

National Report on Cyprus

Submitted by **Symfiliosi**
By Nicos Trimikliniotis and Corina Demetriou

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1. INTRODUCTION

In February 2009 Symfiliosi sent letters to both the Ministry of Interior, which is the competent ministry for immigration and asylum, and the Ministry of Justice which is the competent ministry for the police and the prison system, requesting permission to visit three detention centres in different locations in Cyprus for the purpose of this study. The Ministry of Justice responded that the matter was outside its competency and referred us to the Ministry of Justice, which however did not respond in any way. On 30.03.2009 we phoned the Ministry and were informed that our request was still under examination pending clarifications awaited from the police. At the time it was pointed out to us by the Ministry official that our request would be granted, but did not receive anything from them thereafter. On 13.04.2009 we sent another letter to the Ministry of Justice which was followed a few days later by a rejection letter from the Ministry, arguing that asylum seekers are not detained in Cyprus. On 10.07.2009, following the resignation of the chief of police, we applied to the newly appointed deputy chief of police. The response this time was that we could interview 15 persons, all from a single detention centre (block 10 at the central prison). We wrote again to the police asking for permission to interview another 10 detainees-women held at another detention centre. The reply was negative. In August 2009 a researcher from Symfiliosi visited Block 10 and interviewed 14¹ male and female third country nationals in detention, most of them former asylum seekers whose asylum application had been turned down and were detained pending deportation.

The detainees were selected by the police who were also present during the interviews. Two questionnaires from detention staff were also filled out: one was presented to our researcher already completed and the other was filled out by our researcher, following an interview with a female police officer working at the detention centre. Interviews were also conducted with two NGOs active in the field of asylum, namely Apanemi and Future Worlds Centre. Efforts were made to interview a third NGO active in asylum (KISA) but this was not possible due to the busy schedule of the person in charge. A third interview was also conducted with the head of the human rights section from the Ombudsman's office, which also serves as national equality body, in view of their investigations and reports on detention conditions. Symfiliosi would like to thank all persons interviewed for their input, as well as the two researchers involved, Maria Ioannou and Nicola Solomonides.

2. NATIONAL LEGAL OVERVIEW

2.1 Legal grounds for detention

¹ Symfiliosi was granted permission to interview 15 detainees from one detention centre. Practical difficulties and constraints (similarity of cases; lack of time afforded by the authorities; no other females accepted to be interviewed) led to a sample of 14 interviews.

The relevant constitutional provision is provided in Article 11 of the Cypriot Constitution which guarantees the right to liberty and security for all. Sub-article 2 states that no person shall be deprived of his liberty save where, inter alia, the arrest or detention is intended to prevent unauthorised entry into the Republic.

Asylum seekers: Article 7(4)(a) of the Refugee Law of 6(I)/2000 as amended prohibits the detention of an asylum seeker for the sole reason of being an asylum seeker. However under article 7(4)(a) detention is allowed by a Court Order either for establishing his/her identity or nationality in case the asylum seeker is not in possession of valid travel or identity documents; or for the examination of new elements which the applicant wishes to submit in order to prove his/her claim relating to his asylum application, in case his application has been rejected at first as well as at second instance and a deportation order has been issued against him/her. In practice, asylum seekers entering the country illegally are detained for the duration of their asylum procedure. Asylum seekers entering legally are usually not detained. However, there have been reports of several cases of asylum seekers unjustifiably detained and in some cases deported whilst their asylum application was still pending.²

Irregular migrants: The Aliens and Immigration Law allows the detention of irregular immigrants, as they are considered to be “prohibited immigrants”, who are subject to expulsion defined as ‘deportation’. Deportation is dealt with by section 13(1) of the Aliens and Immigration Law³ which empowers the Chief Immigration Officer to deport all third country nationals who have violated the conditions of their permit or have committed an immigration-related offence. Section 13(2) allows the “detention in custody” or in “other confined places”. In practice, the Chief Immigration Officer issues both detention orders as well as deportation orders without applying to the Courts to obtain any orders, a practice of questionable legality that has attracted criticism from both the Ombudsman and NGOs.

For the detention to be allowable, the person must be served with an order to leave the territory. In cases where a migrant commits an offence punishable with imprisonment, the police may arrest and detain such a person even in the absence of a notification to leave the territory.⁴

2.2 Legal grounds for the minimum age for detention

The Refugee law prohibits the detention of minors.⁵ A "minor" is defined in the same law (article 2) as “a person who has not yet attained the age of eighteen”. However, the detention of minors seems to be allowed (and is in fact practiced) in fields outside asylum. Article 6(a) of the Law that Provides for the Rights of Persons Arrested and are under Detention, N. 163(I)/2005, in the case of an arrest of a person under 18 years old, the parents or guardian have the right to be informed. Under article 20 it is the responsibility of the person in charge of the detention centre to ensure that detainees under eighteen reside separately from the rest of the detainees and in separate cells from the opposite sex.

According to the immigration police, no orders for detention of minors are issued except where the minor is involved in serious criminal offences.⁶ In all other cases, when the parents

² Some of these cases are recorded in the Ombudsman’s Annual Report for 2005, issued in December 2006, pp. 50-56.

³ Cyprus/ Aliens and Immigration Law Cap. 105, as amended 1972-2007.

⁴ Cyprus/ Aliens and Immigration Law Cap. 155, Civil Procedure law, section 14(1)(b).

⁵ Cyprus/ Refugees Law N.6(I)/2000 as amended, article 7(4)(c).

⁶ Interview with the Nicos Theodorou, officer of the immigration police, 24.06.2009.

are detained, the child is placed under the care of the Welfare Services which will in most circumstances place the child in a children's home.⁷

2.3 Legal grounds for the detention order

Any immigration related offences that contravene the general rubric of immigration under the 'Aliens' and Migration Law, Cap. 105 provide the legal basis for a detention order. Unlawful entry or stay constitutes a criminal offence under the Cypriot immigration law.⁸ The most common immigration related offences are: overstay (i.e. having entered legally for a limited period, the third country migrant remains in the Republic after the expiry of the prescribed period);⁹ or having entered on a valid permit, the subsequent breach of a term or condition relating to the permit.¹⁰ Also, if it appears, at some later stage, that the migrant concealed information about a previous conviction and that s/he had obtained a certain status by concealing this conviction (i.e. by deception) or "gained leave to enter or to remain by deception", the immigration officer may also consider to be "conducive to the public good" to deport him/her. All the above are criminal offences and carry punishment of imprisonment up to one year or a fine or both.

