Liberty's Briefing on the Borders, Citizenship & Immigration Bill for Second Reading in the House of Commons

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Introduction

1. The Government's zeal for reform of the criminal justice system is perhaps only matched by its unchecked enthusiasm for piecemeal reform of immigration and asylum law. A partial (draft) Immigration & Citizenship Bill was first published in July 2008. Liberty is relieved that several unwelcome reforms which featured in the draft Bill have been removed from the present Bill. We are however, not convinced that these proposals have been dropped altogether. We understand that the Government intends to introduce an Immigration Simplification Bill towards the end of this parliamentary session. Liberty has been calling for the consolidation and simplification of the law governing immigration and asylum for some time. Since the Immigration Act 1971, immigration law has been subject to regular reform and amendment meaning that the law in this area is currently highly inaccessible and confusing for those in the system. This not only leads to uncertainty and vulnerability for migrants but has contributed to the huge quantity of poor quality decision making by immigration officials. While we welcome long-promised consolidation in this area we are disappointed that the consolidation exercise has been left to the end of the parliamentary session. We are also concerned that several of the measures contained in the draft Bill and now dropped may re-emerge in the Simplification Bill.

2. Turning to the present Bill, Liberty is principally concerned with the roll out of invasive customs powers to untrained and unaccountable immigration officials (Part 1), and reform of the naturalisation process for migrants (Part 2). Before detailing and questioning the specifics of these proposals we would like to highlight the damaging political rhetoric which has attached to the formulation of this Bill[1]. The Home Office Green Paper "*The Path to Citizenship: Next Steps in Reforming the Immigration System*" coined the phrase "earned citizenship" and took as its starting point the premise that migrants must "prove their worth" – the implication being that they are an automatically less deserving or less trustworthy group than those born into British citizenship. The concept of "probationary citizenship" which finds expression in this Bill was also discussed in the Green

[1] See the 2008 Green Paper "The Path to Citizenship: Next Steps in Reforming the Immigration System" available at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/pathtocitizenship/ and the Draft Bill available at: http://www.official-documents.gov.uk/document/cm73/7373/7373.pdf. Liberty's response to the 2008 Green Paper is available at: http://www.liberty-human-rights.org.uk/pdfs/policy08/response-to-path-to-citizenship-consultation.pdf

Paper along with a proposal for enforced volunteering for those wishing to obtain citizenship[2]. This language and these proposals are unfair, discriminatory and dangerous. As we head towards a general election, Liberty urges parliamentarians not to endorse rhetoric or policy attacking migrants for the sake of short-term political point-scoring[3].

Border Functions (Part 1)

3. Part 1 creates a legislative framework to allow immigration officers to exercise revenue and customs functions which have up to now been exercised by Her Majesty's Revenue and Customs (HMRC). The explanatory notes to the Bill state that "*The UKBA will carry out physical examinations at the frontier…and may support HMRC investigations inland into revenue smuggling"*, Clause 1 extends functions of "general customs matters" that are currently exercisable by Commissioners for HMRC to the Home Secretary. Clause 1(2) excludes a few categories from the control of the Secretary of State (in particular matters relating to tax)[4] but clause 2 reserves the right for the Secretary of State to add or modify the matters that come within their control by order. Clause 3(1) provides that the Secretary of State may designate an immigration officer or any other of her officials as a general customs official for the purposes of Part 1 of this Bill. Under clause 3(2) once designated, this official has the same functions as an HMRC officer in relation to "general customs matters". This includes functions listed in any other enactment (made before or after the Bill).

4. Liberty has raised concerns about previous extensions of powers exercisable by immigration officials. Sections 1 to 4 of the UK Borders Act 2007 allowed for the designation of immigration officers to enable them to exercise detention powers

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[2] Liberty is relieved that enforced volunteering has not been included in the present Bill. However a diluted version of this proposal does feature (discussed at paragraphs 16-19). The Green Paper further sought views on an "additional migrant tax" while at the same time accepting the migrants make a net contribution to the UK's economy.

