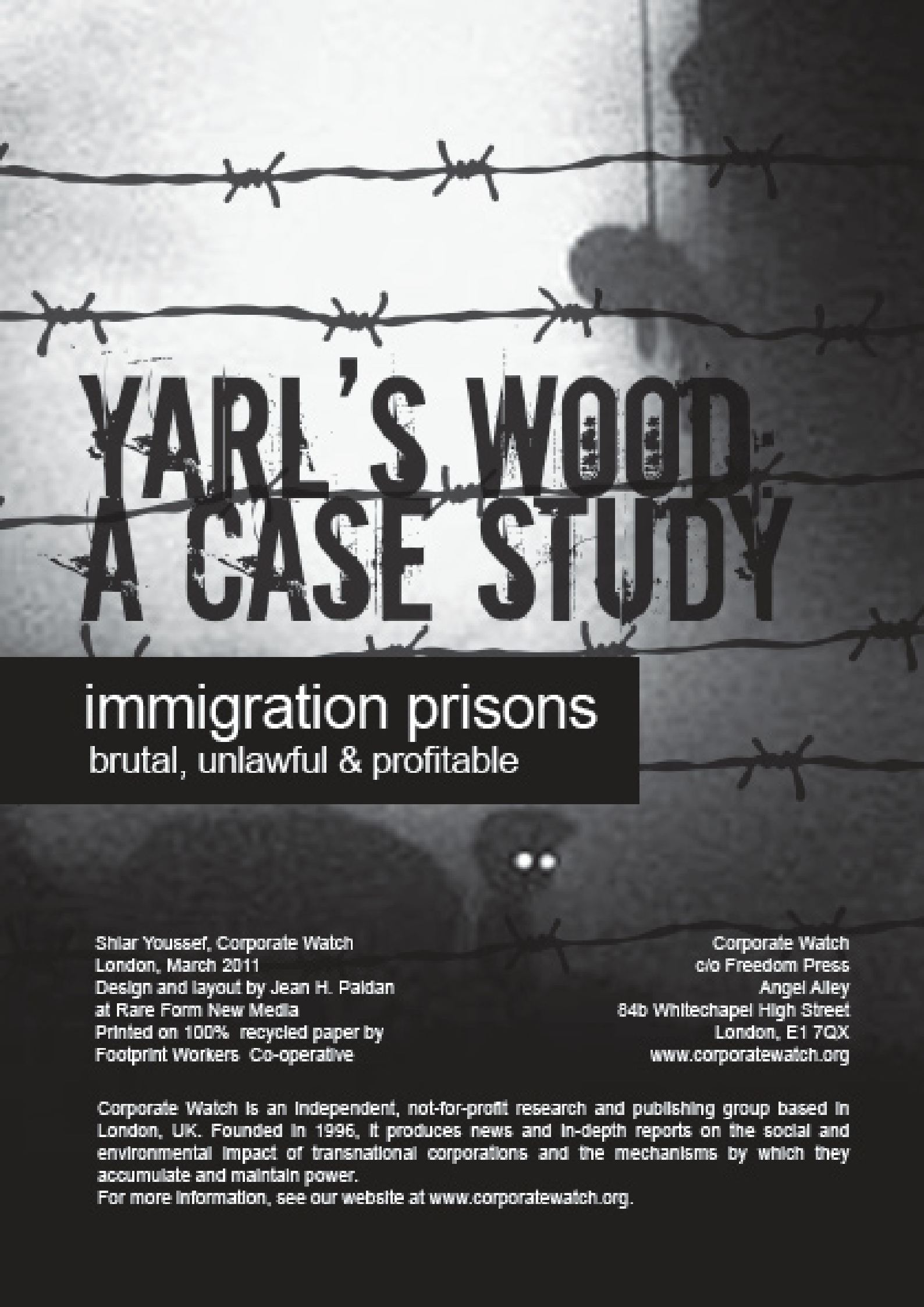


immigration prisons

brutal, unlawful & profitable



# YARL'S WOOD A CASE STUDY

immigration prisons  
brutal, unlawful & profitable

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*To all the women and men who are incarcerated in immigration prisons for having the 'wrong' skin colour, passport or bank balance. To their desperate and courageous struggles against this brutal and racist regime.*

*Thanks to Juliane Heider, Frances Webber, Kezia Rolfe and Theresa Schleicher for your help.*

# foreword

The government's decision to end child detention for immigration purposes in 2010 was the result of long years of campaigning by dedicated grassroots activists, as well as detainee support groups, NGOs and mainstream media. The end of this cruel and inhumane practice has, however, served to somehow legitimise the detention of adults. Fewer people now appear to have the political will to argue that immigration detention should be stopped altogether. Using Yarl's Wood, where most of those children and their families were incarcerated, as a case study, this briefing is intended to demonstrate that the impact of immigration prisons on adult refugees and migrants is no less cruel, inhumane and, in many cases, unlawful.

The authors of this briefing believe that no matter what findings and recommendations such reports may make, the immigration authorities will not listen, much less act, unless they are compelled to. As the references and sources of this briefing show, there have been tens of similar reports highlighting these same issues. What has come out of these reports? Unfortunately very little, except for superficial 'improvements' here and there, often to make the detention system more efficient. The institutional racism inherent in the immigration and asylum regime, supported by racist political rhetoric and mainstream media coverage and coupled with the cost-cutting policies of the profit-driven contractors running these immigration prisons, often make it difficult for many ordinary people to see what's wrong with this system. But many do and will continue to fight for real justice.

*“There are locked doors on the outside... but it does not feel like a prison or anything like that inside. It is family-friendly in how the staff are dressed and how the regime is run there.”*

David Wood, director of Criminality and Detention, UK Border Agency, November 2009

*“It must be remembered that Yarl’s Wood remains essentially a prison. There is a limit to how family-friendly such a facility can be.”*

Parliamentary Home Affairs Committee, January 2010

*“They said they were going to help me, so I thought the detention centre was a good place to be. When I got there, I realised it was like a prison.”*

Ex-Yarl’s Wood detainee, July 2010

# part 1: immigration prisons

Nearly 30,000 people are detained in the UK every year for immigration control purposes - without charge or trial, and with no judicial supervision or time limit. Most of these are asylum seekers, but some are undocumented migrants or foreign nationals who have finished a criminal sentence and are then deported as a secondary punishment.<sup>1</sup> Until the detention of children ceased in late 2010, nearly 1,000 children were detained every year.

These 'unpeople' are held in 11 special prisons across the UK, variously called 'detention centres', 'immigration removal centres' and so on.<sup>2</sup> Some are also held in police stations and normal prisons. It costs between £120 and £130 per day to keep a person in detention, and detaining a family of four for six weeks costs over £20,000.<sup>3</sup>

According to the government's Detention Centre Rules 2001, the purpose of detention centres is "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."<sup>4</sup>

Whilst enshrining the right to liberty for all, except in certain circumstances, Article 5 of the European Convention on Human Rights, which was incorporated into domestic law under the 1998 Human Rights Act, allows for "the lawful arrest or detention of a person to prevent his [or her] effecting an unauthorised entry into the country or a person against whom action is being taken with a view to deportation or extradition." This detention must, however, be "proportionate to the objective" (of removal) and "alternatives to detention must be considered."