2.4 Legal grounds for judicial review/ right of appeal against the detention order

There is no automatic judicial review; the detainee has to apply for it. Detainees have the right to appeal to the Minister of Interior seeking their release from custody. In addition, the Constitution provides for the right to apply to the Supreme Court for judicial review of any administrative decision, including the decision to detain, under article 146. If successful, the application under article 146 of the Constitution has the effect of cancelling the administrative decision complained of and the immediate release from custody. This procedure however is costly and is not covered by the legal aid law.

2.5 Legal grounds for the right of information about the detention order and/or the reasons for detention

Article 11(2)(4) of the Constitution provides that all persons arrested must be informed at the time of their arrest in a language they understand of the reasons for their arrest and must be allowed access to a lawyer of their own choosing. The Refugee law, article 7(5) provides that detained asylum seekers must be informed, in a language they understand, of the reasons of their detention as well as their legal rights, including the right to hire a lawyer. Also, the Law providing for the rights of persons arrested and in detention, N. 163(I)/2005 which applies to asylum seekers and irregular migrants alike, provides in article 3(3) for the right of arrested persons to be informed immediately after arrest in a language understood by them of their right to contact personally by telephone (a) a lawyer of their choice and (b) in the presence of a member of the police, a relative or any other person. The same provision states that persons arrested must be immediately informed in which police station or detention centre they will be detained.

2.6 Legal grounds for the duration of detention

The Refugee Law 6(I)/2000, article 7(6) provides that an applicant's detention may not exceed eight days. The detention may be extended for further eight-day terms upon an order of the Court, but the total detention period shall in no case exceed thirty-two days. On a more

⁷ However, this was not always the case: the national NGO 'KISA', reports that in 2008 there were at least three complaints by the organisation that minors were detained.

⁸ Cyprus/ Cap. 105 Aliens and Immigration, section 19.

⁹ Cyprus/ Cap. 105 Aliens and Immigration, section 19(λ).

¹⁰ Cyprus/ Cap. 105 Aliens and Immigration, section 19(ι).

general level, the Prison Law N.62(I)/96 prohibits the detention of a person in detention centres for a period longer than fifteen days. Detention for the purpose of deportation is limited to eight days unless the court authorize for more. Considerations such as the deterioration of the human rights situation in their country of return are not taken into consideration for persons who have not been granted refugee status or other type of international protection, nor is it a factor justifying longer detention in law

The above ceilings are not always respected; irregular migrants have in many cases spent months and sometimes years in detention.¹¹ A recent decision of the Ministry of the Interior provides that detainees held on immigration offences can be released after six months of detention provided they have not committed a serious penal offence and provided they apply to their embassies to obtain valid travel documents; in such a case they are granted leave to remain in Cyprus for 18 months, after which they must depart. As a result of this policy, there are no longer many detainees held for long periods of time. Prior to this policy development, there had been many cases of persons spending two or three years in detention.

2.7 Legal grounds for the provision of health care and the scope of health care benefits, and for the provision of social services

Article 23(1) of the Law that Provides for the Rights of Persons Arrested and in Detention N. 163(I)/2005 states that every detainee has the right at any time to be given medical examination or/and treatment or/and medical attention from a doctor of his/her choice and to contact the doctor for this purpose personally by telephone the presence of a member of the police or the prison personnel, depending on the case. In case the detainee does not wish to exercise the right to appoint a doctor of his/her choice, s/he has the right to be given medical examination and/or treatment and/or medical attention from a governmental doctor who is arranged by the person in charge of the detention centre. The costs of the medical examination and/or treatment and/or medical attention from a doctor of his/her choice above are paid by the detainee.

Under article 24(1) the detainee must be provided, immediately after he is remanded in custody, with a document that contains in a language of his/her understanding the rights that are contained in the above article.¹²

The only provision in the law about the provision of social services to detainees is to be found in the Law that Provides for the Rights of Persons Arrested and in Detention N. 163(I)/2005 article 3(4) of which states that persons who appear unable to exercise their rights of contact with a lawyer or a relative/other person due to mental or physical disability shall be entitled to assistance from the state Welfare Services for the purpose of exercising these rights.

2.8 Legal grounds for contact with the outside world

¹¹ The long periods of detention have been severely criticised by national and international reports. At a meeting of the Parliamentary Commission on Human Rights dated 27/02/2007 the Ombudsman suggested a maximum period of detention of 42 days or three months be adopted, as is the case of Greece or France. According to the 2009 Amnesty International report, detainees held in Nicosia Central Prison for periods exceeding 18 months while awaiting deportation were released throughout the year, but no numbers or details are given: *Amnesty International Report 2009 - Cyprus*, 28 May 2009, available at: <http://www.unhcr.org/refworld/docid/4a1fadf3c.html> (04.09.2009).

¹² A research conducted in 2007 showed that there seems to be a general practice of suspicion towards those detainees who claim to be ill. All detainees interviewed claimed that they were forced to wait for weeks to see a doctor and in general the authorities and public hospitals viewed them with suspicion: *Creating and strengthening a sustainable network of civil society concerning administrative detention of asylum seekers and illegally staying third-country nationals across the 10 new EU Member States which acceded to the European Union on 1 May 2004* (<http://www.detention-in-europe.org/index.php?id=75&option=content&task=view>).

Under article 3(1) of the Law that Provides for the Rights of Persons Arrested and in Detention N. 163(I)/2005 a person arrested by a police officer is entitled straight after his arrest to contact personally by telephone (a) with a lawyer of his choice and (b) in the presence of a member of the police, with a relative or any other person. Under article 5(1) detainees have the right to contact personally by telephone, in the presence of a member of the police, the Consulate or diplomatic mission of their country of nationality in Cyprus and in case their country of nationality does not have a Consulate or diplomatic mission in Cyprus, then either the Ombudsman or the National Organisation for the Protection of Human Rights ‘ETHNOPAD’ (an independent public body), so as to inform them of their arrest and detention. Under article 16(1) all detainees have the right to meet with a person of their choice every day for one hour in total in a special area of the detention centre. In the case of minors, the only person they are allowed to meet with is the parent or guardian. Under article 16(2) detainees are entitled to meet every day for one hour in total with a representative of the consulate or diplomatic mission of their country of nationality in Cyprus, or if there is no such consulate or diplomatic mission, with a representative of a human rights organisation. Under article 15(1) every detainee has the right to send and receive letters as follows:

- To and from his/her lawyer without the letters being opened or read by anyone;
- To and from the European Court of Human Rights, the Attorney General of the Republic, the Ombudsman and any international or national body with competence to investigate allegations of violations of human rights without the letters being opened or read;
- To and from related, friendly or other persons with whom it is in his/her legitimate interest to retain or to come in contact with, subject to the condition that its content be checked by a member of the police or the prison personnel in the presence of the detainee, and may not be sent or delivered in case it is discovered that it contains any illegal object or its content subjects the security of the detention centre or the detainees or other persons to risk or it is of criminal nature or may interfere with the investigation of offences.