[3] Liberty has launched an Asylum Election Pledge which can be signed by prospective parliamentary candidates ahead of the next General Election: http://www.liberty-human-rights.org.uk/news-and-events/1-press-releases/2009/21-01-09-liberty-issues-asylum-election-warning.shtml

[4] For tax-related customs matters clauses 6-13 provide for the creation of a "Director of Border Revenue" to be appointed by the Secretary of State. A Home Office official shall be appointed to the role (with the consent of the Treasury) and shall exercise the same functions as the HMRC Commissioners in relation to customs revenue matters. The Director will have the power designate any immigration officer or any other official of the Secretary of State by whom general customs functions are exercisable as a "customs revenue official".

against anyone who is (or is suspected) of offending. After detention a police officer must be called to attend and detention cannot exceed three hours. These powers are similar to other recent powers which have standardised arrest powers for non policing bodies[5]. However, the powers granted in the UK Borders Act went further in that they allowed for search and for the use of reasonable force to detain. As a consequence, the powers extended to immigration officials under the UK Borders Act were more on a par with those enjoyed by officers of HM Revenue and Customs. Part 1 completes that shift and represents a breathtaking extension of the powers of immigration officials.

5. The *Customs and Excise Management Act 1979* confers the functions and powers available to customs officers. Under the Act a customs officer may ask to search a person or anything they have with them if he or she reasonably suspects the person is carrying any item which is prohibited or restricted or any item which is liable to excise duty or tax which has not been paid. Customs officials have the power to detain for "as long as reasonably necessary" while a search is being carried out[6] and if a person does not agree to the search the customs official may make an arrest. The threshold for reasonable suspicion is low and can include a combination of factors such as destination arrived from; clothing; and an unusual quantity of luggage. Customs officials have the most intrusive types of search powers. Searches include pocket searches; a "rub-down"; a strip search and an intimate search[7]. Customs officials also have the capacity to take fingerprints and DNA, and can seize money under the *Proceeds of Crime Act 2002*. They also have surveillance powers under the *Regulation of Investigatory Powers Act 2000*, and data-acquisition and sharing powers under the *Identity Cards Act 2006*, the *UK Borders Act 2007*, and the *Serious Crime Act 2007.*[8] This Bill will extend these powers to UKBA staff who will be able to carry out physical examinations at the frontier of their own volition and at the request of HMRC.

6. During the passage of the UK Borders Act, Liberty acknowledged that there may be occasions where the powers proposed might be appropriate. The same

[5] Under s.24A of the Police and Criminal Evidence Act 1984, which was amended by the Serious Organised Crime Act 2005
[6] Under section 164
[7] An "intimate search" means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person's body orifices
[8] See Guy Herbert, 'Another Home Office Power Grab' *The Guardian*, 13 February 2009 available at: http://www.guardian.co.uk/commentisfree/2009/feb/12/police-law

cannot be said here. Part 1 is not proposing complimentary powers that might be necessary for immigration officials in discharging their functions. It is proposing an entirely new function for immigration officials, wholly conflating the distinction between immigration control and criminality. Liberty has often advised that governments should be wary of sending continuous signals that immigration is criminally suspicious per se. Part 1 does exactly that. At the same time, the roll out of customs functions to immigration officers dramatically extends those who are subject to the powers of immigration officials. The extension of powers under the UK Borders Act brought British nationals within the control of the immigration service for the first time. The proposed extensions in this Bill would cement this shift. Liberty would expect that dramatic extensions to the functions and powers of immigration officials would be preceded by consultation and accompanied by extensive policy justification. Neither has happened. The explanatory notes contain scant reference to the policy behind this reform.

7. In addition to our principled opposition to this extension of powers, Liberty is concerned by the lack of provision for the training and accountability of immigration officers who discharge customs functions. Clause 4 provides that the Secretary of State may designate an official under clause 3 only if she is satisfied that the official is: capable of effectively carrying out the functions that are exercisable; has received adequate training and is otherwise a suitable person. A designation may be permanent or for a specified period and may be varied or withdrawn. We hope that further details about the manner of training and what constitutes 'adequate training" will emerge during progress of the Bill. It might be appropriate for regulations to set out the designation and training process in greater detail.

8. As regards accountability, at Committee Stage of the Bill in the House of Lords the government proposed amendments to clause 22 which would apply the Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007 and the equivalent order for Northern Ireland to designated customs officials in the UK Border Agency exercising equivalent functions as HM Revenue and Customs officials. This amendment allows certain safeguards contained in the orders to apply to criminal investigations conducted by immigration officers and customs officials in relation to a general customs or customs revenue matter, and to persons detained by such immigration and customs officials. However, the effect of the amendments to clause 22 have been diluted by the inclusion of the

ability to amend or repeal the clause by order under clause 23. This gives a very broad power to disapply the safeguards contained in the HM Revenue and Customs Orders.

