267	78,442	127,709	102,886
Total funds carried forward	97,587	97,585	195,172	127,709

BALANCE SHEET AS AT 31ST JULY 2010

	2010		2009
£	£	£	£
Fixed Assets			
Tangible fixed assets	694		1,983
Current Assets			
Debtors	6,029	4,425	
Cash at bank and in hand	226,000	164,364	
232,029		168,789	
Creditors: amounts falling due within one year	37,551	43,063	
Net Current Assets	194,478		125,726
Net Assets	195,172		127,709
Income Funds			
Unrestricted income funds:			
Undesignated funds	97,585		78,442
Restricted income funds	97,587		49,267
	195,172		127,709

“The work done by BfID is so great that some of the less privileged ones detained under immigration laws who cannot afford legal representation in the court of law, can now find justice through BfID. I thank BfID so much for all the effort and time out together in making sure that justice prevail. Please keep up the good work you are doing.”

Challenging immigration detention in the United Kingdom



Bail for Immigration Detainees

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