

**The detention of migrant children and families in Canada:
advocacy, policy and lived experience**

Rachel Kronick,

Department of Psychiatry, McGill University, Montreal

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TABLE OF CONTENTS

<i>Abstract</i>	3
<i>Acknowledgments</i>	4
<i>Contribution of Authors</i>	5
INTRODUCTION.....	6
CHAPTER 1:	
MANDATORY DETENTION OF REFUGEE CHILDREN	8
PREFACE TO CHAPTER 2	18
CHAPTER 2:	
“LOOKING FOR TERRORISTS AMONG CHILDREN”: DECONSTRUCTING THE LEGISLATIVE DEBATE ON THE DETENTION OF ASYLUM SEEKING CHILDREN IN CANADA	19
PREFACE TO CHAPTER 3	59
CHAPTER 3:	
“THEY CUT YOUR WINGS:” THE DETENTION OF MIGRANT CHILDREN AND PARENTS IN CANADA	60
CONCLUSION	119

Abstract

Children and parents who come to Canada seeking asylum and protection are regularly detained in Canada. International literature suggests that the detention of children is associated with significant morbidity, and that the wellbeing and best interests of children are often not taken into consideration. Despite this knowledge, the detention of children continues to be debated in Canadian parliament, and little is known about the experiences of families who are held in detention in Canada. This thesis examines the practise of detaining migrant children in Canada through the lenses of advocacy, legislation and lived experiences' of detainees. The need for advocacy on behalf of asylum seeking children is addressed, followed by an analysis of discursive strategies used in the Canadian House of Commons in the context of debate on immigration detention. Finally, we examine the conditions of detention and lived experiences of migrant children and families who have been detained in Canada.

Résumé

Les enfants et les parents qui viennent au Canada en tant que requérants au statut de réfugié sont fréquemment détenus dans ce pays dont ils demandent pourtant la protection. La littérature internationale suggère que la détention des enfants est associée à une morbidité significative et que le bien-être et le meilleur intérêt de l'enfant ne sont souvent pas considérés. En dépit de ces constats, la question de la détention des enfants continue d'être débattue au parlement Canadien et l'expérience des enfants et des familles détenus, reste encore méconnue.

Cette thèse examine la détention des enfants réfugiés au Canada d'un point de vue moral, légal et clinique, à partir de l'expérience vécue des enfants et des familles détenus. La nécessité d'une action concertée de la part des professionnels de la santé pour protéger ces enfants est présentée, ainsi qu'une analyse des stratégies discursives utilisées au parlement dans le contexte du débat sur la détention des demandes d'asile.

Finalement, les conditions de détention et l'expérience des enfants et des familles qui ont été détenus au Canada sont examinées.

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Preface & Contribution of the Authors

I, Rachel Kronick am the primary author of all three manuscripts (chapters) included in this thesis. Cécile Rousseau and Janet Cleveland are second and third authors on the first article (Chapter 1), which was published in *Pediatrics and Child Health* and Cécile Rousseau is second author on the second chapter (submitted for publication). In both cases the second (and third) authors provided editorial guidance but the paper was written in full by the first author. Chapter three has not been submitted for publication at this time. The research was designed and carried out by the first author (Rachel Kronick) under the supervision and guidance of Cécile Rousseau and Janet Cleveland.

Introduction

Refugee children and children with precarious status are routinely detained in Canada for immigration reasons. This thesis examines the practise of detaining migrant children in Canada through three perspectives: i) advocacy of health care professionals, ii) critical analysis of detention legislation and iii) the experiences of detainees themselves.

In chapter one, I present a manuscript describing legislation proposed in 2011 that would impose mandatory detention of one year for asylum seekers designated by the minister.

The commentary speaks to the research evidence that detention is detrimental to children's health and well-being, and to Canada's obligations to protect the best interests of the Child under the UN Convention on the Rights of the Child. The chapter draws on preliminary data from my qualitative study on children in detention (the study is explored in full in chapter three). Ultimately this commentary urges stakeholders, particularly health professionals, to advocate on behalf of children as a vulnerable group.

Chapter two critically examines a shift occurring in legislation drafted in 2012 that excludes children under 16 from mandatory detention. Using a discourse analysis approach, the paper examines the parliamentary debates pertaining to the mandatory detention of children and seeks to determine what discursive strategies are used and how the migrant child is constructed within the text. The results suggest that parliamentarians invoke logics of human rights and humanitarianism and that a reconfiguration of these paradigms places the State rather than the refugee in need of protection. Within this discourse children are rendered so vulnerable as to be voiceless, enforcing the corollary image of the threatening adult refugee, which ultimately allows detention to be framed as a protective measure.

Chapter three presents the findings of a qualitative study investigating the lived experiences of migrant children and parents who have undergone detention in Canada. This paper delineates how children respond to detention as well as examining conditions in detention centres for families. The results demonstrate that detention is a highly stressful and often traumatizing experience for children and their families.

Taken together, the three papers illuminate the practises of detention in Canada from the perspective of different stake-holders: the children and their parents, the federal government and health care professionals. The multi-dimensional illustration of children's detention in Canada ultimately calls for changes to detention policy that will ensure the protection of migrant children from the suffering and emotional consequences linked with detention.

Chapter 1

The mandatory detention of refugee children: a public health issue?

The arrest, detention, imprisonment of a child shall be . . . used only as a measure of last resort and for the shortest appropriate period of time.

UN Convention on the Rights of the Child

Last night I couldn't sleep. I was worrying about [what the] judge [would say]. I said to [my daughters] 'when we're free for us it will be like New Year's.'

Asylum-seeking mother held in detention with her daughters (aged 11 & 3) in Canada, 2011.

In August 2010 the MV Sun Sea, a ship carrying 492 Tamil asylum-seekers arrived off British Columbia's shores. Among the people on board were 49 children, including 6 unaccompanied minors. They had spent nearly three months on the ship, and when they arrived all 49 of these children and their 25 mothers were detained at the Burnaby Youth Secure Custody Centre (Fong, 2010; Vasan, 2011). These families were detained for lengthy periods, lasting up to 7 months (Vasan, 2011).

The Harper government's response to the arrival was unequivocal: some of the asylum seekers were "human smugglers and terrorists" (Dhilon, 2010). The ship and the people it carried created "significant security concerns," Harper warned. This perceived threat fuelled the creation of Bill C-49 (which was staunchly rejected by all opposition parties in the previous government), and its reincarnation, Bill C-4, entitled "Preventing Human

Smugglers from Abusing Canada's Immigration System Act”.

The children who were detained after arrival on the Sun Sea are not the only asylum-seeking children subject to detention. The practice of detaining asylum-seeking children is common in Canada. In 2008 an average of 77 children were held in detention each month (Canadian Council for Refugees, 2009). Children are usually held in Immigration Holding Centres, which resemble medium-security prisons, surrounded by high barbed-wire fences and staffed by guards. Detention is usually based on one of two grounds: either an immigration officer is unsatisfied with a person's proof of identity; or the officer believes the family is at risk of absconding (i.e. a “flight risk”) (Canadian Council for Refugees, 2009). Fewer than 1% of asylum seekers who are detained are suspected of possible criminality (Canadian Council of Refugees, 2008). While Canada has ratified the UN Convention on the Rights of the Child which insists that *the best interests of the child* always be a primary consideration, and that, moreover, a child should be detained only as a *last resort*, these principles are a far cry from real-life practice (Canadian Council for Refugees, 2009). Decision-makers often do not consider the best interests of the child, and detention is routinely used, not as a last resort, but rather without exploration of alternative measures.

There is a growing international literature on the detention of refugee claimant children held in detention. In Australia, where prior to 2008 all children seeking asylum were faced with mandatory detention for an average of two years (Ozdowski, 2004), studies suggest that children's physical and mental health are significantly affected (Mares & Jureidini, 2004; Mares, Newman, Dudley, & Gale, 2002; Robjant, Hassan, & Katona, 2009; Steel et al., 2004; Sultan & O'Sullivan, 2001). Researchers note a range of

disturbances associated with detention in children including disruptive conduct, nocturnal enuresis, separation anxiety, sleep disturbance, nightmares, and impaired cognitive development (Sultan & O'Sullivan, 2001). Some children also developed severe symptoms including mutism, stereotypic behaviours, and refusal to eat and drink (Sultan & O'Sullivan, 2001). In one study, of 20 children assessed, every child over the age of six met a diagnosis of PTSD and major depression (Mares & Jureidini, 2004). 80% of those children had attempted to harm themselves, and every child over age six had contemplated suicide (Mares & Jureidini, 2004). In younger children developmental delays were common as were attachment and behavioural problems (Mares & Jureidini, 2004). Another study demonstrated an increase in psychiatric difficulties among detained children as well as in their parents leading to self-reported decrease in capacity to parent while in detention (Steel et al., 2004). These families also found the experience of detention triggered memories of previous trauma and as well as feelings of humiliation and hopelessness (Steel et al., 2004). In the UK, findings have been similar. Lorek et al. found that detention of children was associated with post-traumatic stress disorder, major depression, suicidal ideation, behavioural difficulties and developmental delay as well as weight loss, difficulty breast-feeding in infants, food refusal and regressive behaviours and loss of previously obtained developmental milestones (Lorek et al., 2009). Importantly, these children were detained for relatively short periods of time (on average, 43 days), suggesting that even brief detention can be detrimental to children. The adult literature suggests that harmful consequences of detention may persist up to three years after release (Steel et al., 2006), a question that remains to be examined in children.

A Montreal-Toronto study is currently underway in Canada looking at the experiences of

detained asylum-seeking children. This investigation is nested within a large, multi-site mixed methods study examining the impact of detention on vulnerable adult refugee claimants. The preliminary results of nearly 20 in-depth interviews with children and families are in keeping with international medical literature: detention is highly distressing for children and may have long-term consequences. The following vignette's are drawn from the study interviews and highlight children's distressing detention experiences.

Case Vignette 1

Three children, age 4, 6 and 7, are detained with their mother and father—both asylum seekers—for 5 days in a Canadian Immigration Holding Centre. They are brought to detention after being “arrested” by several officers who force the children into a van when they resisted in fear. The mother and children are separated from their father who is kept in a separate men's section. Prior to detention the children had been in good health and functioning well, though the six year-old had language delay. After the detention, the two eldest children developed symptoms of PTSD and separation anxiety including: nightmares, sleep difficulties, tantrums, school refusal, and selective mutism. For several months the 6 year-old regularly resisted leaving the house to attend school because of debilitating anxiety. Over a year later the children are able to attend school, but remain symptomatic with ongoing anxiety, irritability, and sleep difficulties.

Case Vignette 2

An 11 year-old girl is detained for approximately one month with her 3 year-old sister, mother and father. The whole family is seeking asylum in Canada. The mother and

children are separated from the father in detention. Prior to detention the 11 year old child was healthy, a good student, with no previous psychiatric difficulties. During the detention she developed profound withdrawal (speaking little and spending most days lying on a couch in the common area), food refusal, tearfulness, and sleep difficulties. The child was not weighed while in detention, but the mother reported she had lost significant weight. She had no contact with other children aside from her sister. She received a few hours of language tutoring each day in the last weeks of the detention. When an interviewer asked her what she understood of the situation she replied: “we are here because they think we are terrorists.” After release, many of the girl’s symptoms improved, though she still had trouble separating from her mother, regular nightmares and difficulty sleeping.

Research is progressing, but at a slow pace compared to the political reality. With Bill C-4, it will be even easier for authorities to detain asylum-seeking children. In this act, the Minister has the power to designate any group of people entering Canada without official identity documents—including children—as *irregular*. The legislation does not define *group*, meaning that any person who arrives with another person could be designated. The consequences of the designation are dire: mandatory detention without the right to a hearing for twelve months. Nowhere in the legislation are children or vulnerable persons exempted from detention. Although the Minister may order release in exceptional circumstances, this is purely discretionary. In Australia, discretionary powers to transfer detained refugee children to community facilities or release them on temporary visas were virtually never exercised, even in cases involving years of repeated self-harm and

suicide attempts documented by treating physicians. Sadly, there is no assurance that things would be different in Canada.

A year's detention is not all designated claimants could face. The legislation contains several other elements designed to deter claimants (Canadian Council for Refugees, 2011). Of most concern to child advocates is the five-year suspension of access to permanent residence status for accepted refugees who have been designated. Without permanent resident status refugees will not be able to sponsor their family members to join them in Canada. All too often families—including parents and children—are separated in the process of fleeing persecution. This part of the bill will add a 5-year delay to the unification of parents and children, mothers and fathers. Given the evidence in the literature about the harmful effects of family separation on any child and in particular on traumatized children (Fazel, Reed, Panter-Brick, & Stein, 2012; Rousseau, Rufagari, Bagilishya, & Measham, 2004), this aspect of the law is of grave concern.

Prominent voices have spoken out against the legislation. The Canadian Bar Association has voiced strong opposition to the bill which “violates Charter protections against arbitrary detention . . . as well as Canada’s international obligations respecting the treatment of persons seeking protection” (Canadian Bar Association, 2010). Amnesty International has also stated that the bill will lead to human rights violations (Berton-Hunter, 2010). At the Refugee Health Conference held in Toronto in 2011, health professionals expressed their concern regarding current practices of detention, specifically the conditions under which asylum-seeking families are arrested, the disruption of children’s schooling and support networks, and the potential reactivation of trauma in children who have suffered from organised violence in their homelands.

Pediatricians, child psychiatrists, family physicians as well as paediatric nurses, social workers, and counsellors are committed to promoting the wellbeing of children and protecting the more vulnerable among them. There is an urgent need for collective advocacy for the asylum-seeking children who may be adversely affected by these changes in policy. There is robust evidence that refugee children face considerable pre and post-migratory adversity and that this has important mental health consequences (Fazel et al., 2012). Bill C-4's mandatory detention and delays in family reunification are very likely to increase the stress-related problems in this vulnerable group. As clinicians we should advocate through our professional associations for the best interests of the child, much as our UK colleagues did in 2009 when they called upon the government to stop detaining children (Intercollegiate Briefing Paper, 2009). In keeping with Canada's obligations under the UN Convention on the Rights of the Child and with our professional duty to prevent harm we must oppose the detention of asylum-seeking children.

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Preface to Chapter 2

While chapter one provides an overview on the problem of the detention of children and a need for advocacy, the following section critically examines the ways in which debate in parliament represent and construct the detention of immigrant children. This chapter moves us from a perspective of physician advocacy towards critical analysis of legislative debate on the detention of children. It investigates how paradigms of *rights* and of *compassion* are used by speakers and what consequences these discursive strategies have for migrant children and those who seek to advocate on their behalf.

Chapter 2

“Looking for terrorists among children”: Deconstructing the legislative debate on the detention of asylum seeking children in Canada

The creation of legislation is an iterative process involving debate and power. Members of parliament, speaking from differing positions of power—as representatives of the majority government or minority opposition parties; and as voices of Canadian majority or as minority Other—negotiate values and symbolic representations within the public space of the House of Commons. Legislation becomes prescriptive, creating a reality, while also inscribing the social reality. This paper examines the negotiation process around a specific proposed legislation and interrogates a silent shift within the legislation that led to the exclusion of children under the age of 16 from measures of year-long mandatory detention in Canada.

During a two-year period, three different pieces of legislation were introduced in the Canadian House of Commons that would detain asylum seekers designated by the minister as *irregular arrivals* for up to one year. Bill C-49, introduced in October 2010 in response to two ships of Tamil asylum seekers who landed in British Columbia, was rejected by the opposition parties. When the Conservatives became the majority government in 2011, Bill C-4 was introduced, strongly opposed by the opposition, and then dropped after the second hearing. Bill C-31, ‘Protecting Canada’s Immigration System Act’ the third incarnation of the bill introduced in 2012, was nearly identical to the previous bills on issues of detention. The only difference was that bill C-31 exempted children under the age of 16 from mandatory detention. Bill C-49 and C-4 had already

incited significant opposition by legal, medical and community organizations, much of it focussed on the mandatory detention measures that applied to children (Canadian Civil Liberties Association, 2011; Kronick, Rousseau, & Cleveland, 2011; The Canadian Bar Association, 2010). The exemption of children younger than 16 from mandatory detention in Bill C-31 stood out as a significant modification, though the Minister of Citizenship and Immigration who put forward the bill was quiet on the reasons for the changes.

