

# Immigration detention

**Mary Bosworth** examines the growing use of immigration detention and argues that the tough treatment of asylum seekers is shoring up punitive sentiment.

Since the early 1990s, and with renewed vigour since 9/11, many countries including the UK, the United States, and Australia have introduced mandatory detention measures for all sorts of foreigners, including some of those who request asylum, or have completed a prison sentence, as well as a small proportion of those who overstay their visas or work without one. The majority of those held in the UK under the Immigration Act (85 per cent) are placed in immigration removal centres, seven of which have been contracted out to private companies, and three of which are run by HM Prison Service according to the Detention Centre Rules (2001). Of the rest, a small but significant proportion (13 per cent) is confined in prison. The remaining 2 per cent are placed in short-term holding facilities (Dudley *et al.*, 2005:13). In addition to these individuals, there are also, of course, a much larger number of non-citizens serving criminal sentences in the nation's prison system, many of whom, once the UK Borders Bill is passed, will qualify for mandatory deportation and thus may be held under Immigration Act powers while awaiting repatriation.

The *Detention Centre Rules* that were thoroughly revised in 2001 and tinkered with again in 2005, are meant to dictate daily practice in whichever institution individuals held under the Immigration Act are placed. Although modelled on the Prison Rules, they are meant to carve out the particular needs, expectations, and responsibilities of immigrant detainees. 'The purpose of

detention centres' according to these rules shall,

be to provide for the secure but humane accommodation of detained persons in a relaxed regime with as much freedom of movement and association as possible, consistent with maintaining a safe and secure environment, and to encourage and assist detained persons to make the most productive use of their time, whilst respecting in particular their dignity and the right to individual expression. (Detention Centre Rules, 2001, para 3(1))

Detainees, in other words, despite being housed in institutions that might have once been penal institutions (or indeed that might still have functioning prison wings), and despite being guarded by individuals who may have been trained by someone from the prison service, and despite being overseen by administrators who previously worked in the criminal justice system, are not offenders. To use the words of the Chief Inspector of Prisons, 'An Immigration Removal Centre is not a prison. Detainees have not been charged with a criminal offence, nor are they detained through normal judicial processes' (HMIP, 2002:4). Yet, significant evidence, from the prison inspectorate as well as from groups working with refugees, suggests that detainees experience their incarceration as imprisonment. In the report of an unannounced repeat visit to Yarl's Wood, for example, the Prison Inspectorate included testimony from a number of children

who spoke about their experiences at the hands of representatives of the Immigration and Nationality Directorate and of their detention. One, who described at some length the frightening process of being taken into detention observed that:

The way they look at you is like you are a criminal; they had big padded jackets and handcuffs, like police stuff. They handcuffed me and my Mum through Terminal 4, through public area and into the van. My two hands were cuffed in front; I was crying in the van, they were removed when we arrived. That is why I just stay in my room – I keep thinking about the handcuffs. (age 13) (HMIP, 2006:15)

While the power to detain certain non-citizens has long existed in some form, recently the UK, in common with a number of other countries, has witnessed a significant escalation both in the numbers behind bars as well as in the public debate over and in general enthusiasm for this practice (Welch and Schuster, 2005). This development has been part of a more general criminalisation of non-citizens that follows, to some extent, David Garland's (2001) rather useful distinction between a criminology of the 'self' and a criminology of the 'Other'. As with offenders, certain foreigners – namely those who abide by 'British' values and who contribute to the economy – are normalised. These individuals can be dealt with through largely bureaucratic means such as work visas, quotas, and the points system. In contrast, others, principally asylum seekers, but also unskilled, so-called, 'economic migrants' are frequently demonised. These figures are presented by large sections of the print and news media as well as by the government and its opposition as risky and threatening, and thus the appropriate targets of harsh strictures and punishment. The 'trick' of course lies in distinguishing between the two kinds of foreigners and then determining how best to deal with each group. It is here that the state has come to rely increasingly on a criminal justice imagery as well

as on criminal justice agents in the policing of UK borders and in the dispersal and confinement of those who would arrive or work here without proper permission.

The fabrication of new (or perhaps merely the re-statement of old) concerns over non-citizens has not only enabled a whole host of new pieces of legislation, many of which have handed previously unimaginable powers to the state, but also breathed new life into criminal justice practices whose lawfulness and 'rightfulness' was previously questioned.

Practices, such as racial profiling, that had been under sustained attack as a strategy of policing, were, almost overnight, revisited and re-entrenched in a number of countries. In terms of immigration detention, the growing desire

to detain 'failed' asylum seekers and an increasing proportion of foreign offenders has invigorated not only the prison, but also, more generally, the involvement of private capital in confinement, since most detention centres are run by private security companies.

Previously considered predominantly as receptacles for those found guilty of illegal activities increasingly prisons and detention centres have become crucial sites where the 'legitimacy' of a person's identity may be established and their risk neutralised. Given the ways in which regular prisoners have always been excluded from citizenship rights, it is not surprising that the

prison seems to be such a 'good fit' for foreigners. Questions remain, however, over the long-term implications of putting the prison to this use both for immigrants as well as for the current government's desire to foster and create a particular vision of British national identity. Just as the various retreats from civil liberties for 'terrorists' have a nasty way of being applied more generally, restrictions on citizenship for foreigners and all the emphasis on 'responsibilities' and 'duties' may affect us all. It is not so much that

citizens may end up being detained – although in Australia there have been a few high-profile cases where precisely that has happened, and citizens were

mistakenly deported. Rather, it seems that the policing and incarceration

of non-citizens, in conjunction with the restricted rights of those without citizenship may reinforce a particular political and social worldview where rights will increasingly become contingent for all.

Britain currently holds the dubious honour of incarcerating the greatest number of asylum seekers for longer periods than anywhere else in Europe. Though the actual population in detention remains quite small, particularly when compared with the far greater confined prison population, it raises all sorts of complicated moral, ethical, and political questions both about Britain's wider responsibilities in the global world and about the

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appropriate relationship between immigration controls and the criminal justice system. What seems clear is that, government pronouncements aside, detention is unlikely to prevent desperate people from attempting to enter countries with greater employment opportunities and standards of living. Therefore, as with the neo-liberal state's inability to solve the crime problem which seems to have led in England and Wales and the US to mass imprisonment, the criminalisation of foreigners points to significant 'limits of the sovereign state' (Garland, 1996). The question we are left with then is whether talking and acting tough on non-citizens will create a new kind of popular punitivism – this one with a nationalistic edge? ■

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