2.9 Legal grounds for the provision of legal aid

The Law on Provision of Legal Aid N. 165(I)/2002 provides for legal aid only for criminal and civil law cases and excludes administrative proceedings.¹³ The exclusion from the scope of the law of applications to the Supreme Court to set aside administrative decisions is particularly detrimental for asylum seekers in detention, who have no other recourse against arbitrary or needlessly lengthy detention or arbitrary deportation. The law also extends legal aid to cases of human rights violations as these are defined *inter alia* in Part II of the Cypriot Constitution (which essentially adopts the European Convention on Human Rights) and a number of international conventions ratified by Cyprus.¹⁴ The scope of the law is restricted to cases where the offences involved are punishable with a term of imprisonment exceeding one year.¹⁵

¹³ An ECtHR decision against Cyprus dated 04.12.2008 on the issue of availability of legal aid in administrative proceedings, stated that “a question arises as to the conformity of such legislation with the requirements of Article 6 of the Convention” and that “there is *a priori* no reason why it should not be made available in spheres other than criminal law.” *Marangos v. Cyprus*, Application no. 12846/05.

¹⁴ The European Convention on Human Rights, the Convention for the Elimination of all forms of Racial Discrimination, the International Covenants on Economic Social and Cultural Rights and on Civil and Political Rights, the European Convention on the Prevention of Torture and of Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Hard or Humiliating Treatment of Punishment.

¹⁵ The Ministry of Justice has recently compiled a draft law to amend the Law on Legal Aid, currently under examination by the House of Representatives. The draft law aims at removing the restriction contained in article 4(1)(a) of the Legal Aid Law which restricts legal aid to offences punishable with imprisonment of over one year. The draft law follows a judgement of the Supreme Court in 2008 which found the said legal provision to be unconstitutional for unduly restricting access to legal aid; *Andreas Constantinou v. The Police*, Case No. 243/2006, 25.01.2008

The legal aid law was amended in recent months by Law N.132(I)/2009 which purports to transpose articles 15(2), 15(6) and 38 of Council Directive 2005/85/EC of 1st December 2005 laying down minimum standards on procedures in Member States for granting and withdrawing refugee status. The amendment extends legal aid to asylum seekers applying to the Supreme Court to set aside a negative decision either of the Asylum Service or of the Reviewing Authority concerning either the rejection of the applicant's asylum application or the cancellation of the applicant's refugee status. The amendment does not cover recourse against detention.

2.10 Legal grounds for the protection of persons with special needs

Article 5(2) of the Law that provides for the rights of persons arrested and are under detention, N. 163(I)/2005 states that in case of mental insufficiency a foreign detainee who is apparently not capable of understanding or to be informed that he has the right to contact/correspond or to fully appreciate his right, a member of the police must contact counsel or diplomatic mission in the Republic, the Ombudsman's Office or the National Organisation for the Protection of Human Rights, as the case may be. A provision in the Law on Psychiatric Treatment N. 77(I)1977 provides for the placement of offenders with mental disorders in suitable units in order to receive treatment and serve their sentence;¹⁶ however, no such units have been set up despite the debating of this issue amongst stakeholders for a number of years and as a result, patients with mental disorders are currently serving sentences in prison.

2.11 Legal grounds for alternatives to detention: There is no alternative to detention in the Cypriot legal or policy framework.

2.12 Legal grounds for providing release from detention

Where deportation orders cannot be executed, mostly due to lack of cooperation on behalf of the detainee for the issuance of travel documents, it is policy¹⁷ that the detention should in principle not exceed a period of six months, although there are still cases of detainees in detention for longer periods. If deportations cannot be executed within six months, migrants can sometimes be released under certain conditions and given a special residence and employment permit, provided they have not been found guilty in the past for criminal offences. The conditions of release, to be communicated in writing to the detainee, are:

- a. A special residence/ employment permit is issued, for a period of 12 months from the date of release¹⁸ on the condition that the released person cooperates with the Embassy of his/her country for the issuing of a passport. In case that that the person is issued with a passport, a residence/employment permit is issued for a period of 24 months from the date of his/her release, with a possibility of renewal.
- b. Prior to the issuance of the above residence/employment permit the migrant is obliged to sign a contract of employment with an employer who will be indicated and approved by the Department of Labour. Change of employer will be considered subject to approval by the Department of Labour
- c. The migrant is obliged to report a residence address within 15 days from release.
- d. The migrant is obliged to report to the nearest Police Station once a month and must report any change of residence address.

¹⁶ Cyprus/ A Law providing for the safeguarding and protection of the patients' rights and for related matters N. 1(I)/2005, articles 37 and 38.

¹⁷ Decision of Minister of Interior dated 21.05.2008.

¹⁸ According to section 9(2) of the Aliens and Immigration Law and Regulation 15(1)(b) of the Aliens and Immigration Regulations.

3. OVERVIEW OF NATIONAL DATA FINDINGS

When evaluating the results of the interviews, it is important to note that, apart the small size of the sample, the responses from the detainees lack a level of specificity that is needed to identify patterns and themes. A possible reason for this may be the presence of a staff person in almost every interview, which may have pressured detainees into reticence, or at least into giving answers that would not be considered as controversial. Also, the interviewees were selected by the authorities on criteria which are not known to us.

3.1 Case awareness

The greatest majority of interviewees were aware of the reasons of their detention. Immigration authorities were the main source of information for the detainees; most of them were informed about their reasons of detention upon arrest by the immigration office, although some wondered how their asylum application ended up in their detention. Some were arrested when they voluntarily visited a police station to report something (e.g. stolen documents) which increased their sense of unfairness and helplessness over the procedure. A lack of trust towards the authorities and particularly the immigration police is evident from many interviews. This leads detainees to question the veracity of information emanating from that source, which is often their only source of information. Half of them were in need of more specific information about their case and the other half said that the information they had was enough. Those who stated that they needed more information, wanted to know more on immigration procedures and on how to adapt to their current situation.

In general, detainees seemed to accept detention as an expected outcome of their illegal status. Additionally, most of the detainees who said that they had all information they wanted, were people who either maintained a passive attitude towards their detention- had no other alternatives (see for example the Iranian who preferred detention to deportation) or were seriously thinking of conceding to their deportation.

3.2. Space

Most of valid responses rated the room they slept in neutrally, some positively and few negatively. Most of the detainees who rated it neutrally were people who strongly believed that their detention was temporary and therefore characterized the lodgings as “tolerable for a temporary stay.” The vast majority rated the rest of the centre’s space neutrally and a few rated it negatively. In fact, there was not much of “other space” to which they had free access. For both female and male quarters the “other space” was merely a corridor.