Background: immigration detention in Canada

Detention centres operate much like medium-security prisons. Facilities outside of Toronto, Ontario and Montreal, Quebec are located in suburban areas, and are surrounded by high barbed-wire fences and patrolled by guards who surveil and control detainees' movements in the centres. Children are separated from their fathers and stay with their mothers in a mother-child section. They have access to an outdoor play area under the supervision of guards and, if they are detained for longer than two weeks are supposed to receive schooling. Modest estimates suggest that in 2010-2011 over 200 children were detained (Canadian Border Security Agency, 2011), though many more were likely held in detention because they were *accompanying* their parents who were detained (Canadian Council for Refugees, 2009).

Before Bill C-31 the sole legislation that governed the detention of children and their families in Canada was the *Immigration and Refugee Protection Act* (IRPA). It still determines the detention parameters of all refugee claimants who arrive but are not designated as 'irregular.' Under the IRPA a person may be detained if an officer of the

Canadian Border Security Agency (CBSA) has grounds to believe that person is inadmissible to Canada, that person is considered a flight risk (that is, unlikely to appear for immigration proceedings), or if an officer is not satisfied as to a person's identity (Nakache, 2011). It also stipulates that children be detained only as a last resort and that decision-makers must consider *the best interests* of the child. Children are thus afforded their own special provisions within the legislation, and at the same time held to the same *standards* as adults. In terms of international refugee law, the 1951 Refugee Convention makes clear that penalties are not to be imposed on those who enter a country illegally (for example, without valid identity documents) seeking asylum. The 2012 UNHCR Revised Guidelines on Detention further stipulates detention should never be considered automatic and should be an exceptional measure (UNHCR, 2012). Under Bill C-31 children who arrive in groups might be designated by the minister as *irregular* and, if they are over 16, face mandatory detention of up to a year alongside adults. If they are less than 16 children would be put in the custody of the province, or, if parents chose, could stay with their parents in detention without being officially detained.

Research Question

In this study we ask: what are the discursive strategies used to justify or oppose the detention of asylum seeking children in the debates on Bill C-4 and C-31 in the Canadian parliament? What processes of negotiation within the discourse might have influenced the legislative shift to exclude children younger than 16 from detention?

Specifically, how are concepts of rights and humanitarianism deployed? Within these discourses how are children situated? And what do these constructions mean for migrant children, asylum seekers and those advocating on their behalf?

Methods

Our study uses a methodology of discourse analysis. Our interest is in understanding how language ‘constructs subjects and their worlds’ (Schwandt, 2007), and specifically, how the text of the parliamentary legislative debates represent the child migrant, and possibilities of detention. Discourse analysis affords identification of the ‘broader assumptions, structures and/or meanings [. . .that are theorized] as underpinning what is actually articulated in the data’ (Braun & Clarke, 2006). We chose to look at the House of Commons (Parliament of Canada) readings since these were the debates that produced the legislation and the changes therein. We use other texts, such as those produced by NGOs and physicians to contextualize the parliamentary readings.

We accessed the transcriptions of the parliamentary readings online using the LEGISinfo database that provides public access to all parliamentary sittings and committee hearings dating back to 2001. We created two documents, one that includes the first and second readings of Bill C-4 and the first and second readings of Bill C-31. In total this constituted over 500 pages. We did not analyse the committee hearings on Bill C-31 (Bill C-4 did not progress to parliamentary committee) which involve expert testimony.

Our codes were generated using both an inductive and deductive strategy. We define our approach as a thematic discourse analysis (Braun & Clarke, 2006). Codes were created based on our theoretical orientation focussing on rights and humanitarian themes while

other codes emerged inductively from the text. We were concerned with what was implied *between the lines*, the implicit, rather than a pure description of explicit themes. Transcriptions were coded by the first author manually and codes were refined and verified in consultation with the research team.

Theoretical concepts

There are three important theoretical starting points for our research:

First, we rely on two related concepts that have been used in social sciences literature to capture ways in which justice or social change is mobilized. Thinkers have distinguished approaches that lean on notions of human rights from those of humanitarianism (Fassin, 2012; Gottlieb, Filc, & Davidovitch, 2012; Ticktin, 2006). While both perspectives are interrelated, there are ways in which they are distinct stances or discursive practises that differentially characterize social suffering and its responses. Ticktin and Fassin, among others, describe a ‘regime of human rights’ (Ticktin, 2006, p. 35) that has been overtaken by a humanitarian *politics of compassion* (Fassin, 2012). These politics produce and are a result of a climate in which ‘people often prefer to speak about suffering and compassion than about interests or justice legitimizing actions by declaring them to be humanitarian’ (Fassin, 2012, p. 3). Miriam Ticktin further clarifies: ‘human-rights institutions are largely grounded in law, constructed to further legal claims, responsibility, and accountability, whereas humanitarianism is more about the ethical and moral imperative to bring relief to those suffering’ (Ticktin, 2006, p. 35) While this binary—with human rights and humanitarian reason held in opposition—is somewhat exaggerated, their separation can highlight important discursive practises that are

harnessed, in our case, by Canadian parliamentarians. Here, we are as interested in delineating these two paradigms as we are in elucidating the ways these agendas are reproduced and transformed. Further, while we are interested in the actual enshrining of rights in legislation, we also focus on how notions of rights are imagined, configured and used within the debates in the House of Commons. Thus, as way of illuminating how changes in legislation are made, we seek to examine how ideas about rights and compassion are iterated and reproduced.

Second, we understand the process of delegitimization and legitimization of refugees and migrants as socio-politico-historical phenomena. The ‘false’ refugee, with all the risk he ostensibly poses, exists as much because of the period in which he seeks asylum as he does because of something he has done. Didier Fassin documents the shifting terrain for immigrants and asylum seekers during the 20th century (Fassin, 2012). In France, in the mid-twentieth century, at a time when The Convention relating to the Status of Refugees was adopted (1951), allowing people from Europe to seek asylum in other European states, migrants were needed to meet labor demands. Their presence was viewed as legitimate, even desirable. Because there were so few obstacles to obtaining work visas, persons fleeing political violence often opted to migrate as immigrants (Fassin & D'Halluin, 2007). Fassin suggests that this changed in Europe after the 1970s with a rise in unemployment. In France, labor immigration was suspended in 1974 which dramatically changed the rate of asylum claims. In 1967, the Refugee Convention was extended to include asylum seekers from around the world. With this reconfiguration ‘the category of immigrant has gradually been replaced in the public arena by that of foreigner’ (Fassin, 2012, p. 86). And with this change came the restrictive refugee

processes that saw the acceptance of asylum seekers fall from 90% in 1974 to 28% in 1989 (Fassin & D'Halluin, 2007). Thus a shift in labor demand and the accompanying demand for asylum—which is indeed only a part of the complex context for migrants in Europe at the time—made a space for the illegitimate asylum seeker. Our view is that in the Canadian context the rhetoric of ‘bogus’ and ‘real’ refugees similarly normalizes the delegitimization of refugees while obscuring ideologically or economically-driven restrictive asylum policies. That is, the discursive production of the ‘bogus’ refugee masks and justifies policies of deterrence—like detention—of asylum seekers.

Lastly, we are particularly interested in the ‘symbolic power and iconography of children’ (Uehling, 2008, p. 851). Children are uniquely situated within the frames of rights and humanitarianism since the child excites ‘a much more lively, as well as a much more universal sympathy’ (Adam Smith from (Fassin, 2012, p. 161)) than do adults. In examining ‘representations of children as victims’ in the AIDS epidemic in South Africa, Fassin argues that the ‘pathos of the threatened’ child becomes ‘a central element of the social mobilization [because] . . . who would oppose the principle of saving the lives of children’ (Fassin, 2012, p. 167). There is, he suggests, a ‘moral obviousness’ (Fassin, 2012, p. 167) in advocating for the protection of children above anyone else. Children’s moral and emotional valence makes them ideal emblems while their vulnerability and need are taken as obvious, ahistorical and apolitical. However, childhood itself is a socio-historical phenomenon (Aries, 1962; Meloni, Rousseau, Montgomery, & Measham, 2013; Scheper-Hughes & Sargent, 1998). Notions of children as a distinct category emerged in the 16th and 17th century, while idea of child rights only emerged after the second world war (Meloni et al., 2013). It was in the 1980s that the UN Convention on

the Rights of the Child was adopted and that a growing movement of advocacy for child maltreatment, sexual abuse and child labour entered public consciousness (Fassin, 2012). Now a distinct and vulnerable subject, the child becomes the object of family and State protection. As Elizabeth Cohen notes ‘governing children presents a thorny problem for the liberal democratic state’ (Cohen & Morley, 2009, p. 2), where children are caught between paternalism in which ‘adults [have] ownership over [their] higher interests’ (Cohen & Morley, 2009, p. 3) or *minorism* in which children are merely a stepping stone to adulthood (Cohen & Morley, 2009; Meloni et al., 2013). In both cases children are constructed as semi-citizens without agency or voice. Thus the image of the vulnerable child in need of rights and compassion contains within it the child’s alterity. As Nancy Scheper-Hughes puts it, ‘in gaining their ‘rights’ . . . modern children may have gained their childhood, but lost considerable power and status’ (Scheper-Hughes & Sargent, 1998, p. 11). The migrant child becomes a palimpsest: a threatening other overlaying a vulnerable child. ‘The victim can easily become a criminal,’ Fassin explains (Fassin, 2012, p. 177). For refugee children discourses of risk and vulnerability becomes two sides of the same coin, both dependent on representations of children who lack agency on the one hand because there are children, on the other because they are a racialized, threatening Other (Meloni et al., 2013; Uehling, 2008). These polarized representations of migrant children are a starting point for our analysis of the child within House of Commons debates on Bills C-4 and C-31.

Results

Our results are presented in two main sections and further divided into subsections based on analysis of the data. The first examines the perspective of rights within the debates: a)

We discuss how arguments regarding rights are harnessed by the opposition to contest mandatory detention measures; b) how in order to justify detention, the paradigm is reconfigured and turned on its head by the government; and c) we focus on how children are situated within this logic. Next we investigate the theme of humanitarian logic: a) how it is invoked within the parliamentary debate, b) how it is appropriated by each side, c) the use of children within the logic and the d) ‘hierarchy’ of compassion that is produced through the debates.

A Paradigm of Rights: *Whose Right?*

The appropriation of a rights discourse

During the parliamentary hearings on Bill C-4 and C-31 the rights of refugees and children are frequently invoked. The opposition parties cite breaches of the Canadian Charter of Rights and Freedoms, The UN Convention relating the Status of Refugees and the UN Convention on the Rights of the Child: ‘it is a bill that . . . violates our Charter of Rights and Freedoms and violates Canada’s obligations under international law’ (Parliament of Canada, 2011). These arguments are employed to contest both bill C-4 and C-31 and reference the right of protection from arbitrary detention, the right to prompt review of detention, and the right to family reunification and the obligation to consider the *best interests of the child*. Opposition party members frequently cite non-governmental bodies such as Amnesty International, Human Rights Watch and The Canadian Bar Association to further these rights-based arguments, while government members are dismissive of these claims and the authority of the NGOs themselves.

Importantly, members of the house often appear to qualify their arguments when appealing to a logic of rights: ‘I know many fine Canadians who *believe in* charter principles and in human rights’ (emphasis mine) (Parliament of Canada, 2011), an opposition member of parliament states in early debates on Bill C-4.

It is not just an academic statement to say that we have a duty to uphold charter [of Rights and Freedoms] principles or constitutional principles. There is a *practical* element to what I am saying (emphasis mine). (Parliament of Canada, 2011)

To argue for rights, it appears is to risk being ‘impractical.’ More, rights seem subject to ‘belief,’ as if there are in fact ‘non-believers’ who do not espouse a ‘faith’ in rights. Later, another member states: ‘This is a ridiculous piece of legislation in that it does not even pay attention to the basic, logical, legal human rights of people ‘ (Parliament of Canada, 2011). Notions of rights seem suspect in these moments, even as they are held up. Rights must be qualified as ‘practical,’ ‘logical’ and ‘legal’ suggesting that at some level they might be construed as impractical, illogical or illegal. Thus, even the ‘believers’ need to defend a logic of rights, or are dismissive of them, even while invoking them: ‘certainly there are elements in the bill [C-31] that would be violations of the Charter of Rights and Freedoms, but that is not the key issue here’ (Parliament of Canada, 2012). The ‘key issue’ it appears, resides elsewhere.

Rights as Privileges

Whereas arguments contesting the proposed legislation invoke a logic of rights—albeit revealing that such a logic needs defending—the speeches of the Conservative members

do not deny the call to ‘rights’ but rather transform this call. The first manoeuvre is a reconfiguration of the language of rights, a shift that is more than purely rhetorical. In an early speech in the second reading of Bill C-4, the Minister of Citizenship and Immigration argues that based on public opinion polls, over 55% of Canadians would deport a large vessel of ‘bona fide refugees’ arriving ‘illegally.’ He continues:

As a government, we do not believe that approach would respect our legal or humanitarian obligations. Let me be clear . . . This bill exceeds our international and domestic legal obligations with respect to non-refoulement of refugees . . . It would simply reduce some of the privileges that normally are provided to asylum claimants in order to reduce their willingness to pay tens of thousands of dollars to a smuggling syndicate. (Parliament of Canada, 2011)

Indeed the minister accurately captures that rights provided under the 1951 Convention are limited (to the non-refoulement of refugees). Yet the minister does not speak of limited rights, but rather of ‘some of the privileges’ that ought not be afforded to asylum claimants. Potential rights are refigured as privileges that may or may not be bestowed by a *generous* government. For example, the idea of a right to access healthcare—albeit legally contentious—is spoken of as a privilege: ‘Once these bogus claimants land in Canada most of them are eligible for a generous range of taxpayer-funded social services and benefits within days of arrival’ (Parliament of Canada, 2012). Even opposition members refer to the privilege of healthcare, rather than invoking notions of rights:

I would like to state that I am one woman who would be perfectly happy to share the privilege of public health care with those who are most needy and vulnerable (C-4, 49).

Interlocutors identify that the ‘most needy and vulnerable’ are beholden to Canadian ‘sharing’ of privileges rather than invoking concepts of international human rights law. In iterating a discourse of rights framed as privileges, speakers construct arguments in favour of detention because it: ‘reduce[es] some of the privileges that normally exist for asylum claimants in Canada’ (Parliament of Canada, 2011).

The inversion of a rights agenda

Another turn in the parliamentary debates reconfigures this logic of rights further. While human right have, beginning after the second world war and more explicitly since the 1970s, been conceptualized as a means to protect individuals from degrading treatment, war, and genocide perpetrated by states and groups (Moyn, 2010), within the debate on Bill C-4 and C-31 the object of rights is inversed. In this reversal the subject in need of protection is the state itself. Even the name of the bill reveals this logic: ‘Protecting Canada’s Immigration System Act.’ This is legislation aimed to protect the rights of the state, and of the immigration system itself. ‘All Canadians expect that our borders and shores are protected and our generous systems are protected from abuse,’ a conservative parliamentarian explains (Parliament of Canada, 2012). And from whom does the state require protection? In the early debates in House of Commons on Bill C4, which took place in the summer and fall of 2011—a year after the Sun Sea arrived in British Columbia—the refugee is cast again and again as a danger to Canada and its systems:

The NDP has said that the bill needlessly violates the rights of illegal immigrants by detaining them in order to determine their identity. Do I maintain that we should allow illegal immigrant so roam free without consequence and without knowing whether they are a threat to public safety? (Parliament of Canada, 2011)

The refugee claimants become ‘illegal immigrants’ who ‘threaten’ Canadians right to safety. This was reiterated in mainstream media coverage of the Sun Sea asylum seekers detention and refugee processing (Bradimore & Bauder, 2012). The characterization allows the Minister of Public Safety to go further, saying:

It is the consistent pattern by both those parties [opposing the legislation] that they put the rights of criminals ahead of the interests of victims or law-abiding Canadian citizens. (Parliament of Canada, 2011)

Here, it is the rights of Canadians that are paramount, not those of ‘criminals’ and not those of ‘victims’ who merely have ‘interests.’ Importantly, the ‘criminals’ in this discourse sometimes refers to human smugglers and, other times, to the asylum seekers themselves. There is an elision of categories—immigrant, refugee, asylum seeker and even smuggler—which is embedded in the rhetoric of threat. The inalienable rights of the individual give way to a hierarchy of deservingness where ‘victims,’ ‘Canadians’ and ‘criminals’ are more or less entitled. Notions of human rights are flipped on their head within this ‘framework of risk’ (Bradimore & Bauder, 2012): the rights of the nation are threatened, not those seeking asylum and facing potential detention.