9. Clause 23 also provides that the Secretary of State may by order provide for the application of provisions of the Police and Criminal Evidence Act 1984 (PACE) to persons detained and investigations conducted by designated customs officials and immigration officers. Section 145 of the Immigration & Asylum Act 1999 made similar provision for the Secretary of State to apply PACE codes to immigration officials. Giving the Secretary of State only the *power* to apply PACE provisions is unsatisfactory where the extension of intrusive powers is proposed. If this reform goes ahead, at the very least, a requirement for PACE protections must be fully incorporated into primary legislation.

Use and Disclosure of Information

10. Clauses 14 – 21 deal with disclosure of information. Clause 14 (1) creates a new power for the use and disclosure of information. Designated customs officials; immigration officers; the Secretary of State (or other Minister) by whom general customs functions are exercisable; the Director of Border Revenue and any person acting on behalf of these people may use customs information that they have acquired through one function, for the purpose of any of their other functions. Even more broadly, any one of these people may disclose customs information to any other for any exercisable function. Once you give officials multiple functions it is difficult to prevent them using information discovered or received under one function for the purpose of another. However allowing full disclosure between all immigration and customs officials goes even further. As with the extension of functions and powers under Part 1, we question the policy justification behind allowing complete information sharing between the immigration service and customs and revenue.

Citizenship (Part 2)

11. Part 2 of the Bill amends the rules on naturalisation. Clause 40 introduces amendments to the number of days a person applying for naturalisation will have to have been present in the UK for each year of their qualifying period. As things

stand a person intending to qualify for citizenship can be absent from the UK for up to 540 days during their qualifying period and for no more than 90 days during the final year of this period. Barring the final year of qualification, there are no limits on the duration and timing of other absences so that person seeking to qualify for citizenship can spend time away from the UK as and when they need and wish (within the 540 day maximum limit). Part 2 seeks to impose a stricter rules on absence by requiring that a person must not be absent from the UK for longer than 90 days in each qualifying year. In practice this might mean that a person who has consistently remained in the UK for the first two years of their qualifying period but who was absent for over 90 days in their third year (for example as a result of a family emergency or a work commitment) would jeopardise their application for citizenship. This change in the rules imposes a much heavier restrictions on a person's freedom of movement and may unfairly discriminate against those who may, for reasons beyond their control, be required to be absent from the UK for over 90 days in any one year during the qualification process. The government has offered no explanation for the change in rules.

12. Clauses 40-42 and 45 contain amendments to the period of naturalisation. The amendments will mean that the general rule is that those who are resident in the UK need to have a certain residential status for 8 years before being eligible for naturalisation, and those seeking to naturalise on the basis of marriage will now take 5 years. These periods could be reduced if a person participates in certain activities, which will be set out in regulations (dealt with below). Clause 42(2) also provides a regulation-making power which can amend the length of the qualifying period for naturalisation.

13. Under clause 40(11) in order to qualify as time spent towards naturalisation, the period of time spent in the UK has to be spent while resident on a certain type of visa or entitlement. This includes indefinite leave to remain, a Commonwealth right of abode or an EEA entitlement. Time spent in the UK on a visa which is time limited as to duration will only count if the leave is granted for a purpose that is set out in Rules made by the Secretary of State. It is therefore impossible to know at this stage what categories of persons this will apply to. There may well be large numbers of people on certain visas who do not fall within this category.

14. This Government has displayed a penchant for secondary legislation. Indeed it has become a common theme that the Secretary of State, by regulation, may

amend or create a whole host of rules that have dramatic - often adverse - impacts on the rights of large numbers of people. While regulations may serve a useful function for disposing of the administrative duties of the Executive they should not be used to make law that should properly be subject to scrutiny by Parliament. The period for naturalisation of migrants is one such law. Naturalisation has far-reaching implications for individuals. The Bill should set out the categories of time-limited leave to remain that will qualify as time spent for the purposes of naturalisation. It is unacceptable that something of such fundamental importance to so many should be left to be set out in secondary legislation at the discretion of the Secretary of State.

