

# Thinking about detention

David Scott identifies the different sites and purposes of detention and introduces this special issue.

The word detention is derived from the Latin word *detentio* which means to keep back, to stop or hold off. Put simply, detention is 'the act of detaining or the state of being detained' (Collins English Dictionary, 1994: 430) whilst a detainee is a person held against their will. When defining the sites of detention highlighted in this publication, we can identify the following four broad dimensions:

*Detention is governed through state authority and power:* Detention is authorised and enforced by the capitalist state. It is legal if the detainee is held within a designated institution that is ruled by, or at the very least under the supervision of, a government body. This includes public bodies such as HM Prison Service, but, as **Mary Corcoran** demonstrates in this edition, private companies and the voluntary sector are increasingly important means of delivering state authorised detention. Further state-sanctioned detention must be understood in a global context, which **Michelle Brown** illustrates well in her discussion of the uses of detention deployed by the USA during the 'war on terror'. The above legal understandings of detention can however be contrasted with non-authorised deprivations and restrictions of liberty such as 'false imprisonment'. Importantly, state sanctioned detention need not take place within a state institution, as illustrated by Home Detention Curfews and Control Orders.

*Detention can exist irrespective of the levels of physical security, duration, or location:* Detention

occurs when an individual is unable to leave a given place for a certain period of time. Internal or perimeter security, such as that pertaining in High Security Hospitals, is important but does not determine a given form of detention. What is important is not the extent of restraints deployed but the *exercise of state power*. A detainee may be physically able to walk out of a place of confinement, such as an open prison, for it is not bars and walls that hold people in detention but the knowledge that they are not free. Additionally, the length of time a person is detained, for example under terrorism laws, is significant, as highlighted in this edition by **Gareth Crossman**, but not determinative of its core nature. As **Layla Skinns** identifies with powerful effect, a person is detained and vulnerable to infringements of due process, even if they are held in a police cell for only a short period of time. Further, the *location* of detainment can be important, but the salient factor is that it is a state authorised deprivation of liberty.

*Detention is rooted in an inherent conflict of interests:* A detainee, assuming they have the capacity to decide, does not consent to the state authorised deprivation of their liberty. Detention is consequently rooted in a profound *conflict of interest*, which goes to the very heart of its existence. This can lead to cultures of 'us and them' and antagonistic relationships in state institutions between the ruled and those who enforce the rules. The subsequent 'ideological denigration' of detainees can, as **Elizabeth Stanley** explains, lead to

profound states of inhumanity being normalised and the acceptance of torture. In a similar vein, HM Chief Inspector of Prisons **Anne Owers** in her article highlights the importance of investigating, uncovering, and preventing such inhumanity.

*Detention is shackled by the pains of the deprivation of liberty:* While the *quality* of the daily regime impacts upon the lived experiences of detainees, many places of detention, such as the prison, are neither 'moral', 'humane', 'progressive', 'healthy', 'safe', or 'therapeutic' environments. In his article, **John Moore** vividly outlines how forms of detention justified through the punitive rationale have been characterised by 'pain and blame' since the eighteenth century. While in other sites of detention, some of the structured pains of confinement can be ameliorated, by definition those created through the loss of liberty can never be removed.

## The continuities of detention

Table 1 highlights some of the different sites of detention in the United Kingdom and their respective populations at the end of 2007.