This [the landing of two vessels on Canadian shores carrying migrants] is a growing transnational issue that threatens our national security. It also raises significant concerns regarding human rights and rule of law here in Canada. (Parliament of Canada, 2011)

The ‘human rights’ of the nation are threatened—as is the ‘rule of law’—by the presence of asylum seekers.

There is a lot of discussion around the rights of people. I have a question for the hon. member. Do the citizens of this country have a right to protection? Does the government and Parliament not have an obligation to protect the country’s borders and to protect our citizens?’ (Parliament of Canada, 2011)

‘We are certainly mindful of their [migrants] human rights and their needs. No system is perfect, but first and foremost we must protect Canadian society by ensuring that we have an immigration system that is fair to all. (Parliament of Canada, 2012)

With an inverted logic of rights, the object in need of protection is the country, its borders and its citizens, not the asylum seeker. ‘First and foremost’ are the rights of the sovereign state. Within this frame, detention of migrants—as well as other punitive measures—become reasonable solutions, in keeping with ‘a strong mandate to protect Canada’s immigration system’ (Parliament of Canada, 2012).

Not only are the nations rights prioritized, the *right to rights* of the migrant is questioned:

The so-called rights in question, the rights that the NDP is trying to defend, must then belong to those who made fraudulent claims. This is patently absurd. It is not a right to defraud the Government of Canada. It is not a right to defraud Canadian taxpayers. It is not a right for refugee claimants to provide false information to the government to gain permanent residency in Canada and with it gain access to Canada's generous system of health and social benefits. (C31, 317)

Criminalized, the 'bogus refugee' is rendered right-less. It ostensibly becomes 'patently absurd' to uphold the rights of asylum seekers within this discourse.

This tension—that between the right to sovereignty, and the universal rights of the individual—is inherent for the liberal democratic state according to Hannah Arendt (Arendt, 1973). So while the arguments in favour of detention appear to upturn notions of human rights, they magnify an already existing polarity. As Briget Cotter explains:

The fact that the state [because it has sovereignty] has the right to exclude people from rights is at odds with the universalism and inalienability of the rights of man upon which the liberal democratic state and its laws are founded. (Cotter, 2005, p. 99)

The parliamentary debates iterate this contradiction, without speaking it aloud. That is, implicitly the discourse 'exposes the contradictions and tensions within the liberal

democratic project' (Cotter, 2005, p. 96), but explicitly the speeches of many parliamentarians constructs refugees as dangerous Others who are therefore *less* deserving of the 'privilege' of rights than Canadians. The production of this narrative, bolstered by an inverted agenda of rights, masks the agenda of repression and restriction of migration.

The analysis reveals a heralding of rights simultaneous with an inversion of a classical human rights agenda, a reversal that is used to justify the detention of asylum seekers. As we shall see, this discursive construction includes children, but not without difficulty.

Children in a framework of rights

During the readings of Bill C-4 in the House of Commons children's rights are invoked frequently. 'This bill is an attack on children's rights' (Parliament of Canada, 2011), one parliamentarian declares. Another continues, outlining a child's rights with regard to detention:

Bill C-4 directly violates a number of international agreements that Canada has so proudly ratified, such as the Convention on the Rights of the Child [. . .] Canada will have to justify any act that is illegal or violates ratified international agreements . . . I would like to reiterate the response of the Government of Canada to the Standing Senate Committee on Human Rights . . . 'A child may only be detained as a measure of last resort, and a school-aged child in detention must be provided with educational and

recreational opportunities as well as counselling after having been detained for seven days' (Parliament of Canada, 2011).

This paradigm of universal children's rights is appealed to throughout the parliamentary debate. However, there are several ways in which children's rights are discursively elided both by the supporters of the legislation and their detractors.

First, children are frequently constructed as appendages to their parents, most often for the sake of rhetorical flourish. 'Designated claimants [are] to be detained mandatorily, including their children,' (Parliament of Canada, 2011) one member of parliament explains. This depiction of children-as-accessory is in fact a reflection of children's position in the legislation: children, unless they are unaccompanied minors, are generally not refugee claimants themselves, they are the 'children of' asylum seekers. Legally and discursively, children are *other than* asylum seekers. For example, a member speaking about refugee claimants notes that 'obviously they often bring their children' (Parliament of Canada, 2011), while another critic states that the legislation 'penalizes asylum seekers and children' (Parliament of Canada, 2011).

While differentiating children from adults might afford them some rights, simultaneously, in positioning children as non-agents, as accessories to their parents, they are left without *a right to rights* as asylum seekers themselves (Meloni et al., 2013). This point is more than merely symbolic. When children are detained, *with* their parents, but not as asylum seekers themselves, they are quite literally invisible in the eyes of the law: because children are not officially mandated to be in detention their best interests would not be taken into consideration by a refugee board member overseeing a detention review

hearing (Canadian Council for Refugees, 2009). Children are *not there* and thus cannot be given rights. In this vein, Conservative parliamentarians point out that ‘we will see wording changes in the legislation [Bill C-31] to expressly exclude designated foreign nationals under the age of 16 years’ (Parliament of Canada, 2012) from detention. Paradoxically, in excluding ‘minors under 16’ from mandatory detention—a veritable victory for the advocates against the detention of children—they are excluded from the debate and from a *right to rights* if they are detained *with* their parents. While the separation of children from parents is invoked a few times in the bill C-31 debates, they are rendered mostly invisible. When opposition members raise concerns about the possible separation of children from parents implicitly proposed in bill C-31’s detention exemption, the Immigration Minister responds, referring to the arrivals of two boatloads of ‘smuggled’ migrants:

We all share her concern for the welfare of children, particularly vulnerable children. I really do believe that she is massively overstating her concern in respect to this bill. In the large scale smuggling operations [. . .] a family [. . .] typically send[s] one young man in his 20s from the family to Canada so that he can start paying off the debt and then bring subsequent family members in. . . There were 600 who came in the last two years. I am not aware of there being any children, but there may have been a couple of adolescents (Parliament of Canada, 2012)

In fact, forty-nine children arrived with the MV Sun Sea and all of them were detained, including six unaccompanied children (Vasan, 2011). Children vanish in the narrative

constructed here, first, through the rhetorical and legal characterization of children as appendages to their parents—and later, more starkly, with the denial of their actual existence.

In summary, through these semantic erasures, children are discursively and practically excluded from the purview of refugee and children's rights, opening the door to detention as companions of their parents.

The inversion of the best interests of the child

If the rights of children are held up in parliament even as children are constructed as non-agents and non-existent, so too are notions of 'the best interests of the child' turned upside down. The doctrine of *the best interests of the child* is well established in legislation, Canadian case law, and international conventions (Collins & Heller, 2013). While the best interests of various parties are taken into consideration in legal decisions, the language of *best interests* is enshrined within the legal frame pertaining specifically to children. As stipulated in Article 3.1 in the UN Convention on the Rights of the Child:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

In the bill C-4 and C-31 debates, the principle of best interests is applied unusually:

Our government is acting responsibly and in the *best interest* of Canadian taxpayers by introducing reforms to address the

increasing number of bogus refugee claimants (emphasis mine)
(Parliament of Canada, 2012).

The Conservatives have shown that they are not interested in the
public good or the best interests of the people. (Parliament of
Canada, 2012).

Like the reversal of the rights paradigm, here we see an inversion of the doctrine of the best interests of the child. Children are not mentioned. The interests to be considered are those of the Canadian ‘taxpayer’ and those of the ‘the people,’ presumably of Canada. Further, the right of child to remain with his or her parents is invoked: ‘In cases where it is determined that it is in the best interests of the child to remain with the parents or guardian, the CBSA would house the minor child with the parents [in detention] . . .’ (Parliament of Canada, 2012). Detention, in this argument is in the ‘best interests’ of the children. Nowhere in the debates are children’s voices heard, only a euphemistic call to detain children for their own best interests. In summary, the principle of *best interests* is first inverted—it is not the children’s best interests at stake, but those of the adult ‘taxpayers’—and then it is harnessed paternalistically to justify the detention of children.

While notions of children’s best interests are inverted within the debates, a reversal of a call to children’s rights, as we have seen, demands a narrative of security and risk: the public has the ‘right’ to be protected from a potential threat. As Greta Uehling notes, the child migrant is a symbol amenable to societal projections of ‘contradictory impulses’ (Uehling, 2008), impulses to protect the vulnerable Other, and to protect ourselves *from*

the Other. In the House of Commons debates, members wrestle with depictions a child as a threatening Other:

The bill allows the minister to order the detention not only of the asylum seekers, but also of their children, even if our security is not at risk and the detainees are not a threat (Parliament of Canada, 2011).

There is an explicit discomfort in casting the child as aggressor, or, ‘looking for terrorists among children,’ (Parliament of Canada, 2011) as one parliamentarian suggests. While the zero-sum-game of ‘our’ rights versus ‘their’ rights holds when adults are at the centre, invocations of children complicate this logic. As we shall see, an agenda of rights, gives way to and coexists with a paradigm of compassion, a paradigm that appears especially compelling for parliamentarians grappling with the detention of children.

A Paradigm of Compassion: who is the victim?

The dramatization of the compassion agenda: ‘a compassionate and caring nation’

The ideal of compassion and humanitarianism is heralded throughout the debates both in praise and critique of the bills, particularly the earlier Bill C-4. ‘Canadians take great pride in the generosity and compassion of our immigration system’ (Parliament of Canada, 2012) a government member declares. The opposition urges: ‘we need to provide a great level of humanitarian empathy’ (Parliament of Canada, 2011). A central argument levied against the bills is that it is not ‘compassionate’:

We see ourselves as and we are a compassionate and caring nation. We give a great deal of attention and forethought to

humanitarian needs. I would say that the essence of this bill is not humanitarian. It has very has very little compassion built into it (Parliament of Canada, 2011).

This [bill] absolutely goes against the compassionate nature that Canadians are known for . . . Canada's values lie in being compassionate (Parliament of Canada, 2011).

Opposition members repeatedly note that the legislations is lacking compassion, and empathy, and this appears to strike a particularly upsetting cord for the those supporting the bill:

We ask the opposition to call a spade a spade and recognize that conservatives are not cold-hearted people (Parliament of Canada, 2011).

Another difficulty I have is the innuendo that somehow the Conservatives are not compassionate (Parliament of Canada, 2011).

Members opposite are trying to tarnish Canada's reputation internationally by saying we have becomes cold-hearted (Parliament of Canada, 2011).

There is an implication that somehow Canada is losing its spot in the world as a compassionate county (Parliament of Canada, 2011).

These rebuttals are suggestive of ‘the central place of benevolence and compassion in contemporary political life’ (Ticktin, 2011, p. 3). Whereas, as we have seen, the proffering of human rights arguments was met with some hesitation, the moral imperative to relieve suffering is deeply inscribed in the House of Commons debates.

As Miriam Ticktin points out, while a ‘political discourse of human rights has its origins in the French Revolution and the Enlightenment movement away from religion and towards a secular vision of humanity’ (Ticktin, 2006, pp. 35-36), religious charity is the ancestor of a politics of compassion (Ticktin, 2006). She cites the example of *Médecins Sans Frontières*—the prototypical medical humanitarian NGO—whose founders credited the Catholic Church as their inspiration because of its call to ‘action on the basis of emotion’ (Ticktin, 2006, p. 36) rather than reason. The religious genetics of a humanitarian agenda is articulated by members of parliament during the second reading of bill C-4:

And our charter also says that ‘Canada is founded upon principles that recognize the supremacy of God and the rule of law.’ The Judeo-Christian principles that form the foundation of our country are the key to understand our heritage and the resulting consequences on our collective life. I would like to refer to the gospels. A woman was brought before Christ by her accusers [. . .] Are we but minions crushed by fear that we will, like cowards betray the legacy left to us by the great political giants of Canadian history . . . (Parliament of Canada, 2011).

These arguments follow the member's speech decrying the detention measures in bill C-4: 'The prohibition of arbitrary detention without trial [in the Canadian Charter of Rights and Freedoms] is a part of this [Canadian] heritage, which is a basis of our common values' (Parliament of Canada, 2011). A call to rights precedes and is subsumed by a logic of religious compassion and 'values.'

The conversion of the compassion paradigm

Just as the ideas of universal human rights were inverted and transfigured so too is the humanitarian agenda reworked discursively throughout the debates. All parties adhere to an imperative to relieve suffering but construct a responsible aggressor and victimized Other differently. When the opposition says the government and legislation lacks compassion, they respond:

Sadly, the costs of human smuggling to society are more than can be measured on balance sheets. Often this illegal transport means great misery, illness and even death for many of the individuals involved, who are transported thousands of miles in very unsafe conditions (Parliament of Canada, 2011).

I have heard from my constituents, and like all Canadians, they have told me that they want our government to act decisively to crack down on those who would endanger the lives of men, women and children by selling them false dreams and transporting them in unsafe vessels or shipping crates. This

disregard for human life is an affront to all Canadians (Parliament of Canada, 2012).

It is the smugglers who ‘disregard’ ‘human life’ according to the proponents of the legislation. Detention, they argue, deters people from seeking asylum with the aid of human smugglers. *They*, the smugglers, lack compassion, not the government. To allow arrivals of smuggled migrants is ‘inhumane.’ The anger in the face of suffering is projected onto the Other, the barbaric human smuggler, who himself is frequently conflated with the refugee (Rousseau & Foxen, 2010). With this projection the Other becomes the aggressor.

Similarly, advocates of detention and other measures cast the current refugee and immigration system as the aggressor:

Let me say what is not humane. What is not humane is when people, through the system that we have, base their hope on something that is not real . . . What is really the challenge and really inhumane is when people are in the system for years and years and do not have their cases heard because of the significant backlog. That is what is wrong. What we are going to see through Bill C-31 is a significant streamlining that is humane and fair and treats refugees with greater respect (Parliament of Canada, 2012).

While humanitarian reason is used to render the ‘undesirables [asylum claimants] acceptable (by showing them in the most touching light)’ (Fassin, 2012, p. 148), here, the same logic is used to make the arrival of migrants by boat undesirable. The government

appeals to a paradigm of compassion through portrayals of ‘misery’, and suggests that asylum seekers are victimized by smugglers and current legislation, whereas new measures of deterrence, including mandatory detention, are put forward as more humane. This rhetoric of compassion rests on shifting sands of moral and emotional sentiments such that the aggressor becomes a shape-shifter.

Children and the spectacle of suffering

As both Didier Fassin and Greta Uehling have argued, children are often represented as emblems of pathos within a politics of compassion (Fassin, 2012; Uehling, 2008). The image of the suffering child is central to the House of Commons debates, especially the readings of C-4. Member after member exclaim phrases such as: ‘putting children in jail is unbelievable’ (Parliament of Canada, 2011); ‘Children! Detained!’ (Parliament of Canada, 2011); ‘As a mother, I cannot imagine that [being separated from children] . . . Where is the humanity in that?’ (Parliament of Canada, 2012); ‘The final piece of the bill is making victims of children’ (Parliament of Canada, 2012); ‘One refugee child behind bars is too many’ (Parliament of Canada, 2011). Children’s deservingness of protection from detention appears to speak for itself. (No parliamentarian declares ‘Adults! Detained!’). Compassion-eliciting narratives of children are also elucidated:

This is a draconian bill . . . it goes too far, and the best example is the mandatory detention of children. I am talking about children—young people who do not know what is happening to them. They have travelled very far to come to Canada. Their parents promised them a safer and better life, new friends and

welcoming neighbors. I have a hard time imagining a smooth transition for these children. In fact, it is the complete opposite. Their arrival starts with mandatory detention. I cannot understand how the government can defend such a position or how it can think that it is necessary to detain children. I have a hard time understanding that somehow could detain a frightened child who does not understand what is happening (Parliament of Canada, 2011).