15. We are particularly concerned that refugees may take longer to qualify for British citizenship under these changes. As stated above, it is unknown what type of limited leave to remain will count towards the qualifying period. It may well be that periods of temporary admission given to refugee claimants pending determination of their claims (which can take years) may not count towards the qualifying period for naturalisation. If this is the case it is our submission that the UK would be in breach of the 1951 Refugees Convention to which the UK is a party. Article 34 of the Convention states that parties to the Convention shall "*so far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings*". Article 7 provides that except where the Convention provides for more favourable treatment a state "*shall accord to refugees the same treatment as is accorded to aliens generally*". The purpose of article 7 is to ensure that refugees receive the benefit of all laws and policies which normally apply to non-nationals, and simply put refugees cannot be excluded from any rights which the UK ordinarily grants to other foreigners.[9] It is therefore essential that any period spent by a refugee awaiting determination of his or her status count towards the qualifying period, to ensure refugees are not treated less favourably than other migrants that have a different visa status. Until this is set out on the face of the Bill it is impossible for Parliament to know whether the legislation breaches the Refugee Convention, or indeed article 8 (right to private and family life) together with article 14 (non-discrimination) of the HRA.[10]

[9] James C Hathaway, *The Rights of Refugees Under International Law,* 2005, page 197.
[10] Articles 8 and 14 of the European Convention of Human Rights as incorporated into the Human Rights Act 1998.

16. Extending the naturalisation process for migrants (and refugees in particular) will arguably hinder community cohesion. Those processing through the system will spend longer being scrutinised by various agencies, including the Border & Immigration Agency, the police, employers, voluntary organisations (see below) and others. This prolonged journey may well perpetuate feelings of exclusion within migrant communities. It will also mean that migrant workers, refugees and asylum seekers will remain vulnerable for longer periods. Longer periods "in limbo" will mean reduced access to mainstream benefits and services and those allowed to work may be made further vulnerable to employers for a longer period, possibly working longer hours or accepting lower pay for fear of having immigration permission revoked.

"Activity Condition"

17. Clause 42 also introduces a new concept of formal volunteering into the qualifying process. Under clause 42(1) an applicant for naturalisation can reduce their qualifying period by up to two years if they fulfil an 'activity condition'. The type of activity that will count as an 'activity condition' is not specified in the Bill but is reserved for secondary legislation. While Liberty is relieved that the draft Bill is not seeking to introduce compulsory volunteering (as was hinted at in the Green Paper)[11] we have deep concerns about a proposal for formal volunteering to speed up the naturalisation process – a process that this draft Bill proposes to extend. Liberty does not believe that migrants should be expected to do more than those born into British citizenship. An incentive of this kind is wrong in principle and will be discriminatory and exploitative in practice. While the Bill does not reveal the types of activities that will be prescribed, the Green Paper suggested that activities such as volunteering with a recognised organisation; serving on community bodies and fundraising for schools and charities would be considered. This type of volunteering will necessarily ignore the ways in which many migrants already volunteer their services to the community, for example with informal childcare arrangements or teaching English.

18. The 'activity condition' will also operate in a discriminatory way in practice. It is easy to see how some, and not others, will find it easier to formally 'contribute'.

[11] See footnote 1

The Government will most likely use the inclusion of clause 42(1)[12] to argue that those who, for a variety of reasons, may be unable to volunteer formally will not be discriminated against.[13] Over and above the administrative nightmare created by such a discretion, it will not prevent discrimination taking place. The Bill sets out no criteria for determining when a person shall be deemed to have fulfilled their activity requirement. In any case, it is impossible to see how the Secretary of State will be able to determine fairly and equally when a person can be excused.

19. In addition to our principled opposition to the activity requirement Liberty has serious reservations about the impact on the voluntary sector who, as far as we are aware, have not asked for the creation of large numbers of potential 'volunteers'. It is unclear from clause 42 how the Government intends or expects to regulate volunteering on this scale. By creating unprecedented levels of supply, there is inevitably a danger that those seeking to volunteer may be exploited as an industry of 'volunteering opportunities' is created.

20. Under clause 42(3) regulations made by the Secretary of State can amend the length of the 2 year discount period and even provide that meeting the activity condition will have no effect on the qualifying period. Retrospective removal of the discounted period is, of course, manifestly unfair and if utilised will do nothing to instil the trust of those that the Government is seeking to naturalise.