Asylum seekers and other refugees and migrants are detained under powers conferred on the Secretary of State for the Home Department under several Immigration Acts passed over the course of the past few decades.<sup>5</sup> The detention of persons subject to immigration controls was first introduced with the 1920 Aliens Act and expanded further with the 1971 Immigration Act. The decision to detain people who have been refused leave to enter or remain in the UK, or who are required to submit to further examination at ports of entry, was henceforth regarded an "act of administrative discretion" and these people were now liable to be detained for an indefinite period of time. At the time, however, it was never intended that these powers would be used to routinely detain asylum seekers. Rather, they were intended to *briefly* detain, pending their *imminent removal*, those refused entry to the UK as visitors, students or workers. The Nationality, Immigration and Asylum Act 2002 further extended the powers of Home Office caseworkers to authorise and prolong detention. Asylum seekers and other migrants, including their dependants, can be detained at any stage of their application to enter or remain in the UK: on arrival, with appeals outstanding or prior to removal.

By 2005, the Labour government's agenda and the public opinion had shifted so much to the right that the government's five-year strategy for immigration and asylum was able to state, "Over time, as asylum intake falls and removals increase, as the UK negotiates even more effective return agreements, we will move towards the point where it becomes the norm that those who fail can be detained."<sup>6</sup> In fact, the government had already looked into the feasibility of introducing an Australian-style detention system, whereby all asylum seekers are detained on arrival.<sup>7</sup> In 2005, the government announced its intention that 30% of new asylum applicants would be processed through the new Detained Fast Track system (see below). As a result of these policy shifts, the UK's detention estate has been rapidly expanding, with an arbitrary target of 4,000 detention spaces by 2012.<sup>8</sup>

The general rationale behind immigration detention is the 'risk of absconding.' According to the government, "the removal of those found to be living in the United Kingdom illegally must be a central tenet of any coherent immigration policy. Those who fail to leave voluntarily need to be apprehended and then deported. Deportation rarely happens immediately after apprehension so there is a subsequent need for some form of detention or monitoring as a prelude to the removal of those deemed to have no right to live in the United Kingdom."<sup>9</sup> There is no evidence, however, that people, especially families, systematically 'disappear'. In a report on the detention of children published in November 2010, the House of Commons Home Affairs Committee wondered: "We do not understand why, if detention is the final step in the asylum process, and there is no evidence of families systematically 'disappearing' or absconding, families are detained pending judicial reviews and other legal appeals."<sup>10</sup> The Home Office's argument is in essence that 'effecting removal' or the risk of absconding or of re-offending outweigh the presumption in favour of temporary admission or release,<sup>11</sup> no matter how speculative and arbitrary such a decision may be.

Unlike many European countries, there is no legal limit on how long people can be held in immigration detention in the UK. The term 'administrative detention' means that no form of judicial scrutiny is applied to these decisions and detainees do not have the right to an automatic bail review, as is the case in the criminal and civil justice systems.

According to Home Office statistics,<sup>12</sup> out of 12,820 people who left detention in the first half of 2010, only 8,140 were deported (less than 63.5 per cent). The rest were either released on bail or granted temporary admission or leave to remain, bringing into question why they were detained in the first place. In fact, this figure includes some 2,880 people (22.5 per cent of the total) who were deported after being held for a short period of time at so-called short-term holding facilities (secure cells attached to immigration reporting centres, ports and airports around the country). The number of people who were taken to airports from

detention centres proper is only 5,255 (41 per cent). Statistics for previous years show similar trends.

It is worth pointing out that the Home Office publishes very limited data on its use of immigration detention, making it difficult, to say the least, to hold the government to account in respect to its detention policies. The data published consists simply of monthly or quarterly snapshots of the detention estate on a particular day of the year, as opposed to tracking over time. Thus, there are no detailed statistics available, for example, on the number of people held in detention in the UK every year, the length or outcome of detention and so on.

## 'last resort'

Detention is supposed to be "a final step" in the asylum or immigration process, which often starts with an application to enter to remain in the UK. The primary source of the detention policy is Chapter 55 of the UKBA's Enforcement Instructions and Guidance.<sup>13</sup> It is useful to reiterate its key elements:

- Presumption in favour of liberty in all cases (55.1);
- Identification of circumstances where detention will "most usually be appropriate" (55.1.1);
- "To be lawful, detention must not only be based on one of the statutory powers and accord with the limitations implied by domestic and Strasbourg case law but must also accord with this stated policy" (55.1);
- "Detention can only lawfully be exercised under these provisions where there is a realistic prospect of removal within a reasonable period" (55.2);
- Levels of authority for detention in specific cases (55.5) and timetable of detention reviews by officers of increasing seniority (55.8);
- Duty to provide written reasons for detention and detailed overview of detention forms (55.6);
- Policy in relation to 'special cases', including pregnant women (55.9);
- Identification of persons considered unsuitable for detention (55.10).

We will be referring back to these rules when discussing the various unlawful aspects of immigration detention, particularly in relation to Yarl's Wood. Also relevant are the Detention Centre Rules,<sup>14</sup> especially Rule 35, which concerns special illnesses and torture claims, and the Asylum Policy Instructions on gender issues in the asylum claim.<sup>15</sup>

## fast-tracked

In May 2005, the Home Office introduced a New Asylum Model (NAM), under which asylum claims are put into one of five categories: third country cases; unaccompanied minors; potential non-suspensive appeal (or 'white list'); detained fast track; and general casework. The decision as to which category a case belongs to is made by the Home Office 'caseowner' after the Screening Interview with the asylum applicant. The Fast Track scheme had been piloted at Oakington detention centre since March 2000 and at Harmondsworth since 2003.

Any case from any country can be fast-tracked if it appears, during the Screening Interview, that the case is 'straightforward' and 'can be dealt with quickly.' Asylum seekers on Fast Track are put in detention straight away until their case is decided. Being in detention, and with a very tight timescale, these people have very little time to find adequate legal representation and prepare their evidence. Many of them have sensitive and complex claims such as sexual violence, female genital mutilation, trafficking and domestic abuse. The Detained Fast Track process is currently in operation at Harmondsworth for single men and at Yarl's Wood for single women.

Research by Bail for Immigration Detainees (BID) has shown that the success rate for fast-track appeals determined at Harmondsworth and Yarl's Wood is only 3% and 1% respectively, compared to 14% to 28% for those with appeals heard outside of the Fast Track system.<sup>16</sup> In 2010, a report by Human Right Watch concluded that the system "doesn't meet even the basic standards of fairness. It is simply not equipped to handle rape, slavery, the threat of 'honor killings' or other complex claims, and yet such cases are handed to it regularly."<sup>17</sup> This is in clear contradiction with Chapter 55 of the Enforcement Instructions and Guidance, particularly the presumption in favour of liberty in all cases and the identification of persons considered unsuitable for detention. One can, therefore, argue that detention under the Detained Fast Track system is in many, if not all, cases unlawful.



## quality of decision making

Prior to the introduction of Detained Fast Track, research by the University of Cambridge had highlighted that immigration officers could be subject to peer pressure when deciding to detain someone, as they may feel duty-bound not to reverse or challenge another colleague's decision. The research revealed that 51 percent of immigration officers thought that preventing asylum seekers from absconding was a main reason for detention; 15 percent that encouraging a claimant to withdraw their asylum application was a main purpose, whilst 13 percent gave deterring other people from claiming asylum as a main reason for detention.<sup>18</sup> If true, this would at least be in breach of Chapter 55.2, which states that detention "can only lawfully be exercised" where "there is a realistic prospect of removal within a reasonable period." In other words, the sole purpose of detention should be removing people from the country, not to deter them or encourage them to give up their claims.

The Cambridge researchers also found that detention rates varied significantly between ports, suggesting that some immigration officers were using detention disproportionately. Caseworkers are given the power to make legally binding decisions on whether asylum seekers should be granted or refused asylum and detained after just five weeks of training.