Most of the male detainees did not feel that the centre was overcrowded. The majority also reported that they had a space in which they could be alone (this space being their room – cell), although one detainee stated that the wing of the building occupied by the “Asians” was often crowded in comparison with the wing of the “Arabs”. The situation is different regarding women detained in the neighbouring Block 9 where detainees have to share cells with other women detainees, there is no privacy and no other space in the centre except a corridor in front of the cells. One detainee complained about having to share space with “girls from the street”, the irony being that the women so described are most probably victims of sex trafficking.

The interview with Apanemi however reveals that Block 10, where all interviews were conducted, is in fact a lot better than other detention centres, with bigger and cleaner sleep quarters and with the possibility to spend an hour a day outdoors. In police stations which serve as detention centres, detainees are not afforded any time outside, there is no privacy, the space is too small, the ventilation is bad and the rooms are badly lit. These findings tally with

the information derived from another study, based on an interview with a priest who regularly visits a number of detention centres¹⁹, as well as with the findings of the Ombudsman's investigation.²⁰

3.3. Rules

Although the guards vaguely referred to the existence of rules without describing details, none of the interviewees described concrete rules and some even stated that there are no fast rules. One detainee noted that although detainees want to see some things changing in their detention conditions, they are not taking concerted action to bring their demands to the authorities. Another detainee reported that detainees must follow informal rules set by the 'high-order' detainees, meaning the detainees who have been in the centre for longer periods and/or who have better relations with the guards. None of the persons interviewed could make reference to a concrete set of rules to which the detainees and the staff have to adhere. This is why in reply to the relevant question the detainees merely described certain aspects of their daily routine, such as when they can walk outside, or use their mobile telephones. The detainees made particular reference to walks and use of mobile phones since these two were the most often used 'conveniences' they could have access to. It can be derived from the answers of the detainees that a set of informal rules governed the frequency with which they could make use of these conveniences. Some of the detainees (the ones who were described as high-status detainees by one respondent) were allowed to carry their mobile phones even within their cells. This tally with the allegations made by Apanemi that the guards try to have allies amongst the detainees, affording special treatment to some of them either because they are considered dangerous or in order to turn them into their trustees.

3.4 Staff

All interviewees responded that the rank of staff members they are in regular contact with are the guards. No interaction [at least on a daily basis] with other ranks was reported. Half of the respondents described their interaction with staff as positive, a few described it as neutral and some stated it was varying depending on the guard.

The vast majority of detainees stated that they have not been subjected to discriminatory behaviour from the staff. Those who had experienced discrimination blamed ethnicity and nationality as a cause, e.g. 'Arabs and Iranians get better treatment than Asians'. A couple of interviewees stated that detainees are segregated by the guards according to their ethnic origin and that some detainees particularly those of Arab origin are treated more favourably by the guards. Another detainee expressed his dissatisfaction over the guards' behaviour and referred to bullying and mocking and to an incident where he was beaten up by other detainees and the guards did not stand up for him nor did they answer his demand to see a doctor after he was injured in the fight; instead the ex-director of the centre punished him for getting involved in the fight. The same detainee said that some guards denied him pain-killers when he asked for them and once unplugged the phone when he wanted to use it.

When asked whether the staff supported their needs, most detainees who responded positively stated that the staff positively responded to their needs, a few said that the support was negative, and a few that it was varying depending on the guard's "good will" and the nature

¹⁹ Actions in support of civil society in the EU member states which acceded to the EU on 1 May 2004: Creating and strengthening a sustainable network of civil society concerning administrative detention of asylum seekers and illegally staying third-country nationals across the ten new EU Member States.

²⁰ Report of the Ombudsman on the conditions of detention of foreigners in Central Prison and in Police Detention Centres, 2 February 2005.

of the need. One detainee alleged that, following a suicide attempt on his part, a guard approached him and asked him for money in order to arrange for his release, but although the guard received the money he didn't do anything for the detainee's release. Another detainee reported that the guards' behaviour can sometimes be insulting. As to whether they had ever been mocked, the vast majority stated there have been no incidences of mockery; the 2 who reported having been mocked, blamed co-detainees and security staff respectively.

Physical assault by co-detainees was reported by only 1 of the interviewees. No one reported filing any type of formal complaint to the staff perhaps evidencing a lack of faith in the protection which the guards can afford to them in case of aggravation of the situation with their co-detainees.

The Ombudsman's representative stated that some guards behave in a gentle way and make an effort to help the detainees, others more violently, depending on the personal relationship between the detainee and the guard and on the character of the guard. He added that it is possible to see some very brutal guards and some very humane ones and referred to a case where a guard made extra effort to locate the detainee's family in Cyprus and put them in contact.

The Ombudsman's representative further stated that there have been cases of violence, usually from the guards and referred to ill-treatment, insulting the detainees, use of violence etc. The two NGOs interviewed also referred to ill treatment and occasional violence from the guards towards the detainees. However, Apanemi was particularly critical of the staff, describing their interactions with detainees as "manipulative, rude, distant, cynical and patronising." Apanemi also accuses guards of bribing certain detainees to foster good relations, and in order to protect themselves from detainees that are considered 'dangerous'. Apanemi stated that detainees are "beaten by police (especially immigration) in order to drop their asylum application or in order to accept their immediate deportation." The practice of applying pressure (which can sometimes be physical violence) on asylum seekers to drop their asylum application has also been established by the Ombudsman, who has recommended that withdrawals of asylum applications be made only in the presence of members of staff of the Asylum Service; the recommendation was indeed adopted, however it is not certain that it has resulted in the eradication of this practice.

These accusations are not repeated in any of the interviews with detainees or with the Future Worlds Centre. With regard to the latter, given that they are the 'implementing partner' of UNHCR, they might be reluctant to offer any controversial statements about the asylum procedure. However even the interview with Future Worlds centre makes reference to situations where immigration staff would threaten detainees and probably physically assault them too.

The allegations of Apanemi and of the Ombudsman's representative are based on complaints received from persons in detention and should be considered as valid at least with regard to the complainants involved. Whether a pattern of standard behaviour or policy may be inferred from these, is a matter for further research. There are however national and international reports supporting the picture of ill-treatment painted by Apanemi.²¹

²¹ The Third ECRI Report on Cyprus expresses "concern with the extensive use of detention for both migrants and asylum seekers and the conduct of law enforcement officials, which included alleged cases of ill treatment." The report of the Bureau of Democracy, Human Rights, and Labour of the U.S. Government for 2007 issued on 11.03.2008, refers to a number of allegations of police misconduct, including the death of a Polish national in detention, noting that migrants arrested for illegal entry without identification were detained indefinitely and face discrimination while in detention (<http://www.state.gov/g/drl/rls/hrrpt/2007/100554.htm>). Also the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) dated 15 April 2008 regarding the visit of CPT to Cyprus carried out in December 2004 found that the detention conditions of foreigners detained on immigration offences were entirely unacceptable, whilst there were instances

3.5 Safety

Nearly all the detainees, and virtually all the women detainees, reported feeling safe inside the detention centre.