Nationality - mothers passing on nationality

21. Under current law, children born abroad to British mothers before 1961 could not acquire British citizenship. Clause 46 amends section 4C of the British Nationality Act 1981(BNA) to remove this historical discrimination which prevented citizenship being passed in the same way by the female line. Liberty welcomes the removal of this anomaly. Non-discrimination on the basis of gender is a fundamental pillar of the post-war human rights framework.

[12] Proposed new clause 4B(5)(b) creates a discretion whereby the Minister can treat a person as having participated in prescribed activities where this is not the case.
[13] For example, those with certain disabilities, the elderly, those who have little or no time due to various social, family responsibilities.

Part 3 – Immigration

Clause 52 - Restriction on Studies

22. Clause 52 inserts into the Immigration Act 1971 (IA) an additional condition that may be imposed on those given limited leave to enter or remain in the UK: "*a condition restricting his studies in the United Kingdom*". The explanatory notes contain no policy justification for the introduction of this reporting condition but merely state that the condition may be used '*to stipulate an educational institution at which a student is granted leave to study'*.

23. Conditions which can be imposed on those with immigration status (which already included employment, maintenance without recourse to public funds) were extended by the UK Borders Act to include residence conditions. Liberty raised concerns about this at the time, namely, the lack of restriction on the types of conditions that can be imposed, the purpose for which they can be imposed, and their duration. We can see no policy basis for this further extension in possible conditions. Particularly restrictive immigration conditions or a combination of different conditions could breach several articles of the Human Rights Act 1998 including the right to private life (Article 8) and the right to freedom of assembly (Article 11). Clause 52 could, in its application, result in a breach of the right to education (Article 2, Protocol 2) as well as non-discrimination (Article 14).

24. The implications of a failure to report a change in educational institution are hugely disproportionate. As the explanatory note states: "*breach of the condition will be a criminal offence under section 24(1)(b)(ii) of the IA and may result in removal from the UK*". Unnecessarily intrusive conditions with blanket sanctions attached not only punish individuals but inevitably result in appeals that clog the system and lead to further expense.

Clause 53 – Fingerprinting of foreign criminals liable to automatic deportation

25. Clause 53 extends the power to take fingerprints under section 141 of the Immigration & Asylum Act 1999 (IAA) to cover people who are subject to automatic deportation under section 32 of the UK Borders Act. Section 32 created a system of automatic deportation for any foreign criminal who has been

sentenced to a period of custody of 12 months or who is imprisoned for a serious offence listed by order made under section 74(4)(a) of the Nationality Immigration and Asylum Act 2002. Deportation became an issue in April 2006 when the Home Office admitted more than 1,000 foreign prisoners were released on completion of their sentence between 1999 and March 2006 without being considered for deportation. This administrative failure became the basis for the toughening up of the foreign prisoner deportation regime. Liberty raised grave concerns about basing a major policy shift on mistakes. Passing new, knee-jerk laws does not compensate for systemic Home Office failure. Public safety is far better served by ensuring that existing processes work effectively. Automatic deportation is also contrary to the approach traditional to both crime and immigration matters: that is that each case is judged on its merits. It now appears that where foreigners are concerned a one size fits all approach will suffice.

26. The need for retrospective provisions to allow the taking of fingerprints from those subject to automatic deportation further demonstrates the arbitrary outcomes that occur when blanket rules on deportation are applied. Presumably, those that have been convicted of offences where fingerprints may be relevant have already had their fingerprints taken as part of the evidence gathering process. They are therefore, only now going to have their fingerprints taken as a result of their deportation. We urge parliamentarians to look again at the 2007 deportation scheme instead of adding a further arbitrary amendment to an already capricious system.