In January 2011, Asylum Aid released a new report on the quality of initial decision-making in women's asylum claims. The report, entitled *Unsustainable*, found that women were too often refused asylum on grounds that were "arbitrary, subjective, and demonstrated limited awareness of the UK's legal obligations under the Refugee Convention."<sup>19</sup> According to the report, some 50 percent of the initial decisions made by UKBA caseworkers were overturned when subjected to independent scrutiny by immigration tribunals. The lawfulness of the decisions to detain some of these women should, therefore, also be questioned, particularly the identification of circumstances where detention will "most usually be appropriate" (Chapter 55.1.1 of the Enforcement Instructions and Guidance).

Immigration officers serve initial reasons for the decision to detain by way of a checklist. The checklist enables officers to indicate the reasons for detention that apply to a particular case. The use of a checklist has been strongly criticised by NGOs for being "too simplistic" to constitute a reasoned notification of the detention decision. Legal experts have further argued that the reasons given for detention are often vague and apply to most asylum seekers, the majority of whom are not held in immigration detention.<sup>20</sup> Again, this would appear to be in breach of Chapter 55.6, which concerns the duty to provide written reasons for detention.

Furthermore, in February 2010, a whistleblower caused a storm when she revealed that asylum seekers were "mistreated, tricked and humiliated" by staff working for the UKBA in Cardiff.<sup>21</sup> Louise Perrett also confirmed that interviews were conducted without lawyers, independent witnesses or tape recorders. If a case was difficult, she said, caseworkers were simply "advised to refuse it" and "let a tribunal sort it out." Only cases raised by MPs appeared to be dealt with properly.

## unlawful

Before we turn to Yarl's Wood and look at more detailed aspects of detention, it is worth noting that administrative detention under the various Immigration Acts is considered unlawful in the following circumstances:

- In the absence of power, wrong power used, or no authority;
- Where there is an existing power, if it is not exercised in a manner that is lawful on public law grounds, in particular if (a) it is not of reasonable (prospective) duration;
- (b) it is contrary to the substantive requirements of published policy;
- If it breaches Article 5 of the European Convention on Human Rights (ECHR), which provides that everyone has the right to liberty and security.

Over the years, there have been many cases in the UK and European courts where the detention of appellants was ruled to have been unlawful. For instance, a number of High Court and Immigration Tribunal judges have ruled that the detention of appellants was unlawful where there was "no prospect of removal within a reasonable period," either because the authorities in the country to which a detainee was to be deported, such as Iran, did not accept that he or she was a national of that country,<sup>22</sup> or because there was no safe route to return them to war-torn countries, such as Iraq, within a reasonable time,<sup>23</sup> or because the appellant had further representations or appeals outstanding<sup>24</sup> or had submitted new evidence that the Home Office had not considered.<sup>25</sup> The detention of people with mental illnesses<sup>26</sup> and victims of rape and torture<sup>27</sup> has also been found unlawful and in breach of Rules 34 and 35 of the Detention Centre Rules 2001. The UKBA's failure to consider referring such claimants to the Medical Foundation for the Care of Victims of Torture was found to be contrary to a policy set out by Baroness Scotland that the agency should consider such referrals.

Yet, for largely political reasons, all these cases do not seem to have been sufficient ground for questioning the lawfulness of the detention system as a whole. Whenever faults and abuses are acknowledged, they are deemed to be isolated cases, attributed to the bad works of some 'bad apples.' One can't but wonder: How many bad apples does it take to realise that it is the barrel that is rotten?

# Yarl's Wood

Yarl's Wood is a purpose-built immigration prison operated by a private contractor on behalf of the UK Borders Agency under the Detention Centre Rules 2001. Located outside the village of Clapham in Bedfordshire, it was opened in 2001. The official name of the prison is Yarl's Wood Immigration Removal Centre.

Yarl's Wood initially accommodated 900 people in two blocks, making it the largest immigration prison in Europe at the time. The management of the centre was contracted to Global Solutions Ltd (GSL), which was then owned by Group 4 Amey Immigration Ltd, as joint venture of Amey Assets Services Ltd and Group 4 Falck.

In February 2002, the prison was burnt down following a protest by detainees that was triggered by a 55-year-old woman being physically restrained by staff. When the fire started, the centre manager ordered all staff to exit the building, locking the detainees inside the timber-framed building. It later emerged that the government had also failed to install a sprinkler system. Although there was an investigation, no members of Group 4 were ever prosecuted.<sup>28</sup> The centre was closed and the burnt B site demolished.

In September 2003, the undamaged half was re-opened after extensive rebuilding, with an initial capacity of 60. The centre's capacity was increased to 120 by August 2004 and to its full operational capacity of 405 by the end of 2005. The other half is still a wasteland.

In April 2007, Serco Ltd took over the management, operation and maintenance of Yarl's Wood, which became the UK's main immigration prison for women and families (until the end of child detention in 2010), with 284 single female and 121 family bed spaces. The contract, which had been awarded in December 2006, started in April 2007 for an initial period of three years, with optional extension to up to eight years. Over the full eight years, the contract is valued at around £85m.<sup>29</sup>

In May 2008, the Home Office announced it would take forward planning applications to create extra spaces at the centre as part of its plans for "large-scale expansion" of Britain's detention estate, but the plans were shelved due to lack of funds.<sup>30</sup> During the first half of 2010, some 1,635 people entered Yarl's Wood. On 30 June 2010, a total of 285 adults were being held there, only 180 of whom were asylum seekers.<sup>31</sup>

Yarl's Wood consists of four units in a large, two-storey building. Until the detention of families was stopped in late 2010, there was a family unit (Crane), with a capacity of 121; a single women induction and first-night unit (Bunting), with 42 beds; and two single women units (Avocet and Dove), with a capacity of 130 and 112 respectively. All Crane rooms, except one, are twin-bedded and interconnected in pairs to allow families to be located together. All Avocet and Dove rooms are twin-bedded, except for two single rooms in Avocet with some adaptations for people with disabilities. Most Bunting rooms, except three, are single. All rooms have simple en-suite toilet and shower facilities. The four units are connected by a central corridor, from which all ancillary areas, including the healthcare centre, can be accessed.

Detainees in Temporary Confinement (TC) under Detention Centre Rule 42 are held in the Kingfisher Separation Unit, in solitary cells called Removal From Association (RFA) rooms. Rooms in Bunting are also sometimes used for this purpose. During 2009, the Bunting RFA rooms were apparently converted into a 'family care suite.' Later that year, a new school building was constructed outside the main compound, formally opening in November that year. There is a Healthcare Centre on site, operated by Serco Health, which provides primary healthcare for detainees, but is not always adequately staffed. Secondary care is referred - at least in theory - to the local Primary Care Trust.

There have been numerous hunger strikes, riots and other forms of resistance by detainees in Yarl's Wood over the years, the 2002 fire being the most famous one. In December 2001, just a month after the opening of the centre, the first hunger strike began with five Roma detainees refusing to eat. In November 2006, a group of detainees rioted after being denied watching a news report criticising conditions at the centre. In May 2007, a month after Serco took over the running of the centre, women detainees began a hunger strike in response to new measures introduced by the new management. Similar hunger strikes took place in June 2009 and February 2010. Both times detainees were said to have been met with violent assaults by Serco security guards attempting to break up the protests. In the latter, four of the women, singled out as 'ringleaders', were transferred to normal prisons and held under immigration detention, without charge, for almost a year.<sup>32</sup>

## part 2: many reasons to shut Yarl's Wood

### discrimination

*“The detention of foreign nationals convicted of criminal offences... is also inherently discriminatory given that where the states’ own nationals are no longer a serving prisoner and no longer pose a risk, they are released.”*

- Committee on Migration, Refugees and Population, Parliamentary Assembly of the Council of Europe, January 2010 <sup>33</sup>

Being the main detention centre for women and families (until 2010), Yarl's Wood has been the subject of much attention from campaigners, refugee support organisations, international NGOs and politicians alike. Various people and groups, including Her Majesty's Chief Inspector of Prisons, have repeatedly criticised the lack of recreational activities in the centre, overcrowding, maltreatment by centre staff, detainees being kept in cells for long periods, lack of privacy, visiting restrictions, limits on making and receiving phone calls, inadequate medical provision and the lack of facilities to deal with serious health problems. Other concerns have included the insufficient provision of interpreting services, which often means that detainees have to interpret for one another, thereby breaching confidentiality and affecting the credibility of the system.