3.6. Activities

Nearly all of the interviewees said that the centre does not provide activities; the two that said that activities are provided (both are females) referred to “leisure time” and “ball game”. Television and the telephone are the only ‘activities’ that male detainees reported having consistent access to. More than half of the respondents said they do have access to religious/spiritual space; one interviewee complained that while space is provided for Muslims, Christians are not afforded a similar space. There are even less activities or women in Block 9, who are not allowed out of the centre and have no TV or kettle to boil water.

Given the limited amount of activities detainees have access to, the majority of interviewees expressed the desire for a range of activities, including more TVs, more sports activities, sports gear and religious space. A few detainees said they didn’t want anything and two said they wanted “freedom”.

The kind of resignation that often prevails amongst detainees becomes evident from the reply of one woman detainee to the question “what could the centre provide that would have the most positive impact on your life”: she replied that she didn’t care as she didn’t belong there, she was vague and indifferent and showed unwillingness to answer the questionnaire through to the end, preferring to talk about her case rather than about her detention conditions.

3.7. Medical

No one reported having been attended to by any doctor; only one detainee stated having had a medical exam upon arrival to the centre. The vast majority of detainees who gave an answer to the relevant question expressed the need for more medical services, mostly in the way of having doctors present in the centre. The services of a doctor or of qualified medical staff are also desired by the detention centre’s staff for practical reasons, e.g. it would save them from arranging transportation for detainees to the hospital. The centre’s director informed the interviewer that there was a doctor appointed to serve at the centre but had been removed probably due to limited financial resources. This tally with the findings of a previous study on the subject, which established serious gaps in medical care and described situations where detainees had to wait for months in order to be visited by a doctor.²² Apanemi also reports instances where a diabetic detainee was denied his insulin injection and a female detainee was refused medical attention despite an intense breast pain. According to Future Worlds Centre, the guards are doing their best to transport sick detainees to the hospital but the list is long and it takes time.

of violence from the guards which amounted to torture (<http://www.cpt.coe.int/documents/cyp/2008-17-inf-eng.pdf>). The Conclusions of the UN Committee against Torture on Cyprus (CAT/C/CR/29/1) of 18 December 2002 list under ‘Subjects of concern’ the “the existence of some cases of ill-treatment” of detained persons by the police. The Ombudsman’s annual reports for the years 2005, 2006 and 2007 also criticise the conditions of detention as well as the length of detention of foreigners for immigration related offences, noting in particular the violation of the right to access to a lawyer (Ombudsman Annual Report 2005, page 37). According to the LIBE Report from their 2008 visit to Cyprus, in general NGOs have access to asylum seekers in detention, however, there are several cases where this has been made difficult by the police (Report from the LIBE Committee Delegation on the Visit to Cyprus (25 - 27 May 2008), Rapporteur: Jeanine HENNIS-PLASSCHAERT)

²² Actions in support of civil society in the EU member states which acceded to the EU on 1 May 2004: Creating and strengthening a sustainable network of civil society concerning administrative detention of asylum seekers and illegally staying third-country nationals across the ten new EU Member States

3.8. Physical health

The detainees were asked to rate their physical health prior to and during detention on a 10 point scale ranging from 1 (very poor) to 10 (very good). The average physical health reported before detention was 9.50 and during detention it is 7.43. The majority of the respondents indicated that detention did have a negative impact on the respondents' physical health.

3.9. Mental health

The average mental health before detention was 9.86 out of ten and 4.57 out of ten during detention. A few interviewees reported their mental health as "very poor", and a few as "poor". Most of the responses indicate that detention has had a negative impact on their mental health, citing distress, insomnia, helplessness and depression as the main symptoms. They also indicated uncertainty about their cases, a disruption of their life plan and worries about their family and their future.

Detainees didn't come across as being preoccupied with what impact detention had on them perhaps because the majority saw their detention as a temporary state. Their future (fate) seemed to engage their thoughts and their concern about it also determined their feelings and mental state in general.

Apanemi reports that the situation is far worse with torture victims in detention who experience detention (confinement, insecurity, lack of access to information) as an additional trauma. Future Worlds Centre reports that detainees have suicidal thoughts and that guards are trying to address these situations (e.g. by arranging visits to the psychiatrist) so as not to be held responsible in case "anything happens". The Ombudsman's representative confirmed that many cases suffer from suicidal thoughts and referred to instances where the guards called their office in order to come and assist the detainee in question.

3.10. Interaction with others in the centre

When asked to rate the interaction with their co-detainees half of the interviewees described it as "good" and the remaining described it as neutral. When asked to comment on how the rest of the detainees get along with each other, half of them said that there are problems between detainees and they blamed either intercultural tension or tension brought about by 'common life' in detention.

The majority answered that they do have people they can talk to about their problems, such as friends and family outside the centre, or co-detainees. No one mentioned security guards, even though the female guard interviewed reported that she is often approached by detainees who want someone to talk to. She also reported having gone for walks with detainees who felt extremely distressed.

A number of Asian detainees report that there is segregation amongst detainees according to ethnic origin and that Arabs and Iranians are treated more favourably by the guards than the Asians. They also indicated that the wing of the detention centre occupied by the Asians was often too crowded. Future Worlds Centre also reported having noticed that detainees are separated in groups based on religion and ethnic origin and that there are dislikes between the groups but could not report any serious clashes, but did observe that people in the same group are helping each other e.g. on language problems, submitting demands to the authorities etc. The interview with Apanemi also confirms the practice of grouping amongst detainees. The Ombudsman's representative stated that there is a differentiation of treatment depending on how well some detainees get on with the guards: if they are on "good behaviour" the guards

may grant them more frequent opportunities for contact with the outside world. Later in the same interview, the Ombudsman's representative stated that people from different religious groups and countries are at the centre of conflicts, which are based on both personal issues and also on religion and race, and referred to the formation of 'cliques' based on religion and ethnic origin.

One detainee refers to 'high-order' detainees, usually Arabs who have been in the centre for longer than others and who bully the rest; he also reported an instance where he was beaten up by them and got no support from the guards. When asked whether he filed a complaint for the incident, he said that the guards would not listen. Whilst interviewing an Iranian detainee, the researcher noted that, unlike other detainees, he was allowed to have his mobile phone with him so it is possible that the allegations of favouritism are well founded.