Harnessing the image of the ‘frightened child’ the bill’s detractors make a call for compassion. This construction however, relies on a depiction of children as passive, and ‘not-knowing.’ Ironically, to mobilize these sentiments of compassion is to render children without knowledge or agency, in a sense to ‘make victims of children.’ As we shall see, ‘for help to be extended, humanitarianism often requires the suffering person to be represent in the passivity of his or her suffering, not in the action he or she takes to confront and escape it’ (Ticktin, 2006, p. 44).

Children in the hierarchy of compassion

As we have seen, the House of Commons readings can discursively render children as appendages to their parents leaving them less visible, and as semi-individuals without a full claim to rights. Similarly the dramatization of the ‘frightened child’—a spectacle situated within a logic of humanitarianism—depends on the ‘radically unequal order’ (Fassin, 2012, p. 253) of human lives. That is, compassion depends on eliciting sympathy or pity for some more than others. If children warrant compassion, as victims, then who bears the guilt? As Didier Fassin explains: ‘Presenting children as victims comes at a cost

that is both symbolic [. . .] and practical' (Fassin, 2012, p. 168). The unintended consequences of this discourse emerge in parliamentary debates. If children are pitiful, then it is their parents who are vilified:

Mr. Speaker, I thank my colleague for his consideration for children, as our government is showing as well [. . .] What we have to do is to look at the best interests of the children. Often when parents are detained, they make a decision as to whether the children will stay with them or go to a relative they know in the country, or go under government care. That is a parental decision to be made by them, and it is part of their parental responsibility when they decide to get on a boat and bring their children over. That is going to be clearly outlined so that parents know before they get on the boat that these are their choices (Parliament of Canada, 2012).

Madam speaker, the general rule is that we treat children in a different way from how we treat adults. Children should not bear the responsibility of crimes that their parents may have committed. If individuals come here illegally without proper documentation and we cannot determine what they are, the general rule is that the children are not committing the crime but they are obviously under the care and control of their parents (Parliament of Canada, 2012).

Adult asylum seekers are not only unworthy of sentiments of compassion, but become culpable for children's suffering. The reified innocent child cannot exist without its corollary, the *criminal* parent. This hierarchy of compassion 'makes *children* a very different category than migrants' (Uehling, 2008, p. 847). Inadvertently the lobbying for children's exemption from detention on the basis of a compassion-driven logic, has the consequence of enforcing narratives of securitization justifying the detention of adult migrants. We argue, that this is not just symbolic, but has real sequelae: in the final iteration of the legislation, Bill C-31, children under 16 are exempt from detention, but adolescents and adults are not: 'I think Canadians would also say that they are concerned about whether the children need to be detained,' (Parliament of Canada, 2012) the Minister of Public Safety declares. As Miriam Ticktin points out:

compassion depends on circulating narrative, images and histories
and often on maintaining an unequal power relation [. . .]
distinctions that are already heavily gendered and racialized
(Ticktin, 2006, pp. 43-44).

By definition, in advocating for the exemption of children as 'victims,' others are left behind. This phenomenon is mirrored in how a sample of Canadian health care workers view migrants' entitlement to health care. Clinicians surveyed

were definitely not in favour of restricting access to healthcare to
truly vulnerable subjects such as 'children', 'poor and destitute
women', 'real refugees' or 'emergency cases'. Exploitation of
seriously limited healthcare treatments by 'illegals,' 'false

refugees’, ‘medical tourists’ or wealthy pregnant women’ was however adamantly condemned, as it further deprived taxpayers, Quebecois or Canadians of proper care (Vanthuyne, Meloni, Ruiz-Casares, Rousseau, & Ricard-Guay, 2013, p. 82).

In a logic of compassion, justice becomes a zero-sum game dependent on the creation of the suffering child as much as the false refugee. The non-threatening image of the child throws into relief a threatening adult refugee who justifies ‘national security concerns’ (Parliament of Canada, 2012). Humanitarian efforts to save children from detention—or to ensure their access to healthcare—serves to reinforce an already unequal order, in which the detention of parents makes sense. More, detention (or parents’ detention) becomes a necessary means to ‘protect’ children.

Detention as protection: the compassion agenda reconfigured

Analyzing the debates in sequence reveals a new argument emerging in the Bill C-31 readings that is made possible by rhetorical constructions that precede it. Once a compassion hierarchy is established, with children at the top—deserving of humanitarian aid—and adults near the bottom, we see detention is reframed. First, detention itself is described as ‘humane, proper and, in fact, in almost every case is better than any type of treatment they received from the country they come from if they are true refugee applicants’ (Parliament of Canada, 2012). This means that children who are detained ‘if their parents choose [not be separated from them] could live in the family detention centre’ (Parliament of Canada, 2012). The detention centre becomes a ‘family’ and

‘humane’ place where children are cared for and protected. Both detention and the separation of children from their parents are cast in this light:

As I understand it, in situations with some of the recent migrant vessels, the children have been placed into foster care in British Columbia. In those types of situations, the system has tried to take care of them (Parliament of Canada, 2012).

It is a very important and sober question [that of what will happen to children]. Often when parents bring their children over with them on the boat, they need to be aware of what the parameters are around Canada and what Canada will accept. [. . .] The government has certainly put forward grave consideration that helps so minors can be protected, fed and clothed when they are here (Parliament of Canada, 2012).

The separation of children from their ostensibly culpable parents affords government the role of ‘caring’ and ‘protecting children’. With children, the agendas of security and humanitarianism collide: detention of parents (or sometimes the detention of children themselves) is cast as a means of both protecting borders and protecting children. The government’s power to control bodies is renamed as its capacity to *care* for children.

Children as victims of mental harm

If the asylum seeking child is characterized as passive and in need of protection so too is she constructed as *sick*. Particularly, it is argued by the opposition parties that detention harms children psychologically:

Do members know the psychological effects detention and imprisonment have on children? Some British researchers have shown that even in a few months of detention the psychological effects on children are tragic. They wet their beds. Some become mute. Others stop learning. They become withdrawn. They are not able to go to school because they cannot focus. Some lose weight. Some do not eat. These psychological and physiological effects have been seen in children who have been jailed for just a few weeks or months. Think of the psychological scars that we would be inflicting on these children who come to our country and are placed in detention centres (Parliament of Canada, 2011).

These arguments are echoed in the voices of expert testimony to the parliamentary committee examining bill C-31 (Cleveland, Rousseau, & Kronick, 2012a, 2012b) and in the advocacy efforts of activists and physicians (Kronick et al., 2011).

Our argument here is not to suggest that children are not in fact at increased risk of psychiatric problems if they are detained, but rather to point out the ways in which children's mental health is situated within this larger humanitarian logic, one which legitimizes and delegitimizes certain categories of migrants. Because all children are not entitled to basic inalienable rights, the suffering of children is given credibility through the medicalization of their plight. As Miriam Ticktin explains in her study on French migrants:

With humanitarianism as the driving logic, only the suffering or sick body is seen as a legitimate manifestation of a common humanity, worthy of recognition in the form of rights, this view is based on a believe in the legitimacy, fixity and universality of biology. . . What are considered basic human rights themselves now circumscribed to fit the limited understanding of human life (Ticktin, 2006, p. 39).

The same can be said, as we have seen, of children: only the suffering child, and especially the psychiatrically sick child, is deemed worthy of compassion and special ‘rights,’ such as exemption from arbitrary detention, rights that are bestowed on only exceptional lives.

Discussion

This study analyses the debates in parliament that led to a shift in detention policies for children seeking asylum. In the Bill C-4 and C-31 hearings there is a consensus around the need to protect vulnerable children and this is justified using notions of rights and of humanitarianism. Our data suggest that simultaneous to these arguments, which confirm the benevolence of the host society, there is a reversal in the logic of both compassion and human rights. With this inversion the majority has rights that need protecting. And it is *us* (the majority) who are abused (by the systems, by ‘bogus’ refugees). Children in this inversion still warrant our protection but are configured as either not there, not children (because they are older than 16) or not asylum seekers. Moreover, their vulnerability is reified so that parents (adults) are constructed as threatening and culpable

leaving *us* (the Canadian majority) responsible for protecting children from the threatening refugee adult through separation or detention.

How are paradigms used to mobilize empathy and the rights of marginalized persons transformed into a call to protect and have compassion for the hegemonic power of the State? What permits these reversals of logic? We hypothesize that there are two possible processes involved. First, we turn to the literature on empathic encounter. In their research on the interactions between decision-makers and refugee claimants in the refugee determination process, Rousseau et al conclude that power plays a significant role in the subject's capacity to view the Other with compassion (Rousseau & Foxen, 2010). An empathic stance depends on the power of the subject. This was the case of psychiatrists in the First World War who were too vulnerable themselves (as subordinates to German military officers) to respond with compassion towards traumatised soldiers (Brunner, 2000), justifying abusive treatment regimes intended to return the soldier to battle. Rousseau's data suggest that, like the military psychiatrists, Immigration Review Board members (who decide if an asylum claimant is accepted as a refugee or not) are themselves in a vulnerable position—always at risk of losing their job position—which comes at 'the cost of an empathic encounter' with the refugee (Rousseau & Foxen, 2010, p. 89). A loss of empathy (or reversal of empathy) in the House of Commons debates may suggest a similar phenomenon: Canadian parliamentary representatives' position is directly linked to the population support and public opinion. In time of growing xenophobia, supporting immigrants or refugees does not pay off politically and they can be tempted by a demagogic position which will please their electoral basis. Their own

position of relative weakness impairs any authentic empathic encounter with the Other and enables a reversal of humanitarian logic.

A second hypothesis, draws on psychoanalytic ideas regarding denial and projection which occur when a subject experiences affect or instincts which are intolerable and disavows them either through denial or by projecting them onto another object. In the parliamentary debates refugees are frequently depicted as threatening Others, aggressors, putting the rights of the Canadian public at risk. The aggressive impulses of the State to repress, expel and detain are projected onto the Other, the refugee. Such projection permits notions of rights to be flipped, so that the State, charged with protecting the Other, is vulnerable precisely because of the threatening Other. This emotional distancing protects the individuals within the parliament from the discomfort of experiencing themselves as aggressors, allowing a sense of their own humanitarianism and benevolence to remain intact. Retaliation against the traumatized Other is documented in one-on-one encounters in the clinic and between refugees and decision makers (Rousseau & Foxen, 2010). Here we can understand the discursive response as a systemic retaliation against the Other who encounters the state in trying to transmit a trauma narrative (the refugee claim). This systemic projection and denial, opens up space for a reconfiguration of a human rights and compassionate agenda.

Through all of this, children are discursively caught in the middle. On the one hand they appear unscathed by projections, remaining purely vulnerable. On the hand however, they are constituted as other than Other, or as non-subjects within the legislation. Again and again children are rendered voiceless, invisible, or as merely collateral. Further, the

boundary between child as victim and child as threat becomes porous: children are vulnerable to their own dangerous families, and are threats themselves, so much so that adolescents above the age of 16 are not exempt from mandatory detention. With a gaze that ‘look[s] for terrorists among children’ the House of Commons debates ultimately constructs a space where detention of children is not only possible, but reframed as a means to protect children, even as the ‘image of the subaltern’ (Kleinman, Das, & Lock, 1997, p. 7) child is held up as a call for compassion. Children therefore reveal not just the competing discourses of rights, humanitarianism and child protection, but also expose the underlying construction of children without agency or voice.

Our argument does not suggest that there is one preferable paradigm—rights, compassion or child protection—to mobilize social justice. Rather we are interested in the consequences of each discourse and how they move us towards or farther away from comprehensive justice for children and migrants. The powerful construction of an inverted rights discourse (one which prioritizes the rights of the state) in combination with a humanitarian narrative which holds up some--especially young ‘frightened’ children—as innocent and others (adolescents and adults) as potential threats, results in the exemption from detention of a few and the sanction of detention for many, ‘pav[ing] the way for greater exploitation of [people’s] misery’ (Ticktin, 2006, p. 39). In fact, despite all calls for compassion and for the protection of children’s rights within the parliamentary and public conversation, the resulting legislation merely ensured that the situation for children under 16 was not any worse; children under sixteen continue to be detained under Canadian immigration law.

Conclusion

Our data reveal the multiple paradoxes between claimed values and actual positioning of parliamentarians. This research suggests that there is a need to better understand the negotiation processes involved in changing policy around migration and children's rights in Canada. Such an understanding would help orient and influence advocacy efforts make more conscious what is at stake in these kinds of debates.

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Preface to Chapter 3

Chapter two has explored the discourse in parliament which led to a revision in legislation exempting children under sixteen from mandatory detention. Chapter three takes lived experience as its object of inquiry rather than political discourse. In this paper we examine the experiences of children and parents who are held in immigration detention asking: what are the conditions of in detention centres, and how do children and parents understand the impact of the experience? In exploring how children and families respond to detention this manuscript sheds light on the short and long-term negative consequences of immigration detention, and propose that Canada should respect its obligations under the UN Convention on the Rights of the Child.

Chapter 3

“They cut your wings”: The detention of migrant children and parents in Canada

Each year approximately 9000 persons are held in immigration detention centres (Canadian Border Services Agency, 2011) in Canada. In 2011 47% of these detainees were either asylum seekers (i.e., people who had made a refugee claim that had not yet been adjudicated) or failed claimants awaiting deportation. Migrants may be detained for three main reasons: 1) a person’s identity has not been established, 2) a person is deemed unlikely to appear for an examination, an admissibility hearing, or removal from Canada (i.e. a *flight risk*) or 3) because someone is deemed a threat to public safety or inadmissible on security grounds (Nakache, 2011). Importantly, less than 6% of detainees are deemed a risk to public safety (Cleveland & Rousseau, 2013). Detention takes place in Immigration Holding Centres (IHCs) in 65% of cases and in provincial jails (35%) (Canadian Border Services Agency, 2011). The IHCs, located in Toronto, Montreal and Vancouver, function like medium-security prisons (Cleveland & Rousseau, 2013).

Between 2005 and 2010 approximately 650 children have been detained each year in Canada because of their migratory status. However, this is likely a significant underestimate as often children are not subject to detention orders but are rather accompanying their parents in detention and are therefore not counted in official statistics (Canadian Council for Refugees, 2009). Mean detention length is approximately one month, though families may be detained for anywhere from 48 hours to many months.

The UN Convention on the Rights of the Child stipulates that detention or imprisonment of children should “be used only as a measure of last resort and for the shortest

appropriate period of time” (United Nations, 1989, Article 37.b). It further stipulates that “in all actions concerning children [. . .] the best interests of the child shall be a primary consideration” (Article 3.1). This principle is formally recognized in Canada’s Immigration and Refugee Protection Act (Government of Canada, 2001, section 60). UNHCR guidelines state that: “refugee children should not be detained” (UNHCR, 1994, Chapter 7, Section IV). Nonetheless, child migrants and asylum seekers continue to be detained in Canada with recent legislative changes specifically providing for the mandatory detention of certain designated groups of 16-18 year olds (Parliament of Canada, 2012).

The international literature on the immigration detention of children suggests that detention has harmful effects on displaced children who resettle in high income countries (Fazel, Reed, Panter-Brick, & Stein, 2012). Studies in the UK and in Australia indicate that children in detention have high rates of psychiatric symptoms, including self-harm, suicidality, severe depression, regression of milestones, physical health problems and post-traumatic presentations (Lorek et al., 2009; Z. Steel et al., 2004). Other observational studies, as well as commissions of inquiry have noted that children in detention may be witness to abusive arrests, and violence within the detention centre, as well as riots, fires, adult suicide attempts and self-harm, in the Australian context (Mares, Newman, Dudley, & Gale, 2002). Further, children may receive poor nutrition and insufficient medical care (Burnett et al., 2010) While current evidence is limited by non-experimental designs and small sample sizes, it consistently demonstrates psychological harm incurred by children in detention and difficult living conditions in detention centres. Literature on children in Canadian detention centres is scant but for one report including

case studies (Canadian Council for Refugees, 2009), though there is a growing literature on detained adult asylum seekers suggesting a deleterious effect on mental health (Cleveland, Dionne-Boivin, & Rousseau, 2013; Cleveland & Rousseau, 2013).