There undoubtedly are significant differences between divergent forms of detention listed in the fact box, including *why* a person has been detained; *where* they are detained; *how long* they are detained; *which* rationale justifies detention; and *who* is being detained (such as differences around age, mental capacity, nationality, and gender). Despite such differences, there are also continuities. We consider four here:

*Historical development:* The current reliance on detention per se as a solution to social problems can be traced back to the legacy of ideological, economic, political, and social factors over two centuries ago (Cohen, 1985; Scull, 1993). At this time, new institutional responses for dealing with difficult, troublesome (lower class) deviants were inaugurated, and a new 'master pattern' emerged. Various groups of deviants, such as the mentally ill or delinquents were classified, categorised, and segregated by an

**Table 1:** Number of people in detention in the United Kingdom

Prisoners in England and Wales (8 February 2008)	81,681
Prisoners in Scotland (8 February 2008)	7,575
Prisoners in Northern Ireland (11 February 2008)	1,457
Prisoners in police cells in England and Wales (8 February 2008)	375
Children in Secure Training Centres in England and Wales (December 2007)	246
Children in Secure Children's Homes in England and Wales (December 2007)	220
Detained in Immigration Service Removal Centres under Immigration Act (29 September 2007)	2,325
Detained in hospitals under the Mental Health Act in England (31 March 2006)	14,625
<b>Total</b>	<b>108,504</b>

Sources: National Offender Management Service, Estate Planning and Development Unit, Prison Population and Accommodation Briefing for 8 February 2008; Scottish Prison Service Prisoner Population for 8 February 2008; Northern Ireland Prison Service Prisoner Population Report 11 February 2008; Youth Justice Board, Youth Justice System, Custody Figures, December 2007; Home Office Asylum Statistics, 3rd Quarter 2007, United Kingdom; Government Statistical Service, In-patients formally detained in hospitals under the Mental Health Act 1983 and other legislation, NHS Trusts, Care Trusts, Primary Care Trusts and Independent Hospitals, England; 1995–1996 to 2005–2006).

N.B. Figures for number of people detained under the Mental Health Act in Wales at any one time are not available.

increasingly powerful centralised state. Collectively rather than in isolation, the different sites of detention evolved as one of the key strategies in dealing with perceived problematic populations.

This insatiable appetite to detain continues unabated today. In an insightful overview of the commercial influences on recent government policy, **Andrew Coyle** highlights the state's willingness to adopt the recommendations of the 2007 Carter Review to build three new super sized 'Titan' prisons whilst at the same time marginalising the more reductionist recommendations of Baroness Jean Corston for women prisoners. Irrational and counterproductive perhaps, but when understood in historical context, current policies increasing our reliance on incarceration as a means of responding to social problems are neither surprising nor without precedent.

*Impoverished social backgrounds of detainees:* Since inception the people detained have come largely from impoverished and deprived social backgrounds. Detainees are predominantly poor, in bad physical and mental health, unemployed, and badly educated. It is the less

fortunate, vulnerable, and needy who are disproportionately detained. The subsequent articles from **Marcus Roberts, Alison Cobb, Phil Scraton** and **Linda Moore** all highlight the vulnerabilities of those we currently detain and the harms they are subjected too through detention.

*Blurring of institutional boundaries:* From the eighteenth century, the boundaries between different forms of detention have been increasingly blurred: prisons house foreign nationals and recalcitrant mental health patients; high-security hospitals hold the 'criminally insane'; and, as **Mary Bosworth** reminds us in her excellent discussion, immigration centres are run like prisons.

*Inherent nature of institutional harms:* All forms of detention have faced consistently high death rates and intentional self-injury; institutionalisation and disculturalisation; bullying and sexual violence; staff moral indifference; institutionalised racism; masculinist hierarchies of power, and broader vulnerabilities to systemic abuses through torture and inhuman and degrading treatment. What the different state institutions also seem to share is an historical

broad inability to satisfy the *duty of care* owed to those who they detain (Scott and Codd, in press). Historical problems such as the high level of self-inflicted deaths in custody have not left us, an acute point made in the article by **Deborah Coles** and **Helen Shaw**.