In February 2008, for instance, the Chief Inspector of Prisons reported that “significant concerns remain,” particularly around the “plight of detained children” and “the lack of activity for detainees.”<sup>34</sup> In a report in April in 2009, the Children's Commissioner for England similarly criticised the lack of emotional and welfare support available to children detained at the centre, adding that, in the opinion of the children questioned, being in Yarl's Wood was “like being in prison.”<sup>35</sup>

While alleged improvements to healthcare provision at Yarl's Wood were made during 2009, the Independent Monitoring Board maintained, in its 2009 annual report, its “concerns about the [centre's healthcare] department's responsiveness and about psychiatric provision.”<sup>36</sup> In the same year, the Chief Inspector of Prisons reported that the focus on improving the environment and activities for children - due to a change in government policy and rhetoric, which would later lead to the new coalition government's pledge to end child detention - appeared to have led to “a lack of attention to the needs of the majority population of women.”<sup>37</sup> According to the report, provision of activities for single women was among “the poorest” seen in any detention centre. It had been “inadequate” at the last inspection, it added, but had declined even further. This absence of activity added to the depression and anxiety of women, many of whom were spending lengthy periods at Yarl's Wood.

Article 2 of the International Covenant on Economic, Social and Cultural Rights, which the UK signed in 1968 and ratified it in 1976, obliges the government to provide care to *all* people within its jurisdiction without discrimination. These obligations are elaborated in paragraph 34 of General Comment 14 on the Right to the Highest Attainable Standard of Health, which states that the right to health must include refraining from denying or limiting equal access for all persons.<sup>38</sup> Among other vulnerable groups, the paragraph makes specific reference to asylum seekers and illegal immigrants in this regard. The same could be said about other economic, social and cultural rights. By detaining refugees and migrants in such conditions, the government is arguably breaching its obligations under international law. Indeed, the UK government has recently been criticised, once again, for having “violated the Covenant by discriminating against failed asylum seekers,” as it “fails to provide accessible and good quality health care to immigration detainees and fails to protect them from unnecessary morbidity and mortality arising from detention.”<sup>39</sup>

## how long is 'reasonable'?

*“Detention must be used sparingly, and for the shortest period necessary. It is not an effective use of detention space to detain people for lengthy periods if it would be practical to effect detention later in the process once any rights of appeal have been exhausted.”*

- The UKBA Enforcement Instructions and Guidance, Chapter 55.1.3

*“The UK detains more people for longer periods and with less judicial supervision than any other comparable country in Europe.”*

- UNHCR, 2000 <sup>40</sup>

Administrative detention under immigration powers is supposed to be limited to a period that is *reasonable in all circumstances*. This legal guidance, established by a 1984 case, states that:

- i) The Secretary of State must intend to deport the person and can only use the power to detain for that purpose;
- ii) The deportee may only be detained for a period that is reasonable in all the circumstances;
- iii) If, before the expiry of the reasonable period, it becomes apparent that the Secretary of State will not be able to effect deportation within that reasonable period, he should not seek to exercise the power of detention;
- iv) The Secretary of State should act with the reasonable diligence and expedition to effect removal.<sup>41</sup>

How long is reasonable will depend upon all the facts of the case. In a subsequent guidance case in 2002, Lord Justice Dyson ruled that:

“It is not possible or desirable to produce an exhaustive list of all the circumstances that are or may be relevant to the question of how long it is reasonable for the Secretary of State to detain a person pending deportation pursuant to paragraph 2(3) of schedule 3 to the Immigration Act 1971. But in my view, they include at least: the length of the period of detention; the nature of the obstacles which stand in the path of the Secretary of State preventing a deportation; the diligence, speed and effectiveness of the steps taken by the Secretary of State to surmount such obstacles; the conditions in which the detained person is being kept; the effect of detention on him and his family; the risk that if he is released from detention he will abscond; and the danger that, if released, he will commit criminal offences.”<sup>42</sup>

As indicated above, the High Court has ruled in a series of judgements that detention for lengthy periods with no reasonable prospect of deportation is unlawful. Many detainees who had been detained for months and years but could not be deported to countries such as Somalia and Iraq have been released as a result. But many, particularly those who do not manage to get access to adequate legal representation, continue to be held in prison-like conditions for long periods, with adverse effects on their mental and physical well-being, as well as that of their family members. Their ability to access adequate legal representation is being increasingly restricted by new rules and cuts to Legal Aid. Yet, the government has repeatedly stated that it has no plans to introduce a statutory limit to the length of detention, and has even decided against opting into the EU Return Directive, which imposes a maximum time limit of six months on immigration detention, extendible by a further 12 months in “extremely limited” circumstances.

According to Home Office statistics, the majority of immigration detainees (70 per cent) are held for more than one month. In 2009, the average length of detention in Yarl’s Wood had increased by 50% compared to the previous year. It is important, however, to point out that one of the ways in which the Home Office manipulates detention statistics is by relying too heavily on a crude mean average. Within average figures, there are many extreme cases. On 31 December 2009, out of a total of 2,595, 50 immigration detainees had been in detention for more than two years, 65 for 18 to 24 months, 95 for 12 to 18 months, and 325 for 6 to 12 months.<sup>43</sup> In the first half of 2010, 144 who left detention (either deported or released) had been in detention for over one year, and 36 for over two years.<sup>44</sup> According to Yarl’s Wood’s internal management data, 22 women who left the detention centre in 2009 had been detained for more than a year, compared to 8 in 2008; 161 had been detained for 120 to 364 days, 105 for 90 to 119 days, 189 for 60 to 89 days, and 339 for 30 to 59 days.<sup>45</sup> Yet even these worrying figures are not terribly reliable. In an inspection report on Yarl’s Wood in 2008, the Chief Inspector of Prisons found that the monitoring figures that were provided by the centre’s management to show the length of cumulative detentions were “wholly inaccurate.”<sup>46</sup>

The failure to obtain travel documents or establish a ‘safe route’ to destination countries often leads to prolonged detention, especially if the detainee had previously absconded, has a criminal conviction, or if the UKBA does not believe that he or she is of the claimed nationality.<sup>47</sup> Yet, as the above-mentioned judgements stipulate, these ‘obstacles’ should be considered when making the decision to detain, not used as a justification for prolonging detention. A 2010 ruling concluded that the authorities’ statutory power to detain pending deportation had to be “motivated purely by the need to remove a subject from the United Kingdom, not to ensure his surrender into custody of the authorities operating in the receiving country.”<sup>48</sup> Thus, a person detained not only for the purpose of effecting his or her removal from the UK, but also for the purpose of investigating whether acceptable arrangements may be made to return him or her into detention in the recipient country, is being detained unlawfully. In another 2009 case, the judge ruled that “it was speculation to consider there to be a possibility that the Iranian authorities will change the policy concerning the evidence needed to confirm the identity of someone the UK authorities wish to return to Iran.”<sup>49</sup>

The Home Office has also been using another Orwellian argument to make detainees exercising their legal rights culpable for their extended detention because they “do not assist in the deportation process.” In its reply to the Parliamentary Home Affairs Committee’s report on the detention of children, the government claimed that detention “may be extended for a number of weeks, particularly where families actively resist removal attempts, raise last minute representations or apply for judicial review.”<sup>50</sup> The “vast majority” of these claims, it further claimed, “are spurious and are raised to thwart removal.” However, the Yarl’s Wood Independent Monitoring Board reported in 2009 that it has been “meeting increasing numbers of women [in Yarl’s Wood] who are telling us that they actually want to go home and appear not to understand why they are still being held.”<sup>51</sup> Many of the longer-term detainees at Yarl’s Wood are ex-foreign prisoners who have already served their time in prison.