Methodology

Research Question

As the first study in Canada looking at children and families in immigration detention, our investigation asked: what are the lived experiences of detained asylum-seeking children and how do they make sense of these experiences? Within this broader question we were interested particularly in i) the daily practices within IHCs and how they were experienced by children and their parents, ii) the perceived impact of detention on children and on the family system, iii) children's experiences of family separation precipitated by detention and iv) how children and their parents integrate the experience of detention in relation to narratives of past trauma and of their future hopes in Canada.

Methods

The study employed a qualitative methodology that seeks to generate knowledge of individual lived experience within particular socio-historical context in order for us to gain in depth understanding of the *lifeworlds* (Schwandt, 2007) of detained children and their families. Drawing from an ethnographic methodology we take the *cultural* setting of the Immigration Holding Centre (IHC) as a central point of inquiry and as context for the lived experiences of children and families.

The study was designed to recruit detained children and their families who are, by definition, a hard to reach population. Families were recruited in detention through community organizations working in the IHC. We also recruited families who had been detained previously through clinicians working in a community health centre and well as through immigration lawyers. Our sampling logic was based on a purposive strategy rather than a statistical one (Schwandt, 2007), as we were seeking to generate “information-rich cases for study in depth” (Patton, 1990, p. 169). We sought a highly heterogeneous sample in order to capture a range of experiences. Specifically we included families that had previously been detained as well as families in which only a parent (or parents) had been detained, given this is sometimes proposed as a policy alternative to the detention of children. We also included families who had been detained for only brief periods as well as families who had undergone longer detentions wanting to generate understanding of detention of varying lengths. Further, given the UN Convention on the Rights of the Child, Canada’s Immigration and Refugee Protection Act (IRPA) and the UNHCR guidelines on detention do not differentiate between the rights of children based on status, we included children and families who were asylum seekers as well as failed refugee claimants. Detention interviews were conducted in the Toronto and Montreal IHCs as well in community based health clinics and sometimes in family homes with families who had been previously detained. Communication was in English or French, and—when interviews were conducted outside the IHCs, in the case of previously detained families—professional interpreters were used for parents and children not fluent in English or French. Because interpreters were not permitted to enter the IHC, detained families without fluency in English or French were excluded.

We used three tools to generate data. First, we conducted in-depth semi-structured interviews with parents and with children aged 13-18. The interviews lasted between one to three hours and focussed on i) demographic information (e.g. country of origin, migratory trajectory, age and educational level of children); ii) understanding the context of the asylum claim and iii) the detention experience of the children and family.

Questions were intended to generate interviewee-directed narratives. For example: “What has it been like for your child since you were detained?” Considering the vulnerability of these subjects, and varying cultural codes regarding what ought to be spoken of, wishes to change subject or speak less about certain topics were respected. The interviewer also spent time with families before and after interviews establishing trust and comfort. All subjects gave written consent to participate in interviews. In the IHC recording devices were not permitted and thus for interviews conducted in detention, interview transcriptions were based on hand-written notes of interviewer which were as close to verbatim as possible. All other interviews were recorded with participants’ permission and later transcribed.

Second, in order to interview younger children and access their stories and emotions without demanding direct, verbal confrontation of difficult subjects—which is often viewed as inappropriate by parents of diverse backgrounds (Measham & Rousseau, 2010)—we conducted sandplay interviews with children ages 6-12 (Lacroix et al. 2007, Measham and Rousseau 2010, Rousseau et al. 2008). Children were provided with a box filled with sand and a collection of figurines and asked to *make a world in the sand* and tell the story of that world. In this paper we only analyse the symptom expression

observed through the sandplay interview, rather than symbols, themes and narratives, which will be examined elsewhere.

Our third tool was participant observation in the detention centres. As in classic ethnography, a researcher was immersed in the field observing the practices of the setting (e.g. social interactions, codes of conduct, implicit and explicit rules, rituals, organization of activities and space). After each visit the participant observer generated field notes that included factual descriptions, emergent commentary, and the researcher's reactions to the scenes observed. We also spoke with key informants such as refugee lawyers, and members of community groups working with detained migrants.

The McGill Faculty of Medicine's Institutional Review Board granted ethics approval for the study. All interviews and observation were conducted between March 2011 and June 2012. The interviews and participant observation were undertaken by the first author who is a clinician (psychiatry).

Transcribed interviews and field notes were entered into qualitative analysis software, HyperResearch (Version 3.5.2, Researchware Inc., 2013) and were coded inductively by the first author guided by principles of thematic analysis (Braun & Clarke, 2006). The codes were then subject to refining and synthesis by all authors as described by Braun and Clarke (Braun & Clarke, 2006). We followed an analytic approach that attends to both explicit content and *unsaid* structures, best characterized as "latent thematic analysis" (Braun & Clarke, 2006, p. 84). This process of consolidation and review generated the main themes: children's reactions to detention, conditions of detention, parents' responses to detention, experiences of separation and pre/post-migratory

experience. The research team then further sought to understand data across multiple axes: according to case (i.e. grouping all data collected regarding a single family), theme, migration status, length of detention, and age group of children. Further consultation among the authors led the team to produce the categories that structured our results section. We have altered identifying information of families to preserve their anonymity, though their narratives and dialogues are unchanged.

Results

Participants

Participant demographics

Twenty families' cases, recruited between 2011 and 2012, were included in our analysis. Table 1 captures the characteristics of the participants including immigration status at the time of interview, ages of children in families (ages 4 weeks to 20 years; 69% between ages of 3 and 12), gender (43% female, 57% male), as well as countries of origin. The majority of families were asylum seekers (65%) and the remaining 35% of families were failed refugee claimants. Table 2 summarizes the detention duration and grounds for detention. The mean length of detention at the time of interview was 56.4 days whereas the median was 13.5 days. In our sample, 12 of the families were interviewed during their detention and another 8 families were interviewed after detention. Three families were interviewed on more than one occasion, and in one case, both during and after detention.

Pre-migratory Stressors

Participants were given the opportunity to tell us the basis of their refugee claim and 60% of families disclosed significant prior trauma or persecution. Disclosure of pre-migratory adversity was voluntary and parents were not pushed to disclose previous traumatic

experiences. In several cases in which trauma was not disclosed the interviewer felt that a family had been exposed to trauma but was not comfortable speaking about it.

Disclosed traumatic exposures included: physical assault, rape, torture; family or friends experiencing or being threatened with bodily harm; threats or harassment by an organized group; murder or disappearances of family or friends; witnessing murder; religious persecution; domestic violence; forced separation of family members and of parents and children. Some participants had also experienced significant adversity during the migration process including living with precarious status in another country; previous immigration detention; long dangerous journeys by boat or on foot; and starvation. This finding correlates with international literature suggesting a heavy burden of pre-migratory stressors and trauma in resettled refugee children and families (Fazel et al., 2012). Parents also reported high rates of post-migratory stress, particularly those families who had not been recognized as refugees (failed refugee claimants). This too is in keeping with international literature which acknowledges the burden of post-migratory stress (Bronstein & Montgomery, 2011; Cleveland, Rousseau, & Guzder, 2014; Heptinstall, Sethna, & Taylor, 2004).

Conditions of Detention

The arrest

Families typically arrive at the IHC after an arrest by CBSA officials. The apprehension may take place at a port of entry or immigration office where the refugee claim is made. In the case of failed claimants the apprehension may occur at a routine immigration meeting or hearing. One variation in our study was a family denounced by hospital personnel to the CBSA after presenting to the hospital ER.

Many families in our study spoke of the experience of arrest as both confusing and frightening. One mother, arriving by plane with her two teenage children and six year-old, described 10 hours of interrogation by CBSA officials at the airport after making an asylum claim. The interrogation was followed by their arrest:

We just arrived and we didn't know what was happening [. . .]
they explained me a lot of things, a lot of papers. So it's like... I
didn't understand that they were taking me to a detention [. . .]
Then I asked "detention is like a jail?" So I said : "We are in a
jail!" It was horrible, I was crying. "Why are we in a jail? Why
are we detained?" So... yeah, that's when I became worried a lot.
[. . .] We didn't know what to do, what was happening. Actually
they said they weren't through with us, so they said we could stay
[in detention] or they can send us back. (Case 12)

In this case the family was told by CBSA officials during questioning at the airport that they would be returned home if they did not *agree* to detention. Their bags were also cut open with scissors and searched. The woman's children were witness to the process. Two interviewees who were asylum seekers told us that officials asked them to choose between detention (in one case being imprisoned for a year and half, according to the CBSA officer) or deportation to the country from which they were fleeing persecution. They felt that these threats had been made to intimidate and frighten them.

Several families noted that they were unsure why they were being arrested and most families believed they were being arrested by police, unable to differentiate between the security guards, CBSA officers and police:

Yeah, that was the most undesirable thing also. They didn't put us into handcuffs, but there were three to four policemen. Of course one was ahead – in front of us. The other ones were behind us. Two at our sides. [. . .] So if we were getting in an elevator they would stop everybody to get in the elevator. One of the police would go ahead and one behind. It was security for us to... to take us into the car. (Case 12)

As this mother of three described, families were often flanked by uniformed officers during their arrest, who accompanied them to the van which transports persons to the IHC. Parents reported how humiliating this experience was for them—to be seen in public appearing as criminals—and how frightening these experiences were to their children. In one case a child of five years had to be forced in the van by officers when he tried to flee in fear.

While in official CBSA practice parents are never to be handcuffed or shackled in front of their children, three families told us that their children had been witness to their parents in shackles and handcuffs:

Interviewer: They handcuffed you in front of the kids?

Mother: Yes. In front of the kids. And... we were all crying, you know? My kids were crying. They were like : “Mom what

happened? Why are they doing this?” We were pretending:

“Don’t worry, we just have to close the office and they want to make sure that everybody is safe. That is why they are doing this to us.” (Case 17)

One child, age 11, was also aware that her mother was taken from the detention centre to the hospital in shackles, but had not witnessed it. When asked what she understood about her mother being shackled (and being detained in general) she stated: “because they think we are terrorists” (Case 2).

Participants also noted the experience of being searched in front of their children. A mother of a 21-month-old boy described arriving at the detention centre, having her personal belongings confiscated and then being searched in front of her toddler. When security guards attempted to search him he cried, frightened, refusing to enter the small room.

Families reported several additional factors affecting the experience of arrest. Some families described that during long periods of interrogation and waiting for transport, they were left without food for themselves or their children. In one case, airport officials brought the family food, but the dishes were so unfamiliar they were afraid to eat. One parent, detained alone without his wife and children, reports being held overnight in a detention cell at an immigration office with other men before being taken to the IHC the following morning. Further, in some families only one parent (usually the father) was arrested, wives and children would usually not be given an opportunity to say goodbye, instead being informed by CBSA staff that their family member was being incarcerated.

One mother was apprehended in her driveway with her breastfeeding infant in her arms. She was separated from her infant for four days in provincial jail until she was transferred to the IHC when space became available.

Several families mentioned the shock of being arrested:

C'était assez brutal. On ne s'attendait pas à ça, tout simplement.

C'est que le monsieur avec qui on parlait il nous a dit : « Bon, levez vous, on vous arrête. Je vous mets en détention. » (Case 19)

The surprise of arrest is coupled with lack of information:

[. . .] when you come nobody gives you any explanation or nothing on what is going on. They don't tell you. You just have to be there in your room like a scared animal, and then they say "you have your court appearance in 48 hours." But nobody explain to you anything. (Case 17)

In summary, for the families we interviewed, the process of arrest was frightening, often humiliating and at times made worse by long interrogations, lack of food, the intimidating presence of officials in uniform, and detainees' lack of knowledge of the process and their rights. Children are witness to their parents being searched, and sometimes being handcuffed. Significantly, while one might expect the arrests of failed claimants to be more severely executed, the arrests asylum seekers and failed claimants were similarly experienced. As we shall see, for children the arrest can remain a salient memory even after detention, at times with long-lasting effects.

The Space

The Immigration Holding Centres in Toronto and Montreal function like medium security prisons surrounded by high spiral razor wire fences. They are operated by CBSA but privately employed security guards staff the IHC. Women with children are detained in a separate section from women's and men's sections and there is no area for families that includes fathers or older male children. The mother-child section consists of a common room with couches, a TV, a table and chairs; a shared bathroom; laundry facility; and bedrooms. Women and children can move freely within the area but need permission and to be accompanied by a guard to go outside, go to meals or enter another section of the building.

Families held in one IHC reported that often there were not enough beds for family members. For example, a mother shared a cot for eleven months with her 12-year-old son. In another IHC families would sometimes have to share rooms with other families, including two families with infants. On the other hand, guards told us they were very conscientious to not place families with infants directly across the hall from each other to make sure no one was unnecessarily woken in the night. Some parents reported they were expected to change their own sheets on arrival in the IHC and were concerned about bed bugs, though had been told by staff that their insect bites were not from bedbugs. In the common space a fridge was provided to keep fruit and infant formula. Children were not freely permitted to access the fridge. We observed an 11 year-old child be scolded by a guard for opening the fridge herself. On other occasions, guards would offer children fruit for a snack.

Both IHCs had yards with a small sitting area for adults and simple play equipment for children: one IHC had a plastic portable slide and some balls which had been donated by a non-profit organization; the other had a permanent play structure. Mothers and children could access an outdoor yard in one of the IHCs twice daily at set times. In the other IHC children and mothers could use the outside space when they requested after local guards received radio permission from the central guards. While outside families would continue to be surveilled by guards. Sometimes children did not have access to weather-appropriate clothing and so, for example, one family was detained for two weeks before the children received donated winter clothes and were able to go outside.

In one IHC the family yard was adjacent to the yard for the men's holding section. Our researcher observed one 11 year-old girl, detained with her mother and 4 year-old sister, notice her father across the barbed wire fence in the men's yard. The child ran toward the fence smiling, and waving a greeting. The guard yelled at the child to stop and told her not to acknowledge her father. The child backed away from the fence appearing frightened.

Daily Life

Parents and children reported to us that there was little to do in the IHC. Many described spending most of the day watching TV in the common area. While families noted there were children's shows available, one family told us that they were only able to watch "killing" or "action" movies which gave the 12 year-old boy nightmares. In one IHC minimal toys, such as colouring books, were provided. The other IHC had a playroom for younger children with donated toys. Adults and children described significant boredom

and under-stimulation. Parents expressed concern that sometimes children would not have interactions with other children for weeks (if there were not other families detained with them) and that children would be idle, sleeping or lying on the couches for long periods during the day. One family even hypothesized that they had been unknowingly drugged because they felt so sleepy and lethargic when they were detained.

The IHCs are expected to provide education to children in detention if they have been detained for more than 7 days (Citizenship and Immigration Canada, 2007) in order to comply with the UNHCR guidelines on detention which state that “children have a right to education which should optimally take place outside the detention premises” (UNHCR, 2012, p. 36). In both IHCs the schooling took place on site. In one IHC the school program was described positively by children and parents:

It got better when the teacher came and taught us. We got more relaxed. If she doesn't come here we have nothing to do other than watch TV. When the teacher is not here I feel bored. When the teacher is here I feel excited. (Case 15)

In the other IHC however, children were provided with a few hours of second-language tutoring with a retired teacher. Children and parents reported dissatisfaction, saying it was “not a real school” (Case 2).

Daily life in the IHC is shaped by strict schedules and routines. Meals and wake-up times are held at set times. In one IHC meals required families to exit the family areas accompanied by guards to travel to another building:

À 5h du matin une femme venait nous dire : « Préparez-vous, vous aller descendre. On va manger. » À 5h du matin. Donc on se préparait, on devait s'habiller. Puis on descendait tous en bas. On devait attendre – puisqu'il y avait la sécurité – on devait attendre avant de traverser ... (Case 19)

One mother explained that she would sometimes have to wait forty minutes outside in the snow with her two children before they reached the cafeteria. In one case a father detained for 3 months explained that the schedule was deliberately intended to disrupt the detainees' sleep:

Ils ont un système. Moi je comparais ça comme en Afrique. Parce qu'en Afrique on tape les prisonniers, mais ici comme on ne peut pas taper les prisonniers, ils ont un système qui fait casser tous les systèmes [. . .] Donc, on ne peut pas bien dormir. Ils allument les lumières [. . .] Une fois que vous dormez un petit peu, ils viennent : « Tout le monde dehors! La douche! » Ils essaient un peu de vous casser le rythme. Ils vous cassent. (Case 19)

The cleaning schedule was also regimented. Our researcher observed a pregnant woman who was vomiting and complaining of abdominal pain after visiting the IHC nurse, unable to return to her room with her two young children to lie down for nearly an hour because the family area was being cleaned.