Other detainees and especially the women reported good interaction amongst co-detainees as their "common fate united them".

3.11. Contact with the outside world

Almost all detainees reported having family in their country of origin; half of them said that their family needed their support. A large percentage of the interviewees reported having family and/or friends in Cyprus.

Most of them reported having access to the telephone, and describe it as their primary means of communicating with the outside world, although some stated that they were sometimes denied access to the phone. One detainee stated that he was sometimes denied "favours such as phone calls", implying that he did not consider he had an a priori right to use the phone. Three interviewees report wanting internet access; this must be a demand also shared by a number of detainees, as the interview with Future Worlds Centre indicates. Interviews seem to suggest that detainees have access to a payphone and that free phone calls are allowed only for emergency cases. In general, detainees are entitled to receive visitors but according to Apanemi some detainees may be denied visits. Also, the Ombudsman's investigation into the conditions of detention of foreigners found that the authorities denied a number of detainees the right to see a lawyer, lest they receive advice on how to file an asylum application.²³

Nearly all detainees said that they receive visits from friends. From the 11 detainees that reported having family in Cyprus, only 3 of them report being visited by family members. As for other people/ bodies visiting the centre, a few detainees reported having been visited by UNHCR officers and others reported having been visited by lawyers. Interestingly, none reported having been visited by NGOs, even though both Future Worlds Centre and Apanemi claim to be regularly visiting detainees. In any case, the detainees' assertion regarding NGO visits may suggest that NGOs are only granted very limited access to detention centres and/or that very few NGOs have the resources and capacity to offer any kind of assistance to them.

The interview with the prison guard indicates that detainees require prior permission in order to be visited by religious persons. One detainee stated that he was visited by a Catholic priest and a previous study on detention conditions has also established that a Christian orthodox priest had regular access to detention centres.²⁴ It is possible that permits for visits by

²³ Ombudsman's report on the conditions of detention of foreigners in Central Prison and in Police Detention Centres, 2 February 2005.

²⁴ Actions in support of civil society in the EU member states which acceded to the EU on 1 May 2004: Creating and strengthening a sustainable network of civil society concerning administrative detention of asylum seekers and illegally staying third-country nationals across the ten new EU Member States.

religious persons, however it appears that the authorities maintain discretion as to which religious person visits the detainees.

3.12. Nutrition

A bit less than half of the detainees reported disliking the food provided by the centre, blaming poor quality. One of the two guards stated that the centre does not take into account the differences in the detainees' cultures and only provides different food when the attending doctor so requests. The other guard interviewed stated that whenever there are special dietary requirements for religious or other reasons these are communicated to the kitchen in order to be catered for. The Ombudsman's representative stated that detainees often request changes regarding the quality of food, or food for religious beliefs and his office mediates between the police and detainees, adding that the police usually cooperate but not always.

The female guard added that the detainees are consuming large amounts of food and are putting on weight. This contrasts with the Ombudsman's findings in this area which found both the quality and quantity of the food unsatisfactory; however this was more the case in other detention centres and less in the case of Block 10, where all the interviews took place and where 3 meals a day are offered, albeit of poor quality. Apanemi also reports that in other detention centres only one meal a day is offered.

Both NGOs report receiving complaints from detainees about the poor quality of food. Future Worlds Centre reports that some detainees go on hunger strike but did not specify the demands of the detainees in such cases. The food is invariably described as bad. One detainee suggested that the food menu should be changed at least every 3 months and detainees should be allowed to receive food from their visitors.

There are no cooking facilities and detainees are not allowed to cook their own food. According to one of the two guards, this is due to safety reasons.

3.13. Difficulties in detention

The most commonly reported problem and most significant difficulty of the detainees' life in detention was reported to be the inability to sleep well due to excessive stress (e.g. constantly thinking about their situation). Most of these detainees attributed their inability to sleep in detention to the actual imposition of detention – the stress caused by detention, the disruption to their life plans and their loss of rights. Some reported inability to sleep because of noise in the centre. Others attributed inability to sleep to their worries about their future. One detainee stated that the mornings are particularly difficult when he wakes up and realises that he is in detention, as obviously his hours of sleep are his only distraction from his situation.

The difficulty ranking second to the inability to sleep was related to living conditions (e.g. quality of food, lack of activities, difficulties between groups of nationalities, lack of laundry facilities, no private visitation room, etc). Interviewees blamed detention itself for this set of difficulties.

The NGO interviews report having received complaints that lack of activity, isolation from the outside world, lack of access to legal assistance, deprivation of freedom and lack of access to daylight to be some of the hardest things about detention. Future Worlds Centre referred to frustration and irritability from prolonged detention and stress related to threats and abuse from the immigration police. The same NGO described detainees as "victims of bureaucracy" and "forgotten people". The Ombudsman's representative stated that people in detention awaiting deportation are faced with the hard reality of having to leave a part of their lives behind, as most have lived in Cyprus for a long time, even up to 10 years. He describes them as 'shattered' and as 'people in the desert: they have no travel documents, and half their

expectation is in their home country, and the other half is in Cyprus, leaving them somewhere in the middle of a ‘desert’.

According to one of the guards, the detainees’ main concern was their financial situation resulting from their inability to earn an income. The guard also reported that in a way detainees were ‘relieved’ not to have work-related stress; however this submission was not confirmed by any of the interviewees.

3.14. Impact of difficulties in detention

In response to the relevant question, interviewees tended to report specific times when detention became particularly difficult for them (e.g. one interviewee reported being attacked by co-detainees, another detainee reported how lonely he felt during religious celebrations). Many detainees reported experiencing increased distress, poor mental health, feelings of helplessness, of having been treated unfairly (by the immigration authorities, by their employers) and worrying about their future.

The impact reported by the NGOs interviewed and by one of the guards refers to depression, becoming introvert, deterioration of mental and physical conditions, particularly for victims of torture, fatigue, lack of energy, pain in the eyes as a result of inadequate light, frustration and irritability. It is striking that, according to the guard interview, detainees sometime open up their luggage and just stare at their personal belongings, probably a memento from the previous lives they left behind when they were arrested.

3.15. Outcome of detention

The majority of the interviewees reported knowing the outcome of their detention, in terms of what will probably happen (i.e. deportation – in all cases). Slightly more than half said that they didn’t know their exact time of release from detention. Not knowing how much time they had until release from detention was reported to raise uncertainty and worries for themselves and their families.

3.16. Special needs and vulnerability

Only three interviewees reported having ‘special needs’, giving a rather liberal interpretation to this term. One of them said that he has special needs because he had been detained for a long time, and the other two said that they have been unfairly treated by their employer (prior to detention).