Part 4 – Miscellaneous and General

Clause 55 – Fresh claim applications

27. Clause 55 replaced original clause 50 which would have transferred all immigration and asylum judicial review applications to the jurisdiction of the Upper Tribunal.[14] Clause 55 provides for certain judicial review cases relating to "fresh claims" to be transferred to the Upper Tribunal. Fresh claims are defined in rule 353 of the immigration rules and are claims which are significantly different

[14] Section 19 of the Tribunal, Courts and Enforcement Act 2007 (TCEA) allowed for the transfer of judicial review applications to the Upper Tribunal. As a result of concern expressed by parliamentarians during the passage of the Act, judicial review applications that call into question decisions under the Immigration Acts or the BNA were originally specifically excluded from the jurisdiction of the Upper Tribunal.

from the material that has previously been considered. In order for a claim to be 'significantly different', it must not have been previously considered and it must create a realistic prospect of success. Under clause 55(2), the Administrative Court would have discretion to decide whether a particular judicial review application was exclusively a "fresh claims" case. While clause 55 is preferable to original clause 50, Liberty believes that by providing for judicial review cases relating to fresh claims to be transferred to the Upper Tribunal before assessing the performance and capacity of the newly established Tribunal is dangerously premature. Immigration applications can be highly complex and contentious. More frequently than in other spheres, decisions regarding immigration and asylum applications engage fundamental rights. Often engaged is the absolute right against torture, inhuman and degrading treatment. As such judicial review by a High Court judge can operate as an essential safeguard of fundamental rights and should not be removed without serious consideration of the unintended consequences that may flow.

28. Clause 55(4) ensures that section 13(6) of the Tribunals, Courts and Enforcement Act 2007[15] will not apply to asylum and immigration appeals from the Upper Tribunal to the Court of Appeal.[16] We support this amendment which will mean that the Court of Appeal will not be prevented from rectifying an error of law in a decision by the Upper Tribunal.

Trafficking people for exploitation

29. Liberty welcomes the introduction of Clause 56 which widens the definition of exploitation in the offence of human trafficking (for non-sexual purposes) in section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. As we pointed out during the passage of the Act in 2003, clause (and now section) 4 was poorly drafted and failed to offer sufficient protection to children. As we noted at the time:

> "*International law definitions of child exploitation do not require an element of coercion as, especially when dealing with young children, this will usually not be necessary. The bill states that, unless specifically amounting to slavery, forced labour or relating to forced organ donation, there must be an element*

[15] Right to appeal to the Court of Appeal
[16] Clause 55(4)

of forcing someone to act against their will. This should be removed when children are involved."[17]

Clause 56 widens the definition of the offence of human trafficking by removing the requirement for a child to be requested or induced to undertake any activity. This means that if someone uses or attempts to use another person, including a small child, to obtain a benefit or gain of any kind, this will be captured by the offence.

Duty regarding the welfare of children

30. Clause 57 imposes a duty on the Secretary of State to make arrangements for ensuring that their functions in relation to immigration, asylum or nationality; the functions of immigration officers and the functions of designated customs officers are "*discharged having regard to the need to safeguard and promote the welfare of children who are in the UK*". Liberty welcomes the introduction of this duty which mirrors the duty in section 11 of the Children Act 2004 (CA) that currently only applies to public authorities[18]. However, Clause 57 suffers from a significant limitation in that it only covers the treatment of children "who are in the UK". Immigration officials, of course, exercise many of their functions in relation to children outside of the UK[19]. Conscious of the frequent reports of abuse and heavy-handedness in the removals process Liberty believes that immigration officials and contractors should be subject to the same duties in their dealings with children when outside the UK as they are within the jurisdiction.

31. In September 2008 the Home Secretary announced that the Government intended to remove its reservation to the UN Convention on the Rights of the Child (CRC) – a reservation precluded the UK's obligations in respect of children subject to immigration control. Liberty had consistently pressed for the removal of the reservation[20] and welcomed the Home Secretary's statement. In light of the removal of the reservation we reiterate our call for the Government to scrap its policy of immigration detention for children. We believe that the detention of

[17] See Liberty's Second Reading Briefing on the Asylum and Immigration (Treatment of Claimants etc) Bill in the House of Commons available at: http://www.liberty-human-rights.org.uk/pdfs/policy03/dec-03-asylum-treatment-of-claimants.pdf
[18] The public authorities covered by the section 11 duty include local authorities, the police, the prisons service etc
[19] This includes both at entry clearance posts and in the course of removals
[20] http://www.liberty-human-rights.org.uk/publications/pdfs/liberty-consultation-response-keeping-children-safe-from-harm.pdf

children for administrative convenience would put the UK in breach of the CRC. It may also put UKBA in breach of clause 57 when enacted.

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