In summary, daily life in the IHC is dictated by rigid schedules and lived in spaces offering minimal stimulation to children and parents. While spaces are clean and

generally adequately resourced there is sometimes a lack of space and age-appropriate toys and educational resources. Families experience the space and routine of the IHC as difficult, at best, and as a kind of torture at worst.

Confinement, surveillance and security

As in a medium security prison, detainees within the IHC are surveilled by guards and confined within the space of the mother-child, men's or women's wings. Within the mother-child section of the IHCs guards on duty were always female. Their shifts changed every 30 minutes, such that each half hour a new guard would enter the area. Parents noted that young children found the presence of rotating strangers frightening at first but became accustomed over time, especially as some of the guards became familiar. If children were having perceived difficulty managing in detention either because of behavioural or emotional problems, managers at the IHC sometime requested increased surveillance of the child and mother, requiring guards to document their activities.

Monitoring of detainees happens both day and night:

La lumière rouge dans les chambres la nuit, c'est [. . .] Pour voir s'il y a bien tous les détenus dans la chambre. Parce que quand vous dormez ils éteignent toutes les lumières, mais avec la lumière rouge dans la cellule, c'est comme le rayon x. Ils voient tous les détenus [. . .] C'est-à-dire ils vous suivent comme... comme un criminel. Donc, ils ne vous parlent pas, ils vous surveillent. (Case 19)

One girl who was detained at 10 years of age told us that the surveillance and confinement made her feel like “un animal en cage” (Case 19) Another father who was detained for 5 months without his pregnant wife and three year old son invoked a Spanish expression: “You don’t need to be in a golden box to be in prison” (Case 18) suggesting that even under the best conditions, incarceration was dehumanizing for him.

One incident we observed highlighted the inherent difficulty, and at moments, absurdity, of imprisoning young children. Guards were careful to open doors and release families from specific rooms only when certain conditions were met and permission was given by the central guard desk. After an interview was completed with a mother and a 21-month-old toddler in a conference room, the guards tried to contain the family in the room until permission was given for them to leave. The boy sang songs with his mother for several minutes to pass this time. A guard then arrived and opened the door explaining that they must still remain in the room until an order was given. The toddler, laughing delightedly, quickly ran out of the room as if playing a game of chase. The guard pursued him with seriousness attempting to block the child’s path with his knees and forcing him back into the room with his mother.

The interactions of guards and detainees, especially incarcerated children, were marked by a tension between the guards’ obligation to act as a security force and the reality of child inmates who required care. As such, the guards’ actions were often kind and nurturing, while at other times they behaved harshly. One guard explained to us that she deliberately asks to work shifts in the mother-child area because she so enjoys her interactions with children. Some guards would bring gifts to the children such as hair barrettes or used clothes. After observing how much a child enjoyed the plasticine the

research team had brought to the IHC a guard noted: “I’m going to order plasticine for the girl.” Security guards who routinely worked in the mother-child section often began to develop affectionate relationships with the children. One guard often referred to infants with diminutives: “mon bébé” or “mon amour.” We observed a five year-old run to a guard arriving on shift and who picked him up and spun him around playfully. Guards were often attentive to mothers’ wellbeing, and would sometimes tell us during our interviews that they believed the mother was depressed, in one case adding that she could not imagine being detained herself. They were also attentive to children’s needs, for example pointing out to a mother that a child had lost one sock or commenting on how sophisticated a 5 year-old’s drawing was for his age. Guards also sometimes challenged institutional rules in order to provide better conditions for families. In one case an 18 year-old male was permitted to stay in the mother-child area with his mother and three younger siblings. Normally a teenage male would be detained separately in the men’s area without his family. A mother also told us that a guard agreed to provide child care for her infant so the mother could have a nap, while another mother, in contrast, described how difficult it was to go to the bathroom with the strict rules regarding parental supervision. Officially, guards are forbidden to provide supervision to children, or to pick them up and hold them, such that mothers are never permitted even momentary breaks from their children. As we observed however, some guards upheld the official rules regarding contact with children, while others held children and assisted mothers in their care.

Parents also described troubling interactions with guards. One mother, detained with her 21-month-old child remarked: “ils croient que nous sommes des prisonnières” (Case 5).

Another mother said: “they treated us like we were terrorists” (Case 11). Some parents commented that guards had made discriminatory remarks:

Because sometimes [guards] do racist comments – not to me, but like to the Chinese. There are a group of Chinese like this, and they say “Oh you Chinese are like this.” And they are not supposed to do that! Especially because most of them are immigrants, you know? [. . .] So there are times when the guards put people down. (Case 17)

Some mothers cited specific examples of harsh treatment by guards. One mother asked to use a thermometer after having taken her squirming 3 year-old’s temperature once already and feeling the results were inaccurate. The guard replied by telling the mother that the thermometer was “not a toy.” “Why do they talk to me this way?” the mother asked the interviewer on recounting the story (Case 2).

In short, detainees, including children are the objects of near-constant surveillance in the IHC and have limited freedom of movement. Security personnel’s interaction with children and families is characterized, on the one hand, by mothering and nurturance, and on the other by power and authority. These ambivalent actions towards detainees point to the difficult position of guards as they are tasked both with *protecting* migrant children and *protecting us from* the presence of certain migrant children.

Support Systems

Parents described limited sources of support in the IHCs. There are primary care medical services which include nurses who are available during the day and a doctor who visits

the IHC every 3-4 days. One key informant also told us that a previous family doctor working in one of the IHCs had been fired because of his advocacy work on behalf of detainees. There were no social workers or psychologists available at either IHC. There is a pastor, a former detainee, who voluntarily holds Christian services on Sundays at one IHC. There is no chaplaincy service.

Families can sometimes access support from non-governmental organizations that are permitted to visit the IHCs in Toronto and Montreal. These organizations typically help families access legal representation. They also may provide clothing, toys and books to detained families. In one IHC an NGO provides volunteer therapists who lead a support group for detained adults. Significantly, many of these services would be provided by the state in a prison, while they are not in the IHCs.

There is no provision for interpreters in the IHC, so frequently parents are unable to communicate with staff and security guards. Because the NGOs who come to the IHC are also not permitted to bring interpreters, some families do not communicate with anyone while they are detained except CBSA officials and sometimes their legal counsel.

Detention review hearings

Detention review hearings take place before an administrative tribunal of the Immigration and Refugee Board (IRB) at 48 hours, 7 days and then every 30 days after detention.

Families are typically represented by legal counsel though they may represent themselves. A decision maker from the Immigration Division of the IRB determines if someone is to be released or detained further after hearing arguments from the detainee or representative and lawyer representing the CBSA. Families in our study described these

hearings—particularly unsuccessful ones—as painful and frustrating experiences. Parents spoke both of a failure to take into consideration the presence and best interests of their children, and a sense that the proceedings were arbitrary and unfair.

In several cases, children’s wellbeing was not taken into account by decision-makers at detention review hearings. During one hearing, the decision maker stated aloud that he was “taking into consideration the best interests of the child” but proceeded to give a decision that did not mention the children. In other cases, parents attempted to make the decision maker aware of their children’s interests (or in this case a pregnant spouse) and were ignored during the hearing:

They just stopped and I said “please, I need to talk to somebody. Help me.” My wife was pregnant. We started to have problems with that pregnancy [. . .] The baby basically stopped growing. [. . .] She wasn’t in good condition. She was having trouble here by herself. Basically they didn’t care about that. We provided them with some letters from my family doctor and everything [. . .] And they didn’t care. (Case 18)

One mother noted that the only time her children—age 6 and 4 years—were invoked in the hearings or arrest (despite the children being present) was when the decision-maker cited the parents’ desire to make a good life for their children as evidence that they were a flight risk:

Yes, that was the only time [they mentioned the children]. Not even when we were arrested. That was the only time when they

did it, that they mentioned the kids. Even when we said that we want to be together. They say: “It’s not a big deal.” [. . .] The way that they treat you is... it’s not nice, it’s not fair and it’s not respectful at all. (Case 17)

We also observed avoidant reactions to children in a detention review hearing. An IRB member did not look at the two young children who were present throughout the hearing, nor did the member appear to notice when the eldest child, age 11, wept when the decision was announced. The child left the hearing room and vomited according to her mother, as a consequence of her enormous distress at returning to detention.

While families noted the invisibility of their children in the detention review hearings, they also felt that hearings were often unjust and arbitrary. One father who was separated from his family described the process as a kind of farce

I felt that at that time, basically, it was just an instrument to get people paying. No matter what happened. That [the detention review hearing] was a theater: this guy talks, I am supposed to respond, he talks again then the judge makes his part. That’s it. Every single time was the same thing. Even when I got released it was the same thing. (Case 18)

Other families also reported an experience of feeling voiceless in the proceedings. In addition, key informants explained that medical records from the detention centre were sometimes used by the CBSA representative during hearings—thus breaching patient confidentiality—and that this was never challenged.

The family system in detention

Family separation

A prominent theme emerging from our data was the experiences of family separation precipitated by detention. Table 3 shows the numbers of cases who have undergone separation during pre-migratory and post-migratory contexts, highlighting separations as a result of detention. Several participating families had already been separated in the course of their migration trajectories. Most of these families had also been fractured by trauma—war, imprisonment, and kidnappings—resulting in the loss or disappearance of parents, siblings or children. For some families, the separation imposed by detention was layered on earlier traumatic separations, and for others, separation represented a new post-migratory stressor. In this section, we will examine families’ experiences of separation in the detention context. First we look at separation occurring within detention; second, the separation of parents detained without their children; and finally particular separation scenarios will be examined such as separation for those detained as part of mass arrivals and parents held without their children in provincial jails. Brief case vignettes are integrated to highlight prominent themes and underline important contextual factors influencing families’ experiences of detention.

Separation: within detention

Mothers and children are held in a separate section from men and other women within both IHCs. For detained families this means that mothers and children are always separated from their male spouses/fathers as six of the families in our study had been. Families in one IHC reported to us that fathers were able to visit with their families in the visiting area two times per day for approximately fifteen minutes and were also able to

eat two or three meals together each day. In another IHC, one couple explained that they were only allowed to speak to each other two times per day for 30 minutes, and that sometimes these visits were cancelled for unclear reasons. The spouses were not able to reach each other by phone in the detention centre.

Children separated from their fathers in detention appeared anxious regarding the absent parent. One 11 year-old child, detained for nearly three months, spoke to her mother frequently about her father, asking where he was, and if he was okay. Further, she refused meals asking that the food be saved and given to her father. A five year-old separated from her father, brought her mother a winter hat filled with apples and oranges during our interview and asked to bring the fruit to her father along with a drawing she had done, insisting “tell him I love him” (Case 1). Several mothers reported that when children were able to visit their fathers they would cry on reunion. Thus, despite opportunities to meet fathers a few times a day, there was evidence of anxiety in several children precipitated by separation.

Separation: parents detained alone

Forty-five percent of the families in our study (9/20) underwent separation when one parent (or both parents) were imprisoned without their children. There are various reasons why such separations may occur. In some cases a parent is detained alone because the children are Canadian, and Canadian-born children cannot be officially detained for immigration reasons, although they may informally accompany detained parents (Canadian Council for Refugees, 2009). Alternatively, for some families, only one parent was issued a detention order. Sometimes, a family may be given the option of having their children accompany them in detention or to separate and leave the child in

the custody of a extended family (if available) or in the care of youth protection services. In this section we examine families' experiences of separation drawing on case examples. Parents highlighted several factors that made separation highly distressing, both for adults and children. Two mothers we interviewed were separated from their breast-feeding infants when they were detained. In both cases their babies were permitted to join them in the IHC after approximately four days of separation. One mother told us:

For four days I couldn't eat. I cried every day from morning to night. Yeah, I think he [my infant] became sick because he was away from his mother. He cried every day [too]. (Case 16)

Another family seeking asylum in Canada was separated from their teenage son who was being treated for end-stage cancer. Mother, father, and his two younger siblings were all detained.

Mother: Les gens qui nous ont arrêtés le savaient qu'il y avait quelqu'un qui était malade. Qui était atteint du cancer. Donc qu'il souffrait.

Daughter: Ils savaient, mais ils...

Mother : Moi j'ai supplié : « laissez moi partir, quelqu'un est malade. Il ne peut pas passer la nuit tout seul. » (Case 19)

During the family's detention their lawyer had to take the son to hospital for treatment when he suffered an exacerbation of his symptoms, an exacerbation that his family

attributed to the stress of their separation. The son died approximately 9 months after his father was released from detention.

While non-detained family members are permitted to visit detainees during appointed visiting hours, families noted that the conditions of the visit were frightening and upsetting for children. In one IHC visiting family members, including non-detained children, could only meet with parents behind glass speaking through a telephone. In both IHCs visiting children had to be searched. As one detained father described:

They searched my kid! He was three years old. [. . .] My son was searched like a criminal. Once I told the guys “Hey, he’s a kid! What are you doing? Why are you touching my son?” That’s all I could [do]. He just told me it was an order. Somebody had ordered that. It wasn’t easy, and the attitude of those guys wasn’t easy to stand. (Case 18)

Participants also took note of discriminatory practices that applied to Canadian versus non-Canadian children visiting detained parents:

The first time my wife went with the kids we asked them the permission to get my son inside. The lady told her that because they weren’t Canadian citizens, we didn’t have the chance to do it. [. . .] These other Canadian kids could come in, but my son – because he was [non-Canadian] – couldn’t get in. They are so mean [. . .] It is up to the mood of the judge, the guard. It’s up to everyone’s moods. (Case 18)

One father separated from his toddler and pregnant wife described the strict rules surrounding contact with visitors. He told us that after meeting with his wife and child in the visiting room behind glass he would go to his cell to see her leaving the IHC from his barred window:

Sometimes they didn't treat us like humans [. . .] I'd go as fast as I could to my room just to say bye to her [my wife] every single day. Once one of those guards just came to me and said "You don't have to do that. Don't say 'hi'. Don't salute people." I told him "hey it's my wife! It's my family. What are you talking about?" "You are not allowed to do it." I couldn't even respond to that. I was just brought to tears. (Case 18)

Several families reported that visiting detained parents was so distressing to their children that they ceased to visit.

Father: Ils ont commencé à aller là-bas [au centre de détention], mais ils pleurent beaucoup. Jusqu'à ce que je dis que je ne veux plus qu'ils aillent là-bas. Mais ça faisait presque un mois et demi qu'ils ne voyaient plus leur maman. [. . .] Ils savent déjà si on part pour aller là-bas, ils savent que maman est là. Il sait que maman est ici, « pourquoi elle n'est pas avec nous? » L'autre jour il est parti avec nous, c'est lui qui a posé la question à sa maman : « Pourquoi tu ne veux pas venir à la maison? Tu dois venir aujourd'hui. »

Child: Elle ne veut pas venir. (Case 20)

Phone calls with their detained mother were also so stressful to the children, aged five and three, that the father stopped allowing them to speak by phone with her. When released from detention after three months the mother explained how these visits, the separation from her two young boys and the detention itself had affected her:

Ils [mes fils] sont venus me rendre visite. Il a poussé la personne qui nous surveillait à la porte. Il l'a poussé et il a dit que je parlais avec [. . .] Ça... me faisait mal. Moi-même je pleurais, mes enfants – en partant ils pleurent. J'avais craqué là-bas, j'avais craqué. J'avais craqué, j'avais craqué. J'ai craqué, j'ai dit « vraiment, je veux me suicider. » [. . .] Je préférerais rentrer chez moi, de mourir chez moi. Si on veut m'arrêter, on m'arrête. [. . .]