### **The legitimacy of detention**

Despite the problems identified above, a great deal of effort has been expended attempting to legitimate detention. These defences broadly fall into two categories: those who justify detention on the grounds that it serves the 'best interests' of the detainee and those who argue that it serves wider social purposes or the 'interests of others'. The *best interests* defence has been applied to people with severe learning difficulties, the detention of the mentally distressed, children in secure custody, and the rehabilitation of lawbreakers. Legitimacy is at its strongest when the only possible way a person suffering from a dilapidating illness can receive care is through a state institution, though even then we should remember that such a response is deeply entrenched within the development of advanced capitalist societies. The *best interest* justification loses

much of its plausibility though when applied to other detainees. Some 'treatments' have iatrogenic effects even worse than the symptoms they are purporting to cure, and some detainees, such as prisoners, may with good reason believe that medical treatments or attempts at rehabilitation are not in their best interests at all (Sim, 1990).

The legitimacy of detention is on even more shaky ground when rooted in meeting the *interests of others* such as the national interest, security, retribution, or public protection. Moral questions have been raised regarding whether it can ever be right to detain a person to meet the needs of other people. Further, given the impoverished social backgrounds of many who are detained, political questions have been raised about the role of detention in maintaining current inequitable power relations and structural divisions.

For many years, the legitimacy of the prison has been under sustained attack. For anti-prison activists and penal abolitionists, the prison is rooted in a punitive rationale that is

predicated upon violence. In practice, it has become a place where human welfare is devalued to such an extent that those contained are profoundly dehumanised. On moral and political grounds, penal abolitionists have argued that the justification of detention through a punitive rationale is illegitimate and should be abandoned. This does not mean penal abolitionists believe that nothing should be done or that all forms of detention are unjustified, but rather that imprisonment is an illegitimate response to wrongdoing and social harms. What we need, as **Rob Allen** demonstrates in his contribution, are viable and plausible alternatives. The prison fails to uphold human rights, meet the demands of social justice or provide transparent or accountable forms of state governance. The increasing reliance upon the prison in recent times damages not only prisoners but also, as **Helen Codd** clearly identifies, their families and local communities. These 'collateral consequences' draw our attention to the prisons very real threat to democracy.

By examining the different dimensions, continuities, and legitimacy of detention, it will hopefully have become clear that when thinking about the nature and extent of detainment today, we must locate the discussion within historical, philosophical, socio-economic, ideological, and political contexts. The essays that follow in this edition are an attempt to help facilitate such an understanding. ■

**Dr David Scott** is Course Leader of the MA in Criminology and Criminal Justice at the University of Central Lancashire.

### References

- Cohen, S. (1985), *Visions of Social Control*, Cambridge: Polity.
- Collins English Dictionary (1994), *Dictionary: 3rd Edition*, Glasgow: HarperCollins Publishers.
- Scott, D. G. and Codd, H. (in press), *Controversial Issues in Prisons*, Buckingham, UK: Open University Press.
- Scull, A. (1993), *The Most Solitary of Afflictions*, London: Yale University Press
- Sim J. (1990), *Medical Power in Prisons*, Milton Keynes, UK: Open University Press

## HEALTH AND SOCIAL SCIENCES

### POSTGRADUATE CRIMINOLOGY AT MIDDLESEX UNIVERSITY, LONDON

- MA Criminology: Crime, Conflict and Control
- MSc Criminology with Forensic Psychology
- MA Youth Justice, Community Safety and Applied Criminology
- MSc Legal and Criminological Psychology

Apply now to start next September, based from 2008 at our Hendon campus in north London.

- Opportunities to attend three-day Common Study Sessions at other European universities
- The option to undertake an internship with a criminal justice agency or to undertake work based learning
- Close links with researchers at the Crime and Conflict Research Centre
- May be studied full-time (one year) or part-time (two years)
- Excellent career opportunities in the criminal justice sector.

IT'S YOUR WORLD.

WHAT WILL YOU CHANGE?

[www.mdx.ac.uk](http://www.mdx.ac.uk)

Admissions Enquiries:

020 8411 5555

email: [admissions@mdx.ac.uk](mailto:admissions@mdx.ac.uk)



Middlesex University