Countless detainees have given testimonies of the human cost imposed by the lack of a timescale for detention and the “powerlessness and despair” that they experience.<sup>52</sup> Indeed, the largest number of reported complaints by Yarl’s Wood detainees in 2009 concerned immigration issues, with detainees expressing frustration at the length of time they spent in detention, the apparent lack of movement in their cases and the uncertainty surrounding their future.<sup>53</sup> In January 2009, London Detainee Support Group (LDSG) published a damning report on the practice of indefinite immigration detention. The research, which investigated the cases of 188 people who had been detained for over a year and interviewed 24 of them, concluded that indefinite detention is “ineffective, inefficient, opaque, and entails a terrible human cost.”<sup>54</sup> The report’s evidence confirmed what many campaigners and legal experts had been arguing for years: indefinite detention does not often lead to deportation. If the deportation of a rejected asylum seeker or migrant has not been possible after a few months, it is unlikely to become possible later. Only a third of the detainees surveyed in the report were eventually deported; 57 percent were released, having lost “years of their lives in detention to no purpose.” In Yarl’s Wood, between 24 and 48 percent of total admissions every month are released from detention on bail, temporary release or after being granted leave to remain. This must surely call into question the necessity of their detention, at a huge cost to the public purse, in the first place, a provision that is allegedly intended to be a ‘last resort’ and ‘for the shortest time possible.’

## suitable for detention?

*“The UK government, in violation of its own rules, detains vulnerable groups who have serious medical conditions, the mentally ill, survivors of torture and pregnant women.”*

- The People’s Health Movement - UK, 2009

The UKBA’s Enforcement Instructions and Guidance sets out categories of people who should be “normally considered suitable for detention in only very exceptional circumstances.” These include people suffering from serious medical conditions or the mentally ill, and those where there is independent evidence that they have been tortured. There is, however, a lack of a systematic process to identify and ensure the release of such detainees in accordance with these guidelines. On 27 March 2006, for example, the then immigration minister Tony McNulty admitted that he did not know how many women survivors of rape were detained at Yarl’s Wood.

Numerous reports have documented cases of victims of rape and torture being locked up in immigration prisons for lengthy periods. To cite just a few:

- A 2004 study by Asylum Aid found a lack of access for immigration detainees to gynaecological services and services for trauma, torture and rape. The report, entitled *They Took Me Away*, also found that healthcare in detention centres was generally “of poor quality.”<sup>55</sup>
- A 2005 report by Bail for Immigration Detainees (BID), entitled *Fit to be Detained?* and based on research by Médecins sans Frontières, found that, despite having serious mental health problems resulting from rape, torture, trauma and so on, detainees did not have access to adequate mental health support.<sup>56</sup>
- A 2006 report by Legal Action for Women, entitled *A ‘Bleak House’ in Our Times*, found that over 70 percent of the women detained in Yarl’s Wood were rape victims. Few of the 130 women surveyed were able to get specialist help and some were detained for over a year.<sup>57</sup>
- An inquiry by the Chief Inspector of Prisons in 2006 into the quality of healthcare at Yarl’s Wood found that the healthcare service provided was “not geared to meet the needs of those with serious health problems or the significant number of detainees held for longer periods for whom prolonged and uncertain detention was itself likely to be detrimental to their well being.”<sup>58</sup> Mental healthcare provision for women detainees was particularly insufficient. Similar concerns have been echoed by subsequent inspection reports.
- Doctors and experts from Medical Justice, who examined 56 cases over a six-month period in 2007, found that detainees with a history of torture and physical signs “consistent with or typical of” torture, as defined by the Istanbul Protocol on the Reporting of Torture, were being ignored by the Home Office and held in detention for lengthy periods.<sup>59</sup>
- In September 2010, Medical Justice published a report, entitled *State-Sponsored Cruelty*, on children in immigration detention. Whilst focusing on children cases between 2004 and April 2010, 73 adults were reported to have suffered from the physical and psychological effects of detention to such an extent that it affected their ability to care for their children.<sup>60</sup>

Numerous cases referred to BID, Medical Justice, Women Against Rape and other organisations working with detainees continue to echo similar concerns and grievances. In one, now-famous case, a woman rape survivor, who had fled Cameroon after suffering rape and other torture, was detained at Yarl's Wood in December 2006, shortly after her arrival in the UK. She reported to the authorities that she was a rape survivor and, according to the Detention Centre Rules, should have been seen by a medical practitioner within 24 hours. Her report of rape was ignored and she was put on fast-track for deportation. In February 2008, she won £38,000 in damages for being unlawfully detained.<sup>61</sup> While the legal victory was unprecedented, the case is sadly not.

Even where detention healthcare staff do notify the UKBA, as required by the Detention Centre Rules, cases are often not investigated by the Home Office caseworkers or immigration tribunals. In 2009, Medical Justice reported that in at least 20 detainees with physical signs "consistent with or typical of" torture, it was not apparent that this had been investigated, even when reported to the Home Office. In one case, a woman who had fled a West African country after being repeatedly raped and tortured by soldiers had her asylum claim refused and was detained on Fast Track at Yarl's Wood for three and a half months. Despite serious health problems, she was denied treatment and was not seen by a gynaecologist nor screened for sexually transmitted infections. She eventually developed severe depression and post-traumatic stress disorder and was placed on suicide watch for several weeks after harming herself. Yet attempts, albeit failed, were still made to deport her. She was only released after she was seen by a doctor working with Medical Justice.<sup>62</sup> In another case, a medico-legal report prepared by medical experts, who noted that the medical evidence "gives strong support for the history of repeated rapes leading to life threatening gynaecological complications necessitating major surgery," was dismissed by the immigration judge, who apparently said the injuries "could have been caused by other means," without finding it necessary to investigate what these 'other means' could have been.<sup>63</sup>

Various reports have repeatedly noted that detained women with HIV and who were on anti-retroviral drugs have often had their treatment and hospital care disrupted and delayed due to being in detention, thereby putting them at risk of acquiring resistance to their medication. Detainees have also reported experiencing delays in diagnosis of tuberculosis and those on anti-tuberculous drugs have frequently had their specialist treatment disrupted, medical appointments missed, test results showing HIV-positive status withheld until the point of deportation, and so on and so forth.<sup>64</sup>

The Home Office detention rules state that pregnant women are a category of people who are "normally only considered suitable for detention in very exceptional circumstances." UNHCR guidelines similarly state that, as a general rule, the detention of pregnant women in their final months and nursing mothers, both of whom have special needs, should be avoided. Yet, pregnant women continue to be held in detention, where there is a lack of any systematic provision of antenatal and postnatal care.<sup>65</sup> In one case highlighted by Medical Justice, a pregnant woman with a history of diabetes and high blood pressure was detained at Yarl's Wood. The nurses refused to believe that she was pregnant or allow her to test her blood sugar, until she presented them with the results of a miscarriage in a bucket.<sup>66</sup> In breach of the National Institution of Clinical Excellence (NICE) guidelines,<sup>67</sup> women in Yarl's Wood do not have access to their normally hand-held maternity notes, which may include important test results.