Ici on m'a arrêté, ça m'a torturé encore. (Case 20)

In this case the family had already undergone traumatic separation in their country of origin before fleeing to Canada seeking asylum. The father had been jailed and tortured for his human rights work, and while in jail, militiamen had arrived at the family home, broken down the door and gang raped the mother in front of her two young boys. Coupled with previous trauma, the mother's imprisonment in Canada appeared to be especially traumatizing for the boys. During the mother's detention the father reported a significant decline in the boys' functioning and emotional well-being. While the boys had been described prior to detention as being happy and having adjusted well to their arrival in Canada, after the detention of their mother, both boys lost weight, had difficulty

sleeping and separating from father, were irritable, more aggressive at home, and cried easily and often. The five-year-old's school noted social difficulties, a regression in academic milestones and inability to separate from the female teacher from whom he was seeking comfort and "affection."

À l'école il ne jouait plus, il pleurait souvent. S'il est à l'école avec les copains, il ne joue pas. Il veut être avec la maîtresse [. . .]
Je pense qu'il a peur. Il a peur pour sa maman . . . Bon, dire qu'elle est en danger – il sait qu'elle est ici [au Canada], mais pourquoi elle ne vient pas à la maison? Il m'a déjà posé la question « Dit moi papa, dit moi la vérité. » J'ai pleuré quand il m'a dit ça. Dire la vérité pourquoi? Pourquoi sa maman n'est pas à la maison? Je ne sais pas. Je ne sais pas quoi dire.

Des fois – c'est ça qui me dérange aussi – il va me demander même 20 fois par jour! Des fois il faut que je dis « mais non! Elle va venir. » Il faut que je le rassure avant qu'il soit calme et ne pose plus de questions. « Elle va venir, elle va venir. » C'est comme s'ils doutent qu'elle va venir à la maison. (Case 20)

During our interview, the children also demonstrated traumatic play--the eldest pretending to hold a gun to his father's and brother's head--suggesting active reexperiencing of the trauma of witnessing his mother's rape (at gunpoint). This post-traumatic response appeared to have been triggered by the stressful context of forcible

separation from his mother. This child also expressed significant anxiety regarding their mother's safety, even asking during a research interview where his mother was.

The detention of his wife and the resultant family separation also appeared to affect the children's father who reported insomnia, loss of appetite, weight loss, and suicidal ideation:

Je me suis fâché, je me suis dit « je préfère aller mourir chez moi. » Je préfère être prisonnier chez moi... que ma femme soit en prison pour quelque chose qu'elle n'a rien fait? On a donné les papiers. Tout ce qu'ils nous ont demandé on a donné, alors pourquoi la garder là? Pour rien! Je dis que c'est la honte! C'est la honte au Canada. (Case 20)

When the boys' mother was released from detention after three months, the children's symptoms improved significantly according to their father: their sleep and appetite improved; they no longer had difficulty separating from their father; their school also reported decreased anxiety and improved academic and social functioning.

One family who had chosen to separate from their two children—ages 6 and 4—to spare them detention, reported how anxious their children were about their parents' absence. To try to console the children, the parents had told them that they were merely working overtime to help pay for a vacation.

Father: They are always asking “When do you come back? When do you come back?”

Mother: Yes. They cry. Sometimes they get really upset, you know? They tell us: “Why are you taking so long? Why do you need a lot of money to take a vacation?” [. . .] So they say: “You are taking so long, come back.” Because at the beginning we thought that maybe we could go out, like, easily, but once we got the hearings we found out that there were no way. So we told them we would be back soon. They started to say: “Mom, why do you say ‘soon’, ‘soon’ never happens mom.” (Case 17)

The children’s grandmother who was caring for the children while parents were detained also reported to the parents that their children’s behavior had changed suggesting that they were more aggressive, irritable and would cry more easily since being separated from their parents. Mother noted:

Of course it is a stressful situation for them. We never, never separate. Never. We are always together. They have on their minds what happened [when parents were arrested and handcuffed in front of children]. (Case 17)

The couple described how distressing it was for them to be separated from their children, the father acknowledging that he was experiencing suicidal thoughts for the first time in his life. Nonetheless, they affirmed their decision to spare the children detention: “But even when it’s hard for us not to be close to our children, it’s better than having them here [. . .] I just can’t wait to be with them, to have them, to smell them. I can’t wait” (Case 17).

Special cases of separation

In specific circumstances, the conditions of separation in detention may differ from the practices described above. Within our sample, there were two variations. First was the separation experiences of families who were detained as part of a mass arrival of asylum seekers. The second was parents who were detained without their children in provincial jails. This section outlines these particular separation scenarios.

The detention of adult asylum seekers who arrived on the MV Sun Sea is described by elsewhere (Cleveland et al., 2013; Cleveland, Rousseau, & Kronick, 2012). In the case of families, 25 mothers arriving with children on the MV Sun Sea were detained in a separate facility from fathers who were detained in provincial prisons. Participants reported that for a period of two months a mother and children were permitted no contact with the father. After two months phone contact of 10 minutes per week was allowed and after three months children and mother could visit father in jail every 7 to 10 days for 15 minutes to one hour. As in other cases, the family from the MV Sun Sea reported children's high anxiety levels at being detained and separated: "Why aren't we getting released? When do I get to see my father? Is father coming to take us?" (Case 11) the children frequently asked. These children had experienced high levels of pre-migration trauma including witnessing the violent deaths of children, adults including extended family members and enduring months of shelling of their town, in addition to the difficulties endured during migration (Cleveland et al., 2012).

Five of the 20 families had been detained under the Immigration and Refugee Protection Act (i.e. for immigration reasons) in jail. In all of these cases children were necessarily

separated from their parent because children are not permitted in provincial prisons. In three of the cases families believed they had been put in jail because there was no remaining space in the IHC. One father told us that during his two weeks in jail—where he had been detained on the grounds of identity verification—he was unable to reach his wife and children having only been permitted one phone call that had not gone through. The wife and children were thus unaware of his whereabouts. The separation imposed by immigration detention in provincial prisons as a result of space shortages, leaves children not only separated from parents but with limited or no contact and information.

In summary, for nearly half of the families we interviewed, family separation was a significant aspect of their detention experience. Families can be separated within the same detention facility; while one parent (or both parents) are detained and children remain free; when one parent is held in prison; or when mothers and children are held in separate facilities from men. Families reported behavioral, sleep and appetite changes as well as high levels of anxiety in children who were separated from one or both parents, even as they were spared detention themselves. These results suggest that separation precipitated by detention itself is an important stressor for migrant children and families.

Parenting in detention

The parenting experiences of detained adults are not fully addressed in this study. During interviews parents rarely reported difficulties with caring for their children. Because of the real possibility of being separated from their children, we hypothesize that parents may have felt afraid of being viewed as inadequate caregivers and thus were reticent to share difficult parenting experiences. Nonetheless our interviews generated some

narratives of parenting challenges in detention both because of the conditions of detention but also because of parents' own symptoms and suffering. Our data also reveal significant caregiver resilience in the context of detention.

Several parents, especially mothers of infants, noted how difficult it was to parent under the IHC rules. Parents were not permitted to let children out of their sight. So, for example, the mother of a four-week old who had been detained for 9 days when we met her, complained how difficult it was to use the bathroom, given she had to carry the baby with her in his car seat, a seat which she was advised not to lift after her caesarean section.

As in Cleveland's study, parents we interviewed disclosed significant distress including sleep difficulties, nightmares, anxiety, suicidal thoughts, weight loss, and feelings of shame and humiliation. Parents spoke of their loss of confidence in detention. One father remarked:

La détention, pour moi, ça vous démoralise. Et puis vous commencez même à douter de vous-même... Vous vous posez beaucoup de questions. Ça vous décourage. (Case 19)

The mother of a four week old described her lack of confidence caring for a newborn as a first time mother cut off from all social supports in detention. Several parents were also adamant that the IHC was not an appropriate place to parent their children: "I don't think this is a place you can take care of children. For me, they cannot go out. They cannot be with other children" (Case 14).

Yet despite the inherent challenges of parenting in detention, many parents demonstrated significant resilience in providing care for their children. One mother would use the few picture books in the IHC to tell traditional stories from her country of origin to her children. Another mother spoke of using traditional lullabies and songs to soothe her distressed children. Multiple families devised stories about detention to try to protect their children from the frightening and uncertain reality of their status: for example, parents often denied that they were in detention, or if they were detained without their children, told them they were hospitalized, “studying English” (Case 17) or working overtime.

Several mothers also noted that their capacity to cope with detention was due to the presence of their children: “lui c’est ma force” (Case 10). Because her child needed her, this mother remained future-oriented and hopeful. As we saw with parents separated from their children who became suicidal, the opposite—that parents detained without their children showed increased demoralization—may also be the case.

Children’s responses to detention

The families we interviewed indicated that children and adolescents responded to the experience of detention in various ways and that in some cases, even after detention, children appeared to be affected by the imprisonment. In this section we examine the data on children’s responses to detention both during their detention and after the fact. We begin by illuminating children’s perceptions of detention, followed by an overview of the main symptom groups described by families, and finally provide two case vignettes illustrating psychological changes in children occurring during and after detention.

Children's perceptions of detention:

The experience of being imprisoned in Canada left most children in our study questioning and often confused about the reason for and significance of detention. Children as young as 4 years old seemed to have an awareness that they were being detained and were anxious regarding the uncertainty of the future:

[Our 6 year-old daughter] knew that it was a detention centre. She used to ask “why other have been released, why not we? Are they gonna keep us permanently here? Are we destined to stay here?”

(Case 11)

A four year-old returning by van to the detention centre after a detention review hearing said to her mother while looking out the window: ‘those kids are lucky, they get to play in the park. I don’t want to stay [in the IHC]’ (Case 6). Even a toddler, age 21-months, was described by his mother as knowing “que c’est pas normal” (Case 5). Older children questioned why they were detained. One 11 year-old asked: “we are not bad people. Why are we here? We don’t do bad things” (Case 2). A brother and sister, aged 13 and 12, iterate an experience of confinement in detention:

Son: I feel trapped. I want to ride my bike, to see my friends.

That’s all.

Daughter: I feel like I am in jail.

S: It’s basically jail.

D: It is jail.

S: Well, there’s TV (Case 15).

Another teenager reflecting on her time in detention three years prior believed that being imprisoned had impacted her permanently:

Fille: [Détenation] n'est pas bien pour le cerveau aussi.

Interviewer: Qu'est-ce que tu penses que ça fait au cerveau?

F: Ça fait des trous. Puis, après, tu vas y repenser encore. Que tu es à Laval [the IHC] toujours. (Case 19)

Our data indicate that many children are keenly aware of being in detention and that even younger children struggle to understand what it means about themselves and their futures. Older children also perceived the experience of detention as having a negative impact on their wellbeing.

Children's Symptoms during detention

Families reported a range of symptoms expressed by infants, children and adolescents in detention. Many children demonstrated externalizing symptoms of oppositionality and aggressivity. These symptoms were particularly prominent in children under the age of six whom parents described as more demanding in detention. For example, One three year-old began fighting more with her siblings and "not listening" which her mother believed were "because of this place [detention]" (Case 1).

Most children demonstrated internalizing symptoms, most prominently symptoms of anxiety. "The fear was there" (Case 11) as one father said of his six year-old daughter. This child would ask frequently when they would be released from detention and if they

were going to be returned to the “battlefield” of the civil war from which they fled. A young woman who had been detained when she was 18 years old said “Là-bas vous vivez dans le suspense” and her 13 year old sister added “j’étais traumatisée” (Case 19). Both girls had been detained for only 48 hours but viewed the experience as highly anxiety provoking. Some children, because of violence witnessed in their countries of origin, were profoundly frightened of the CBSA officials and guards:

The detention officers, they were not armed but they were wearing uniforms. So the moment the children saw the uniform they got scared. They are scared of the army and the police, so they come running [. . .] They fear the uniform. (Case 11)

One adolescent, detained at age 18 as an asylum seeker, who had experienced police brutality in his country of origin described fearing that he would be killed or deported by guards when he first arrived in detention.

A prominent manifestation of children’s anxiety was a fear of separation. Many children, especially younger children, developed separation anxiety. One three year old whose older sister attended the education program in the detention facility became very distressed when they separated:

He refused to eat without the company of at least his sister and the sister used to go to classes. When she was taken out he used to cry and sit at the entrance, look out and continue crying until she came back. (Case 11)

A mother noted her child's anxiety when mother separated briefly in order to use the bathroom. As we shall see, separation anxieties persisted for some children after detention.

Families also noted mood changes in their children. One mother described her latency age child as "very depressed" (Case 2) in detention while another mother noted that her three year-old appeared "sad" (Case 10). Several families indicated that their children cried more often, including infants.

Over half of the families interviewed during detention reported their children having significant sleep difficulties. This included difficulties falling asleep as well as nightmares. One three year-old whose father was detained separately would wake in detention screaming for his father. Some families believed that the presence of guards made sleeping more difficult.

Decreased appetite or food intake occurred for the majority of interviewed children. Parents felt that this was in part due to the unfamiliarity of Canadian cuisine, and the inability of parents to prepare foods their children enjoyed, but also as a result of children's anxiety and mood changes. As documented above, some children would refuse to eat, saving their food for fathers from whom they had been separated in detention. Mothers of two infants, on the other hand, reported that their babies—who had been near weaning—required increased soothing and thus began nursing more frequently.

Taken together, children's symptoms suggest significant psychopathological burden for children in detention. In keeping with the adult literature and international literature (Cleveland & Rousseau, 2013; Lorek et al., 2009; L. K. Newman & Steel, 2008), children

appear prone to depressive, anxious and post-traumatic symptoms and disorders when they are detained even for short periods. While our sample size does not permit a comparison across age groups, it appears that children of all ages (including infants and older teenagers) were at risk of developing symptoms in the context of detention.

Children's symptoms after detention

While children held in detention presented with prominent psychopathology, the families who had previously been detained also endorsed important symptoms that they believed were related to the detention experience. Most common were symptoms of anxiety including separation anxiety and selective mutism, sleep difficulties and post-traumatic symptoms such as avoidance and re-experiencing. Several children also had deterioration of their academic performance. For example, several families in the study noted that children—ranging in age from 5 to 18 years—had developed a fear of persons in uniform, such as policemen or metro security guards, after they were detained. For some children this anxiety led to avoidance, making it difficult for children to leave the house or walk in certain areas. There were two cases of selective mutism in which, after being detained, children spoke little or not at all when in public, particularly at school. As one father describes:

Elle ne répondait pas, elle ne travaillait pas [. . .] Elle restait dans son petit coin, elle ne répondait pas. Elle ne jouait avec personne. Elle était comme ça. [. . .] Elle était enfermée sur elle-même. Parce que moi je le voyais, mais elle ne parlait pas. (Case 4)

In both cases the mutism persisted for nearly 6 months and negatively affected school performance. Other children also noted school difficulties after detention. One 10 year-old child noted that she had trouble concentrating in school because she kept thinking about detention and worrying that her family would be arrested and detained again. Another child who had developmental delays, showed regression of milestones including slowed speech and behavioural problems in school.

There were also families who reported that their children had struggled with various symptoms while in detention, but that most or all of these symptoms resolved after release. It stands to reason therefore that the stress of detention was at least in part responsible for children's distress.

In summary, for many children and families the experience of detention appears to having prolonged effects on children's psychological wellbeing. This was the case even for children who had been detained for periods as brief as 48 hours. As we shall see from the case examples below, for children who have already endured significant pre-migratory trauma, detention as its aftermath can also re-ignite traumatic memories causing retraumatization.

Three of the families included in the study met with interviewers multiple times providing a picture of children's experiences over time, and in one case, before and after detention. Here we review two of these longitudinal cases highlighting children's symptomatology before and after detention and contextualizing this within the narrative of the families' migration, separations and past trauma.

Vignette 1 (Case 2)

Azadeh is an 11 year-old girl who was detained with her mother, father, and 3 year-old sister, Lila, for 30 days after arriving in Canada and making a refugee claim. They were detained on the grounds of identity after fleeing their country of origin because of religious persecution. They had spent many months travelling to Canada and had experienced significant trauma in the process, including 3 months of immigration detention in a Central American prison. Azadeh, Lila and her mother were separated from the father, and held in a cell with one bed and a toilet. They were not allowed outside and had visits with father three times per week for 20 minutes. Both girls had also been left alone in their cell for 24 hours while the mother was taken to hospital for a medical illness.