Five interviewees said that there are other vulnerable people in the centre, namely people who are physically weak, or those who cannot speak English or Greek, people without travel documents, “Asians” and those with low self-esteem. NGOs had a good grasp of the meaning of vulnerability. Future Worlds centre stated that torture victims relive their traumatic experiences in detention and are in dire need for rehabilitation. Also women from patriarchal societies feel lost when they are detained separately from their husbands and pregnant women face particularly harsh and unhygienic conditions in police station detention centres. Apanemi confirmed the assertion about women from patriarchal societies feeling lost and added that men detained whilst their families are free suffer because they know their families cannot lead a dignified existence without the income generated by them.

The female guard defined vulnerability as being physically small size, young age and tendency to believe what other detainees are telling them. The guard also reports that there are women detainees who feel strongly against the prospect of their deportation and who need to be psychologically prepared. However, it appears that little is being done towards preparing

these women or other vulnerable detainees for their deportation and for what awaits them upon return

4. ANALYSIS OF THE DATA AND CENTRAL THEMES

4.1. Possible violence and abuse

In spite of the methodological problems, the present study does shed some light, particularly into the less controversial subjects such as gaps in the level of information, gaps in medical care etc. However, when it comes to the more controversial issue of violence and abuse, the significance of the methodological limitations becomes more apparent. There is an abundance of evidence documenting abuse of the asylum system by the police, sometimes manifesting itself in violence by police officers against asylum seekers.²⁵ However this information does not come across in the interviews except perhaps indirectly in the case of asylum seekers who were arrested following the withdrawal of their asylum applications.²⁶

The stark contrast between the allegations presented in the various interviews regarding the use of violence is indicative of the situation in Cyprus, which for years does not allow for a frank and open debate on this subject. Most NGOs working with migrants, the Ombudsman as well as regular press and media reports refer to frequent abuses and violence against detainees, whilst the authorities, including MPs flatly deny this, often accusing the NGOs of ‘self-flagellation’,²⁷ ‘exaggerations’ and ‘inaccuracies’. It is contended that under the current system and given the reluctance of the authorities to allow researchers and NGOs access to detainees, only organisations such as the CPT or the Ombudsman are in a position to adequately investigate claims of police misconduct in detention centres,

4.2. A gap in the level of information

From the interviews conducted there emerges a gap in the level of information which detainees are provided with regarding their cases. The fact that the two interviewed staff

²⁵ The Ombudsman’s annual reports for 2005 refers to a case involving an Iranian asylum seeker, who was arrested and detained despite the fact that he was an asylum seeker and then unlawfully deported by the police against the express orders of the immigration department. In another case, the police directed the lawyer of three asylum seekers to send his clients to the police station to submit their asylum application but upon arrival arrested and removed them immediately. The Ombudsman was highly critical of the fact that, in the investigation that ensued, the police gave her inaccurate and misleading information in order to conceal the fact that the three persons left Cyprus against their will. Other cases involved the arbitrary closure of files of asylum applications because the district migration offices failed to notify the Asylum Service of the applicants’ change of address; the unlawful detention and deportation of a Palestinian asylum seeker even after the migration department established that he had not changed his address; cases of deportations without due cause; cases of asylum seekers withdrawing their asylum applications under suspicious circumstances whilst in police custody; the groundless detention and issue of a deportation order against an unaccompanied minor asylum seeker, in violation of the Cypriot refugee laws and many more (see pages 51-58 of the Ombudsman’s annual report for 2005). The Chief Immigration Officer has been repeatedly criticised both by the media as well as by the Ombudsman for practices which violated Cypriot and international human rights legislation.

²⁶ There are a number of Ombudsman reports as well as court decisions against the immigration police who one or way or another convinced asylum seekers to withdraw their applications so as to arrest and detain them with a view to deportation.

²⁷ This was the term used by then MP, now MEP, Antigoni Papadopoulou during the specially convened meeting of the Education subcommittee of Parliament 23.12.2008 following the racial attack on 14 year old female pupil. She used this term to mock or reprimand those who insisted that there is a serious problem of racism and this is related to racially inflammatory contents contained in curricula, which urgently need to be reformed as part of the education reform program. Papadopoulou was at the time third Vice-Chairperson of the Committee on Economic Affairs and Development:
http://www.coe.int/T/E/Com/About_Coe/Member_states/e_ch.asp#TopOfPage.

persons and Future Worlds Centre suggest that detainees are well-informed about their cases is most probably related to the fact that both staff and Future Worlds Centre are commissioned to supply this information and a gap in the level of information would also reflect negatively on them. In the interviews, half of the detainees said that additional information is needed but the answers supplied throughout indicate that there is a wider gap in information about rights in detention, rights in deportation proceedings, opportunities for legal recourse, etc. All detainees were aware that they would be deported; this information is probably already printed on their warrant for detention. However they all seem to be very anxious to find out when this would happen and what this would entail for themselves and their families and what rights they have in this procedure. Lack of information about their fate appears to be the most common source of distress, hopelessness and vulnerability, citing for instance the problem of lack of sleep and poor mental health.

4.3. Gap in medical care

The fact that the sample used in this study is rather small, the selection of interviewees was made by the police and the average stay of the interviewees was rather short (3.14 months) compared to others, may lead us into an underestimation of the problem and repercussions of lack of medical care. From the responses of the interviewees it is possible to infer at least a few of the characteristics of the system of providing medical care. First of all, no medical care is provided at the detention centre. Secondly, the detainees are not automatically taken to a hospital once they state that they need medical care: it is up to the guards to decide if the detainee in question should be transferred to the hospital. Thirdly, the method used to ascertain whether the need for medical attention is real or not is through questioning of the detainees by the guards. This practice is particularly problematic if one considers that the guards receive no training in identifying medical problems and particularly psychological or mental disorders often associated with detention and uncertainty about the future. Victims of torture which are, according to one NGO, detained at block 10 face a serious deterioration of their condition in the absence of any rehabilitation measures. .