As indicated above, the poor quality of health services provided to migrants and refugees locked up in Yarl's Wood and other detention centres not only contravene the detention rules of the UKBA itself, but also international conventions to which the UK is signatory, which require that detainees are provided with the same "highest attainable standard of physical and mental health" available to UK citizens from the National Health Service (NHS).<sup>68</sup> Whilst this is well documented, mainstream organisations and NGOs often fail to go further to explain why this is the case and why the government is unlikely to respond to their recommendations and demands. The systematic discrimination inherent in the concept and practice of immigration detention, coupled with the cost-cutting policies of the profit-driven contractors that run these prisons, mean that these inhumane practices are unlikely to disappear any time soon, unless the whole immigration system is changed.

## 'you'd go mental in this place'

*"The worst feature that emerges from these inspections is the dehumanising aspects of the immigration removal process itself. Some of those we observed in detention had been dealt with by the immigration authorities as though they were parcels, not people; and parcels whose contents and destination were sometimes incorrect."*

- HM Chief Inspector of Prisons Anne Owers, February 2006

Numerous studies have found that detainees' mental health deteriorates in detention.<sup>69</sup> It is well established now that the traumatic nature of detention creates anxiety, depression and isolation and can revive memories of traumatic experiences. Indeed, the studies cited above have found that the levels of depression and anxiety requiring clinical treatment were significantly higher among detainees than non-detained asylum seekers. In 56 cases examined by Medical Justice in 2009, 33 detainees fulfilled the criteria of post-traumatic stress disorder or depression.<sup>70</sup> Yet such people continue to be detained and neglected, and referrals to specialist mental health services are limited and inconsistent, despite numerous expert reports and High Court judgements, and in breach of rules set by the Home Office itself.

There is, perhaps, no clearer evidence of the effect of detention on detainees' mental and psychological well-being than the repeated incidents of self-harm in detention. Figures obtained under the Freedom of Information Act show that there were 183 recorded incidents of self-harm requiring medical treatment in all 11 detention centres in 2010.<sup>71</sup> Only six of these were in Yarl's

Wood, of which at least three were suicide attempts. Reported methods used have included drinking bleach and other toxic substances, hanging and slitting wrists.<sup>72</sup> During the same year, 1,467 detainees were placed on self-harm watch, or what is known as 'Formal Self-Harm at Risk'. Of these, 193 were recorded at Yarl's Wood, ranking fourth among all detention centres. However, like other detention statistics, these figures may not be very reliable and many believe the actual number of self-harm incidents to be much higher than reported.

Self-harm or suicide attempts in detention do not necessarily lead to treatment or release. Instead, they may lead to the detainee being transferred to an isolation cell or a high security prison, or sectioned under the Mental Health Act, only to be detained again after being released from their section. In 2009, HM Inspector of Prisons found that the understanding and management of self-harm at Yarl's Wood was often superficial, with security taking precedence over health: "Many women were extremely anxious about their future, and the quality of support procedures for those at risk of self-harm was not consistently good, though there was some caring individual work. There had been no assessment of adult mental health needs."<sup>73</sup> Previous inspection reports, for example one in February 2006, had made similar criticisms about the centre.

The mental and psychological effects of detention can persist for years after release, as testimonies from former detainees have shown. In the words of one detainee, "If any single normal person came to this place, you'd go mental, mad in this place. I was a normal person before coming to this place, and now, I'm forgetting things always. Like old people that forget things. I can't understand, I'm not the same person. I'm a different person."<sup>74</sup>

Some of these people have been "driven to desperate measures" and taken their own lives. Research by the Institute of Race Relations has documented at least seven cases between 2006 and 2010 where detainees took their own lives after giving up on the system.<sup>75</sup>

## 'humane accommodation'

*"The security went outside and used shields like they do when there is a war. That is what they used to smash one of the women who was outside."*

- Yarl's Wood detainee during the February 2010 hunger strike, *The Observer*, 28 February 2010

In December 2003, the Prisons and Probation Ombudsman for England and Wales launched an investigation into allegations of racism and physical abuse at Yarl's Wood revealed by a *Daily Mirror* undercover reporter on 8th December 2003. The inquiry's final report, published in March 2004, was largely based on the internal investigation by the centre's management, which the Ombudsman described as having been "helpful." Although admitting that the 19 incidents reported did happen, the investigation concluded that they "did not indicate a culture of racism and improper use of force."<sup>76</sup> In any case, this was before Serco Group PLC took over the management of the centre from Global Solutions Ltd (GSL). But not much has changed since Serco's takeover, neither in the nature of allegations of racist and violent abuse at the hands of private security guards reported by detainees, nor in terms of where such investigations or inquiries may lead to.

In its 2009 annual report, the Yarl's Wood Independent Monitoring Board reported a 26% increase in the recorded instances of use of force at the centre (48 cases, compared with 38 in 2008).<sup>77</sup> This was apparently "owing to a change in the recording process, to include occasions where an officer uses force to prevent self-harm," implying that many incidents may not have been reported in the past. In one of the cases viewed, the IMB member considered the force used to have been "excessive." The board also reported one case where a tape was "wiped" before the IMB member could see it. In November 2009, the Chief Inspector of Prisons reported that, on two occasions in the previous year, force had been used on children. The inspectors were "assured" that these events were "exceptional" and "properly authorised and planned."<sup>78</sup>

Independent Monitoring Boards across the detention estate have repeatedly expressed their "extreme concern" about restrictions on their access to detainees' complaints. In March 2009, the UKBA's Detention Services finally agreed to produce a monthly report to each IMB, setting out brief details of complaints received from detainees. The reports gave the name of the detainee, a brief indication of the subject-matter of the complaint and its destination. Whilst this was described as "helpful," the IMB's Forum of Chairs did not consider that "it was adequate to enable IMBs to properly monitor the just and humane treatment of detainees, which must include how their complaints are dealt with."<sup>79</sup> For example, the reports would not indicate whether the same officer had been involved in more than one incident of alleged mistreatment.

Yarl's Wood's monthly reports to the IMB during 2009 were described as "at best sporadic." Moreover, since December 2008, complaints to the UKBA's Professional Standards Unit (PSU), which IMBs were "most concerned to know about," were not made available to them.<sup>80</sup> In November 2009, an agreement was reached with the UKBA for copies of detainees' complaints to be emailed to the IMB chair at the centre via a secure system. Again, while this "restoration of access" to complaints was welcomed by the IMB, it was criticised for being "not complete." For example, where a detainee was moved from the detention centre, it was not possible for the IMB at any subsequent centre to follow up an earlier complaint.<sup>81</sup> This is particularly important in light of claims that one of the tactics used by the immigration authorities and their contractors to 'deal with problems' is to move 'trouble-causing' detainees around the detention estate. There is also evidence that detainees lodging complaints are subjected to harassment and further abuse, which may deter other from complaining in the future.<sup>82</sup>

On 8th February 2010, three days into a mass hunger strike by Yarl's Wood detainees demanding an end to indefinite imprisonment and abuse, both grassroots and mainstream media reported that Serco security guards, some with riot shields, had attempted to break up the protest by using excessive force against women detainees.<sup>83</sup> A series of audio interviews with the hunger strikers described how 70 women were locked in a corridor for 6 hours without access to food, water, toilet or medical care.<sup>84</sup> Many collapsed and about 20, who apparently climbed out of a window, were reportedly beaten up by the guards and taken into isolation cells. An image taken on a mobile phone and passed on to the media showed extensive bruising to one woman's shoulder and legs. Another woman reported she had a window slammed on her hand by guards. Detainees also said that they were racially abused, with guards calling them, amongst other things, "black monkeys." An ambulance called by the detainees was apparently not allowed in as the centre's management claimed that paramedics were "not required because the most significant injury was [a] fingernail injury." Members of the centre's Independent Monitoring Board and Bedfordshire police are said to have been present during the assaults but no action was taken.<sup>85</sup>