During their detention in Canada, Azadeh—who had previously been a good student with a happy disposition and no psychiatric or behavioural difficulties—exhibited significant behavioural and emotional changes, some of which had begun during her first detention. Her mother told us that during the first week of detention in Canada she became increasingly withdrawn, speaking little and appearing bored and sad. She began taking long naps during the day on the couch in the common room and watching TV the rest of the time. At night Azadeh was unable to sleep without her mother beside her and had difficulty falling asleep, often lying awake crying. She woke frequently during the night asking “mama, mama are you there?” (Case 2). Concerningly, Azadeh presented initially with decreased appetite, and as the detention continued, began to refuse food. Her mother believed that she had lost weight though this was not confirmed as she was not weighed in detention. Azadeh also appeared to be anxious, particularly regarding separation from her parents. She asked often about her father’s safety and when mother would leave her

side to use the bathroom Azadeh would ask “mama, where are you going?” (Case 2).

When mother took Azadeh to the doctor at the IHC the doctor described her symptoms to the mother as “normal, because she is depressed” (Case 2).

After three months in detention, the whole family was released. In the first month following detention, Azadeh continued to demonstrate high levels of anxiety:

[J’ai] beaucoup de peurs. [. . .] De l’avenir, je ne sais pas ce qui va se passer. [. . .] J’essaie de ne pas réfléchir. [. . .] J’ai peur d’être séparée de mes parents et retourner en prison. (Case 2)

She began chewing and sucking on her clothing and picking the skin around her cuticles. She also continued having difficulty sleeping and would wake frequently with nightmares of deportation to their country of origin. Her mother also noted she remained withdrawn, spoke little and appeared sad and tearful. When we conducted a sandplay interview with Azadeh in the month following the family’s detention, her narrative reflected a traumatic re-enactment of the detention including surveillance by guards and “a fence to protect kids from police attacks” (Case 2) Her narratives also denoted a foreshortened sense of future, a signifier of trauma in children (Measham & Rousseau, 2010).

Two months following the family’s detention, Azadeh’s symptoms had improved significantly. She attended a local public school where she excelled in second language learning and was making friends. While her mother was pleased with her daughter’s improvement, she remained concerned by her daughter’s ongoing difficulty sleeping alone, avoidance of public spaces, and her expressed anxieties about returning to detention or being deported. Her sand play storytelling two months after detention

contained traumatic themes of the detention and also of family separation. She described the world she had created: “Here is the prison. This is outside the prison [. . .] My father was separated from us. He was sleeping and living in another building [. . .] This was the security guard making sure nobody goes out [. . .] There were animals like watchdogs watching us to make sure we did not escape” (Case 2). Thus, while her functioning improved she remained symptomatic, including the expression of traumatic reenactments of detention.

Vignette 2 (Case 4)

Mohammed and Hasan are 8 and 7 year-old Canadian boys. Their parents had arrived in Canada a year prior to Mohammed’s birth seeking asylum after their eldest son had been kidnapped and presumed murdered because of the family’s religious affiliation. Their asylum claim had been rejected and when we interviewed the family they were awaiting the results of an application for status based on humanitarian and compassionate grounds and as such, the family feared they would soon be deported. The mother had initially presented to a community clinic with grief and trauma-related symptoms secondary to the disappearance of her first son.

The father was first subject to a detention order three years prior to our interviews (when the boys were 5 and 4). He was detained for approximately five days after being arrested when he presented to the hospital after a car accident. His arrest was executed in front of the children who saw him handcuffed and shackled. A year later, both parents were detained. The children, as Canadians were not subject to the order but were rather detained invisibly, accompanying their parents in detention. Nonetheless they described the arrest, which occurred during a routine immigration meeting, as highly traumatic.

Hasan, then aged 5, tried to resist entering the CBSA van taking the family to the IHC, and was physically forced by officers into the van.

During detention mother reported that the children were very frightened, particularly Hasan who would cry, begging to see his father who was detained in the men's section. The children all appeared anxious, and had difficulty sleeping—because they were frightened by the presence of guards—and ate little. However, it was after detention, and, as parents explained, as a result of detention that their most concerning symptoms emerged.

For the first month following the family's detention, Hasan had difficulty attending school because of his significant anxiety. He would report to his parents at that time that he was scared that he would be "taken away" (Case 4) and put in detention again. He was scared of police cars, persons in uniform and vans and often would not leave the house, and when forced would have to cross to the other side of the street if he saw police.

While his school attendance improved after one month, his fear and avoidance of reminders of the arrest and detention persisted nearly two years. He was also frightened of the immigration building and would refuse to go into the building to attend the family's weekly immigration meetings. He developed difficulty separating from his parents. Like his brother, Hasan was unable to sleep alone and would not allow the door of the bedroom to be closed. This had not been the case prior to his detention. The parents believed the children's fear of being *closed in* comes as a result of the imprisonment. He also became irritable and explosive, crying frequently and breaking things in the home. Mother limited his interactions with peers because he could easily become aggressive. Both parents were struggling to manage Hasan's new behaviours

which they reported having only existed following their detention: “Since then [the detention] he is not the same person” (Case 4).

Mohammad, described as very well-behaved and high achieving child, also developed symptoms in the aftermath of their detention. His parents noted difficulty talking out loud or in a loud voice because he had “deep fear” (Case 4), resulting in a decline in his performance in school. He had reduced capacity to verbalize with adults other than parents, meeting criteria for a diagnosis of Selective Mutism. Teachers also confirmed his difficulty, reporting that he was not speaking and would rarely leave his seat to participate in activities. After approximately a year this improved somewhat, though parents remained concerned by his excessive shyness and the way in which it impacted him academically.

Mohammad also demonstrated other signs of anxiety that emerged after the period of detention. First, he had nightmares most nights. The nightmares were consistently about someone trying to grab his mother from behind and Mohammad running to try to save his mother. Mother noted that he often talked and cried in his sleep. He had difficulty falling asleep most nights and was “afraid to close his eyes” (Case 4). As a result, he slept in the same bed as his mother. He will also not tolerate the bedroom door being closed.

Mohammad was also frequently tearful and unable to verbalize why he was upset. He became frightened of institutional buildings, including the health care centre in which the family was seeking psychological support in the wake of their detention, making it difficult for them to attend treatment.

As clinician-researchers, we were cognizant of the multiple stressors facing both Hasan and Mohammad, including their mother's high levels of distress, the threat of deportation, school difficulties, and the awareness of their elder brother's disappearance and possible murder. Strikingly however, their functional decline and symptoms presented after the boys were detained according to their parents, suggesting that detention, even if not the only factor responsible for the boy's psychopathology played an important role in their suffering functioning as a trauma in the context of other migratory-adversity.

In summary, as the cases of Azadeh, Mohammad and Hasan suggest, our data show that children detained in Canada may regularly become symptomatic in detention. Three symptom clusters predominate: depressive, anxious, and post-traumatic symptoms. Often detention appeared to trigger traumatic memories from the past and cause an exacerbation of symptoms, or precipitate new psychopathology in children who were previously healthy. Importantly, many of the families in our study were detained for only brief periods (median days in detention 13.5) compared with international practices, suggesting that even brief detention may be harmful. Moreover, children's symptoms often did not resolve immediately upon release, rather some children in our study went on to have significant psychiatric and academic difficulties after detention, suggesting that detention may have lasting effects on children.

Discussion

Our results suggest that immigration detention is a traumatic experience for migrant children and their families. Children participating in the study reacted to detention with

extreme distress and fear, psychiatric symptoms and a deterioration of functioning. Beyond the meaning attached to detention and its impact on parents, the adverse conditions of detention—which include arrest, searches, surveillance, strict routines, and lack of access to age-appropriate activities, peers and sometimes education—contribute to the traumatic experience. Because the majority of children and families in our study had already undergone significant pre-migratory trauma, incarceration represented an acute trauma on the background of previous (in some cases prolonged) trauma. Research on refugee children demonstrates that children's mental health declines proportionally to accumulated trauma and stress (Bronstein & Montgomery, 2011) and that post-migratory stressors increase rates of PTSD and depression in children (Bronstein & Montgomery, 2011; Fazel et al., 2012; Heptinstall et al., 2004). Thus, in keeping with the literature, detention, as a traumatic post-migratory event, was a source of suffering and harm for families in our study.

While this study design did not measure rates of psychiatric diagnoses in detained children, our qualitative findings are consistent with previous research in that families reported high rates of emotional and behavioural psychiatric symptoms in children. Detention appeared to be linked with significant anxiety, especially separation anxiety, as well as selective mutism. Mood and a post-traumatic symptoms were also common. Importantly, while some children's symptoms improved when they were released from detention, some families reported symptoms with onset in detention but which persisted after detention, in some cases for many months. These long-lasting effects impacted children's school and peer functioning and in some cases family functioning, suggesting that detention may have long term consequences. Notably, children under the age of four

in our sample did present with symptoms, such as sleep, feeding and behavioural difficulties, but were less often described by parents as seriously impacted by detention. Some longitudinal research on asylum seekers suggests that post-migratory stressors impose greater burden on children aged 11-17 (Goosen, Stronks, & Kunst, 2013), while other research implies that the earlier the exposure to adversity the worse the effects (Nicholas et al., 2012). Development may therefore play an important role in modulating children's experiences of detention (and other adversities), though children of various ages—including older children who are often viewed as *less* in need of protection, such as teenagers—can be vulnerable to detention as trauma.

Our findings are striking considering that the majority of research on the incarceration of asylum seeking children has been conducted in Australia where children are detained for longer periods and conditions are arguably significantly harsher (Mares & Jureidini, 2004; L. K. Newman & Steel, 2008). It is hardly surprising that asylum seeking children kept in detention for 16-20 months and exposed to parental suicide attempts, riots and violence would demonstrate psychological and health problems (Mares & Jureidini, 2004). In our study children were detained for far shorter periods (median detention length 13.5 days), and were not exposed to physical violence or physical deprivation, yet nonetheless our data reveal that detention in Canada was harmful for children. This suggests that incarceration of even short periods and under relatively safe conditions is inappropriate for migrant children, especially those with high levels of previous trauma exposure like the children in our study.

Our results also demonstrate that the experience of detention implicates the entire family system rendering it more fragile. Eighty-five percent of families in our study had been

separated and in 82% of cases the separation had been precipitated by detention itself. Family separation was a source of enormous distress for both children and their parents, further exacerbating their suffering and symptoms. Thus, while exempting children from detention and detaining only their parents is put forward as a solution to the detention of children, including in Canada in the case of Bill C-31 (Parliament of Canada, 2012), our study makes evident that family separations increase harm to families and are not in children's best interests.

The family system is also made vulnerable by parents' own experiences of detention. There is increasingly robust evidence showing high prevalence of psychopathology among adult asylum seekers in immigration detention, including in Canada (Cleveland & Rousseau, 2013; L. Newman et al., 2010; Zachary Steel et al., 2006). The Canadian research demonstrates that adults held in detention for even relatively brief periods (median length: 17.5 days) have higher rates of post-traumatic stress disorder, depression and anxiety symptoms than a non-detained comparison group (Cleveland & Rousseau, 2013). Given there is extensive literature pointing to a strong link between caregiver mental illness and the wellbeing of children (Gunlicks & Weissman, 2008; Nicholas et al., 2012), including in asylum seeking populations (Goosen et al., 2013) the detrimental effects of detention on parents is necessarily linked to a negative impact on children. Thus, the family system is stressed by detention itself, as well as separation and parental illness commonly precipitated by detention.

Finally, our study gestures to the inherent tension in holding children in detention. Social science literature notes the conflict between state policies calling for protection of borders and humanitarian obligations to protect the vulnerable (Fassin, 2012) and how children

are caught in this paradox (Uehling, 2008). In our study the guards' interactions with detainees stood out as a manifestation of this tension. On the one hand, guards were mandated to surveil and imprison children, and on the other, they responded to children with—sometimes surprising—nurturance and care. Even as guards acted as agents of detention they sought to avoid collusion with the harmful practices of detention. The guard paradox reveals fault lines within Canadian policies of detention in which migrant children are at once represented as threatening Other even while simultaneously being considered vulnerable and in need of protection (Uehling, 2008).

Limitations

This study is limited by methodological factors as well as logistical ones. Because many interviews were conducted in the IHCs we had limited access to interpreters, and as such, some detained families were not able to participate. Many interviews also took place in front of guards because of space constraints potentially leading to a tendency for detainees to censor their responses. Methodologically, while our design was suited to answer our research questions, it does not permit statistical analysis of the impact of detention on children. While our study suggests there is a cumulative effect of detention on a background of past trauma we do not have the means to calculate the impact of each stressor. Similarly, while designed to capture a breadth and depth of lived experience, the heterogeneity of our sample as well as small sample size limits generalizability of our findings to specific populations—for example, infants in detention.

Conclusion

This study demonstrates that detention is experienced by children and their parents as distressing and often traumatic. This is in keeping with the international literature on the detention of children. Taken together, our study supports the idea that children should not be kept in immigration detention, and further neither should their parents be detained given family separation is also traumatic. Our conclusion also corresponds with guidelines generated by the UNHCR on the protection and care of refugee children that stipulate that asylum seeking children should not be detained (UNHCR, 1994). We further argue that no children of any immigration status be detained since, in our study, children in all stages of the immigration process appeared vulnerable to detention's harmful effects. There is a need for advocacy for alternatives to detention so that migrant children in Canada will not face this significant post-migratory adversity. Further research could support this advocacy process, but should not delay a strong collective stance from health professionals and child advocates to protect those children.

Appendix

Table 1: Participant Characteristics

Participant Characteristics	Cases (Total N = 20)
Country of Origin	
Romania	1
Iran	1
Nigeria	3
Pakistan	1
Rwanda	1
USA	1
Stateless (Palestine)	1
Afghanistan	1
Democratic Republic of Congo	3
Sri Lanka	1
Zimbabwe	1
Mexico	1
South Korea	1
Portugal	1
Colombia	2
Ages of children (in years)	Total # of children in families at time of interview = 35
0-2	6 (17%)
3-6	16 (46%)
7-12	8 (23%)
13-20	5 (14%)
Sex of children	Total # of children in families at time of interview = 35
Female	15
Male	20
Immigration status at time of interview	Cases (N=20)
Asylum seeker	13
Failed claimant	7

Table 2: Detention Demographics

Time of interview	Cases (N=20)
Interviewed during detention	12
Interviewed after detention	8
Cases for which longitudinal interviews were conducted	3**
Number of days detained at time of interview	Cases (N = 22)*
48 hours or less	1
48 hours – 10 days	9
11-30	4
30-60	2
90	2
150-180	2
210	1
330	1
Mean Detention length at time of interview	56.4 days
Median Detention length	13.5 days
Number of Canadian children in sample	
Number of Canadian children in detention	8
Reason for detention as understood by families	Cases (N=20)
Awaiting confirmation of identity	8
Deemed flight risk	6
Identity & flight risk or unclear	6

* In two families father was detained different length of time than mother and children so that two families are counted as 4 cases.

** For 2 cases interviews were conducted during and after detention; 1 case multiple interviews conducted after detention.

Table 3: Family separations

Conditions of Family Separation	Cases (Total N = 20)
Separation for any reason	17
Pre-migratory separation	5
Separation within detention (i.e. mothers and children separated from fathers)	6
Children separated from detained parent(s) (i.e. children not detained while parents detained)	9
Mother (& children) detained separately from father (held in separate facility)	1
Total separations precipitated by detention	14

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Conclusion

Moving from a call for physician advocacy, to a critical discourse analysis of parliamentary debate, to an exploration of detained children's lived experiences, this thesis captures the detention of migrant children from the perspectives of clinician-advocacy, policy, and immigrant children themselves. While discourses (such as those in parliamentary debate) may inadvertently reinforce representations of migrant children as voiceless and threatening thereby framing detention as a means to protect vulnerable children as well as the State, this research demonstrates that there is an urgent need to end the practise of immigration detention of children in Canada. The experiences of detained migrant children, hitherto undocumented in research, speak to significant suffering and trauma and reinforce the importance of policy change that will ensure the protection of refugee and immigrant children and their families.