4.4. Gap in social services and NGO support

There is no provision for any kind of social services to be provided to detainees. A sympathetic ear is apparently sometimes lent by the guards, especially in the women's ward in Block 9, but the guards have no training in this field and in some cases appear unfamiliar with basic concepts such as the definition of vulnerable groups. Some badly needed psychological support, counselling and advice on social matters is not available. This is particularly needed in the case of women awaiting deportation, women from patriarchal societies who experience a sense of loss when they are detained separately from their husbands, as well as men who had been the breadwinners of their families and, following their arrest, had to leave their families without any means of support. There are few NGOs interested in the fate of detainees or their families and even fewer who are willing to devote resources to irregular migrants detained and due to be deported. UNHCR does make some resources available for the support of asylum seekers, but this is usually restricted to legal advice on the asylum procedure and does not extend to the period after rejection of the application and prior to deportation. In other words there are no resources from NGOs or from other sources to assist persons awaiting deportation, as is the case with the majority of the detainees at Blocks 9 and 10, either by informing them of their rights in the removal proceedings or by offering support and NGO networks in the country where they will be deported to. Also the guards themselves and the authorities in general appear to have little confidence in NGOs and there is no structure in place for cooperation between NGOs and the authorities for the welfare of the detainees. It is particularly striking that when detainees appear to be having suicidal thoughts, the guards do not call on NGOs to come and offer support but call on the Ombudsman's office, which is staffed with lawyers, to come and assist the detainees.

4.5. Segregation of detainees

It has emerged from a number of interviews that there is a practice of the detainees separating themselves into groups and there appears to be a contestation between the ‘Arabs’ and the Iranians on the one hand who seem to have spent longer time in detention and to get on with the guards and the ‘Asians’ on the other hand who feel disadvantaged and underprivileged. Some interviewees suggested that this segregation is encouraged by the guards; on the basis of the evidence emerging from the interviews the practice of segregation appears to be at least condoned by the guards who apparently allocate cells to the ‘Arabs’ in a separate wing from the ‘Asians’. The result of the segregation is of course the occasional fight, as described by one ‘Asian’ detainee, feelings of unfairness on the part of the ‘Asian’ detainees who see the ‘Arabs’ enjoying privileges denied to them, and the inability of the detainees to organise themselves so as to put demands to the authorities in order to improve their detention conditions. Instead their frustrations often manifest themselves in riots and in setting fire to the centre’s equipment.

5. CONCLUSIONS

- 5.1. A major problem in assessing the detention conditions is limited access and severely compromised conditions of interviews and information gathering, applied not only for this study but for all NGO studies in this area. This leads to a lack of understanding producing estimations which do not necessarily reflect the real picture
- 5.2. Detainees emerge as more distressed and worried about their future rather than about their detention conditions and regard detention as a temporary measure. This despite the fact that detention has obviously had a serious impact on their mental health, often manifesting itself in depression, suicidal thoughts, insomnia etc
- 5.3. There is no system in place to ensure that detainees receive appropriate and human treatment. There are no concrete rules in place, a lot depends on the personality of the guard involved and in general guards have no training whatsoever in addressing the needs of vulnerable persons. This laissez-faire situation has resulted in the formation of opposing ‘cliques’ within the detention centre which often clash with each other.
- 5.4. The current legislative and policy framework which criminalises undocumented entry and stay and detains such large numbers of third country nationals has produced a new group of vulnerable persons and has left hundreds of families without any means of support.
- 5.5. Detainees appear to be poorly informed of their rights in detention, as a result partly of inaction on the part of the authorities, partly of inefficient implementation of policies and partly as a result of police efforts to restrict opportunities for filing asylum applications in an effort to deflate the numbers of asylum applications.
- 5.6. The legal aid law was amended in recent months by to extend legal aid to asylum seekers applying to the Supreme Court in order to challenge a negative decision either of the Asylum Service or of the Reviewing Authority (detailed in paragraph 2.10 of this Report). However asylum seekers arbitrarily detained continue to have no effective recourse to the Courts, unless their financial means enable them to pay high legal costs.
- 5.7. The study confirms a number of reports which illustrate longstanding problems that detainees face in obtaining the most basic medical care and psychological support.
- 5.8. A culture of concealing human rights abuses against migrants continues to be prevalent in Cyprus, judging from the fact that only one out of 14 interviewees reported police violence, when international organisations and national NGOs regularly report police misconduct.

6. RECOMMENDATIONS

- 6.1 The authorities must grant researchers and human rights organisations access to detainees to properly investigate any allegations of ill-treatment and generally monitor on a regular basis the conditions of detention. Apart from access, this requires that the authorities refrain from any involvement in the selection and the process of interviewing of detained persons.
- 6.2 The legislation regarding detention must be reformed by decriminalising illegal entry and stay and by introducing a presumption against the detention of immigrants and asylum seekers, ensuring that detention for immigration related offences be used only as a measure of last resort. The Ombudsman's recommendations that alternative non-custodial measures, such as reporting requirements or an affordable bond, must be explicitly considered before resorting to detention. Reporting requirements should not be unduly onerous, invasive or difficult to comply with, especially for families with children and those of limited financial means. Moreover, any conditions of release should be subject to judicial review.
- 6.3 Opportunities and encouragement must be given to the detainees to organise themselves constructively so as to be able to have an effective representation vis-à-vis the management in order to be able to bring up complaints and recommendations and to diffuse the tension that was created between the 'cliques'.
- 6.4 Regular information campaigns must be institutionalised, involving all stakeholders who are usually excluded (such as human rights organisations and migrant/refugee organisations) so as to inform the detainees about their legal position and rights in detention and in removal proceedings.
- 6.5 The legal aid law needs to be further expanded to provide for the needs of asylum seekers beyond the asylum procedure per se, such as legal assistance for action against arbitrary arrest, detention and deportation.
- 6.6 Regard must be had to the rights and needs of the families of detainees, who are often deprived of the only breadwinner in the family once the father is arrested. Also detention often means the discontinuation of welfare benefit entitlements which leaves the detainees' families in a desperate situation. This must be addressed with decisive policy measures.
- 6.7 The legislation must be amended to ensure that all immigrants and asylum seekers have access to individualized hearings on the lawfulness, necessity, and appropriateness of detention. The authorities must ensure the adoption of enforceable human rights detention standards in all detention facilities that house immigration detainees, either through legislation or through the adoption of enforceable policies and procedures. There should be an effective independent monitoring mechanism to ensure compliance with detention standards and accountability for any violations: regular visits must be established by an independent committee for human rights to all detention centres to ensure that standards are met.
- 6.8 Access to counselling, social and psychological support must be provided for all detainees from state psychologists as well as from NGOs providing such service. Access to medical care within the centre is a necessity as are provisions for access to hospital medical care without submitting the detainee to unnecessary questioning. The guards must be better trained in human rights, as well as in recognition of symptoms of trauma in those detainees who are unable to express their needs to the guards. This procedure should be supplemented by involving the participation of NGOs specialising in the rehabilitation of victims of torture and in promoting the rights of mental patients, who should be invited to support and assist detainees in acquiring the medical attention needed.
- 6.9 A new approach to human rights is required by the authorities, the media and the public so that possible abuses are seen as unacceptable and measures for a general improvement of the social position of migrants and asylum-seekers be seen as imperative.