Four of the women, who were singled out as 'ringleaders' or 'key organisers' of the protest, were put in isolation for four weeks, then moved to HM Holloway Prison, where three of them were held for over a year without charge or trial.<sup>86</sup> The women also say they were denied adequate medical treatment for the injuries they sustained from assaults during the hunger strike. One of them, Denise McNeil, who had spoken to the media<sup>87</sup> about the hunger strike and the guards' use of violence, believes the subsequent assaults on her and her removal to prison were "to silence protesters."<sup>88</sup>

A previous hunger strike, in June 2009, was accompanied by similar accounts of violent assaults on detainees by Serco guards. Men and women were reportedly beaten up and one woman had her clothes ripped off by guards while being filmed. Detainees reported that many of them were "severely traumatised." One woman told supporters on the phone that the level of brutality was "unbelievable" and she had "never seen anything like it before."<sup>89</sup>

After each of these disturbances, campaigners and sympathetic MPs demanded an inquiry into the events. Judging from previous cases, however, official inquiries into alleged abuse in detention do not appear to ever produce concrete results.<sup>90</sup> In fact, the Home Office and Serco deny that there was even a protest in Yarl's Wood in February 2010. Their preferred course of action was to write to MPs and the media, through the then Parliamentary Under-Secretary of State at the Home Office Meg Hillier MP, denying that there had been a hunger strike and claiming that campaigners' reports were "inaccurate and fabricated."<sup>91</sup> Solicitors and detainee support groups, such as Black Women's Rape Action Project, have collected witness statements from over 50 of the women involved in the hunger strike and found their claims of racist abuse, physical and other violence to be "entirely consistent."<sup>92</sup> It remains to be seen whether legal action will get them anywhere.

In January 2011, a second inquest into the suicide of a 14-year-old at a Serco-run secure centre concluded that the unlawful, excessive use of force by guards against the vulnerable child may have contributed to his death in 2004. The jury found that Serco staff at Hassockfield were "not properly trained" in High Risk Assessment Team (HRAT) procedures, nor had they been adequately trained in the use of Physical Control in Care (PCC) techniques.<sup>93</sup> It is not unreasonable to suspect that staff at adult-populated immigration detention centres would be even less adequately trained and monitored. The UKBA has repeatedly rejected Freedom of Information requests asking for an unredacted copy of its guidance on the use of force provided to private contractors.<sup>94</sup>

Meanwhile, stories of daily 'routine abuse' of Yarl's Wood detainees continue to emerge. On 6th December 2010, for instance, a woman reported that she was "physically assaulted and verbally abused" by two male and one female Serco guards during one of their routine monthly searches of inmates' rooms. A male officer, she claimed, called her "a prostitute" and "an illegal immigrant," breaching her confidentiality by revealing aspects of her asylum claim to other women and officers present. The manager then arrived and, instead of asking what had happened, he allegedly bent both her hands back and pressed her against the wall, pulling out some of her hair. The woman was then taken into isolation, where she said she was denied food and kept in a cold room for two days. She called the police but they apparently did nothing as there was "no blood."<sup>95</sup> Other women said they were reluctant to go public about the abuse they claim they suffered as they feared retribution, but some have spoken out after being released.<sup>96</sup>

Detainees' claims of abuse and retaliation are often dismissed as 'exaggerated' or the authorities' response deemed a 'reasonable' use of force. Human rights campaigners say this may lead to a culture of abuse among guards and detention staff; a culture reinforced by allegations never being properly investigated and alleged perpetrators, as well as the companies that employ them, never brought to justice. In fact, campaigners argue that the immigration authorities do this on purpose in order to send a message to detainees (and other refugees and migrants outside) that any form of protest or non-compliance will not be tolerated.

A 2008 report, entitled *Outsourcing Abuse*, revealed evidence of "widespread and seemingly systemic abuse" of deportees at the hands of private 'escorts' contracted by the Home Office, and that assault claims have "largely been brushed off by the Home Office."<sup>97</sup> The report by Birnberg Peirce & Partners, Medical Justice and the National Coalition of Anti-Deportation Campaigns documented 300 alleged assaults against asylum deportees between January 2004 and June 2008, including 48 detailed case studies. It found that, in all cases, what may have started off as 'reasonable' force turned into what the authors considered to be excessive force. Most of these assaults are said to have taken place on the way to or from the airport, but 40 are said to have taken place in detention centres. Of these, 13 were at Yarl's Wood and Serco staff were implicated in at least four of them.<sup>98</sup> In one of the cases, a victim of trafficking, who was later found to have been under 18 at the time, was, according to the report, carried out of her room by predominantly male guards, racially abused and then put in isolation without warm clothes or food and drink. The whole incident was apparently filmed.

According to the government's Detention Centre Rules 2001, the purpose of detention centres is "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." Needless to say, neither the government nor its detention contractors nor detainees and their supporters really believe this. But as far as legal



arguments go, it may be worth asking: Has Serco been providing a “humane accommodation” in a “relaxed regime” at Yarl’s Wood? Has it been “respecting [detainees] dignity and the right to individual expression”? In short, has Serco fulfilled its obligations as a contractor under the Detention Centre Rules and other relevant legislation? In reference to the above-mentioned incidents, the following Rules in particular may have been breached and require further investigation: Rule 40 (Removal from association); Rule 42 (Temporary confinement); Rule 41 (Use of force); Rule 43 (Special control or restraint); Rule 45 (General duty of officers); and Rule 48 (Contract monitor).

## slave labour

*“People who work without papers to try and feed their families are arrested for illegally working and detained. But once they get to Yarl’s Wood they can work for next to nothing. The UKBA and Serco are hypocrites. They are taking advantage of people’s situation.”*

- Nordia Hylton, ex-Yarl’s Wood detainee

In January 2011, media reports revealed that women detained at Yarl’s Wood were being paid 50p an hour for doing menial tasks, including cleaning and working in the canteen, sometimes outnumbering Serco staff.<sup>99</sup> Detainees described the work as “modern-day slavery” and accused the UKBA and Serco of exploiting them. Refugee support organisations described this as “a cruel irony” given that asylum seekers are not allowed to work outside detention. Section 15 of the Immigration, Asylum and Nationality Act 2006 states that “it is contrary to this section to employ an adult subject to immigration control if... he has not been granted leave to enter or remain in the United Kingdom.”<sup>100</sup> Under Rule 17 of the Detention Centre Rules, however, paid work ‘opportunities’ may be provided in detention centres.

Like prisoners, immigration detainees are exempt from minimum wage legislation in accordance with Section 59 of the Immigration, Asylum and Nationality Act 2006. However, Detention Services Order 15/2008 states that detainees should be paid £1.00 per hour for “routine work,” such as cleaning, and £1.25 per hour for “specified projects,” such as painting.<sup>101</sup> The accusations against Serco of exploiting Yarl’s Wood detainees are not, therefore, without legal basis, even according to the Home Office rules themselves. Despite the lack of conclusive evidence, it is not difficult to imagine that this is a result of cost-cutting policies by the “highly profitable” outsourcing company that runs the centre.

The UKBA insists that detainees are “not forced to work” and that “this is voluntary.” They are, however, “forced in the sense that they are locked up for 24 hours a day, uncertain of their future and with no money to purchase any essentials they may need,” as Tracy Ellicott from the Campaign to Close Campsfield put it in relation to similar revelations in 2008 about Campsfield House detention centre near Oxford.<sup>102</sup> Detainees, especially those who do not have anyone to visit and support them, take on the work, despite the pitiful remuneration, in order to be able to buy phone cards to call their families abroad and such like.

Detainees are also charged £10 for their healthcare notes. When asked by detainee support groups to reduce the price for obtaining them, the Home Office responded that detainees were “not generally poor” and many had “lots of money,” while others “worked” in detention and could “easily afford to spend £10” on their medical notes.

Campaigners against prison slave labour have also argued that forcing or enticing prisoners and detainees to work is not only about exploiting this captive workforce but also has to do with subduing them into a compliant state through such schemes as the Earned Privileges (IEP) scheme, introduced into UK prisons in 1995.<sup>103</sup> The Home Office detention guidelines specify that “Detainees should be advised on taking paid work that work opportunities are a privilege and a position of responsibility and are subject to their active co-operation. They will no longer qualify for work opportunities if they cease to actively co-operate.”<sup>104</sup> The guidelines then cite examples of ‘non-compliance’ including “refusal to complete application forms,” “failure to attend an interview without good reason” and “disruptive behaviour either in the centre or during attempts to remove them.” In other words, attempt to express

# notes & references

- 1 The government and media hype about 'foreign national criminals' has led to thousands of migrants and refugees being deported *after* serving their sentences. Although some are convicted of serious offences, the majority are convicted of minor offences, such as shoplifting, often a result of immigration policies that pushed them into poverty and destitution. Many drug- or prostitution-related offences are also caused by this. Other common offences include using fake documents to work or enrol in college or open a bank account - again, a result of immigration policy that denies asylum seekers and other migrants the right to work - or using false documents to either try and leave the country after their claims had been rejected and they give up on the system, or simply trying to enter the UK to seek refuge and safety, a universal right under international law. The use of this latter 'offence' to dismiss asylum claims has been condemned by many international organisations and even judges (see, for example, Robert Verkaik, 'Asylum-seekers put at risk by law, warns top judge', *The Independent*, 2 July 2008).
- 2 The name of immigration prisons was officially changed from Detention Centres to Immigration Removal Centres (IRCs) with the Nationality, Immigration and Asylum Act 2002. However, legal studies exploring the difference between prison and immigration detention have concluded that "there is little practical difference between many of the features of immigration detention and imprisonment" and that "those held in immigration detention are in many ways treated like prisoners even though they have neither been convicted of, nor charged with, a criminal offence." (Groves, 'Immigration Detention vs. Imprisonment: Differences Explored', *Alternative Law Journal*, 2004.)
- 3 Hansard, 4 Feb 2010: Column WA67. (<http://www.publications.parliament.uk/pa/ld200910/ldhansrd/text/100204w0002.htm>) The Home Office has consistently refused to reveal the total costs of operating detention centres for reasons of "commercial confidentiality." However, the annual budget for the Criminality and Detention Group, which oversees the detention estate, foreign prisoner removals and criminal casework, is just over £195 million. (Home Affairs Committee, 'Minutes of Evidence', 16 November 2009, <http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/970/09091609.htm>)
- 4 Home Office, *The Detention Centre Rules 2001*, Rule 3(1). <http://www.legislation.gov.uk/uksi/2001/238/article/3/made>.
- 5 The powers to detain include: Schedule 2, paragraph 16, Immigration Act 1971 (which states that immigration Officer may detain persons arriving in the UK pending examination and pending a decision to give or refuse leave to enter, and persons in respect of whom there are "reasonable grounds for suspecting" they have been refused leave to enter or are illegal entrants pending a decision whether to give directions and pending removal); Section 10(7), Immigration and Asylum Act 1999 (which extended the powers to detain to those liable to removal); Schedule 3, paragraph 2, Immigration Act 1971 (the Home Secretary's powers to detain pending deportation); Section 62, Nationality, Immigration and Asylum Act 2002 (which extended the Home Secretary's powers to detain further); Section 36, Borders Act 2007 (which introduced new powers to detain in relation to those liable to automatic deportation under the same Act).
- 6 Home Office, *Controlling our borders: Making migration work for Britain*, February 2005. p.10. <http://www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf>
- 7 Hansard, 27 Mar 2001: Column 246. <http://www.publications.parliament.uk/pa/ld200001/ldhansrd/vo010327/text/10327-27.htm>
- 8 'Large scale expansion of Britain's detention estate', *Government News*, 19th May, 2008. [http://www.gov-news.org/gov/uk/news/large\\_scale\\_expansion\\_of\\_britain39s\\_detention/100194.html](http://www.gov-news.org/gov/uk/news/large_scale_expansion_of_britain39s_detention/100194.html)
- 9 House of Commons Home Affairs Committee, *The Detention of Children in the Immigration System*, First Report of Session 2009–10, printed 24 November 2009. p.5. <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/73/7304.htm>
- 10 Ibid. p.6.
- 11 Home Office, *Enforcement Instructions and Guidance*, Section 55: Detention and Temporary Release - 55.1: Policy. <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/chapter55.pdf?view=Binary>
- 12 All official immigration and asylum statistics can be found at <http://rds.homeoffice.gov.uk/rds/immigration-asylum-stats.html>. The figures given above for the first half of 2010 are calculated from quarterly statistics.
- 13 The *Enforcement Instructions and Guidance* can be found at <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/>.
- 14 The *Detention Centre Rules 2001* can be found at <http://www.legislation.gov.uk/uksi/2001/238/contents/made>.
- 15 The *Asylum Policy Instructions* can be found at <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/>.
- 16 Bail for Immigration Detainees, *BID Briefing paper on the Detained Fast Track*, March 2008. <http://www.biduk.org/download.php?id=31>
- 17 Human Rights Watch, *Fast-Tracked Unfairness: Detention and Denial of Women Asylum Seekers in the UK*, February 2010. <http://www.hrw.org/sites/default/files/reports/uk0210webwcover.pdf>
- 18 Weber and Gelsthorpe, *Deciding to detain: How decisions to detain asylum seekers are made at ports of entry*, 2000. (University of Cambridge: Institute of Criminology, 2000).
- 19 Muggerridge and Maman, *Unsustainable: The Quality of Initial Decision-Making in Women's Asylum Claims*, Asylum Aid, January 2011. <http://www.asylumaid.org.uk/data/files/publications/151/UnsustainableWEB.pdf>
- 20 Weber, L. 'Down that wrong road: Discretion in decisions to detain asylum seekers arriving at UK Ports', *Howard Journal of Criminal Justice*, vol. 42, no.3 (July 2003), pp. 248-262.
- 21 Diane Taylor and Hugh Muir, 'Border staff humiliate and trick asylum seekers – whistleblower', *The Guardian*, 2 February 2010. <http://www.guardian.co.uk/uk/2010/feb/02/border-staff-asylum-seekers-whistleblower>
- 22 R (C) v SSHD [2010] EWHC 1089.
- 23 MI (Iraq) v SSHD [2010] EWHC 764.
- 24 [2009] EWHC 1980 (Admin); and [2009] EWHC 735 (Admin).
- 25 [2009] EWHC 2363 (Admin); and [2009] EWHC 1324 (Admin).

- 26 Anam v Secretary of State for the Home Department [2010]; and [2009] EWHC 1989 (Admin).
- 27 R (Albertina Ferreira Malunga) v SSHD [2010] EWHC 684 High Court (QBD); and R (PB) v Secretary of State for the Home Department [2008] EWHC 3189 (Admin).
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In a forthcoming briefing, Corporate Watch will be taking a more detailed look at the companies profiting from immigration detention.