

IMMIGRATION DETENTION IN THE UK

*Submission to the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment or
Punishment*

by

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1 Our main concern is the **great increase in immigration detention** in the UK, from some 100 places in the early 1990s to over 3,000 today. As of February 2012, the UK ‘detention estate’ stood at 3,219 bed spaces.ⁱ The detention estate does not include police cells and ‘short term holding facilities’. Nor does it include prisons, where at any one time, a further 800 or so people (some 18-20% of the total held in ‘removal centres’) people are held under statutory powers. A small ‘pre-departure family accommodation unit’ was opened at Peas Pottage, Sussex, near Gatwick airport, in 2011. Thus at any one time, over 4,000 people are being held under immigration law powers

2 We believe that **private companies, motivated by personal financial gain, have largely driven this expansion.**ⁱⁱ It is matter of concern that an ever-increasing proportion (currently over 75% of places) of immigration detention centres in the UK are run by companies such as GEO (Global Expertise in Outsourcing alias Wackenhutt), Kalyx (a Sodexho subsidiary), GSL (Global Solutions Ltd), Group 4/Securicor, Premier Custodial Group Ltd (a Serco subsidiary), and Mitie.

3 Our main concern is based on a conviction that it is **against the human rights of those detained to lock up innocent people without charge for an indefinite period without judicial oversight and without proper reasons given in writing, and without proper access to legal representative.** The increasing use of ‘administrative detention’ is also prejudicial to the human rights of everyone in the country.

4 None of those held in detention under Immigration Act powers is in detention because they are serving time for a custodial sentence following a criminal conviction. That is, **almost all those detained are innocent of any crime.** In the small minority of cases where the immigration detainee has previously been convicted of crime and paid the penalty of a prison sentence, they have already served all their prison time and should no longer be held. (It should be noted that parliament had in recent years enacted law by which it is a ‘crime’ to travel into, work or live in the UK without the ‘correct’ immigration documents approved by the government.)

5 The lack of time limit on immigration detention in the UK means that **many people are detained for months, some for years:** there are cases of people being detained under Immigration Act powers for up to 8 years.ⁱⁱⁱ There are no signs of any substantial improvement in this state of affairs in recent years.

6 Such **detention without time limit may be argued to be, if not mental torture, then cruel and degrading treatment.** We have strongly argued this in submissions to international human rights bodies.^{iv} Medical studies by

psychologists and psychiatrists support this point.^v We believe human rights organisations should pay more attention to this aspect of detention.

7 A convicted criminal in the UK knows when he/she may be released. An immigration detainee does not. This is just one example of a way in which **an immigration detainee (who is innocent of any crime) is treated worse than a convicted criminal**. This is wrong.

8 The UK government fails even to follow its own guidelines on detention with regard to

- a) who should not be detained (victims of torture, pregnant women, children or minors are not infrequently detained) ;
- b) detention being used only as a last resort (it is clear that in many cases alternatives to detention have not been properly considered: this frequently becomes clear in bail hearings or court action against the UK Border Agency) ; and
- c) detention being used only when ‘deportation is ‘imminent’’: in many cases where the Home Office argues that the person is about to be deported there is no prospect of the necessary documentation being obtained within the foreseeable future, e.g. four weeks.

9 The prevailing ‘culture of disbelief’ and lack of respect for migrants and asylum seekers in the UK Border Agency’s dealings is manifest in the well documented verbal and physical abuse of immigration detainees, in detention and particularly during deportation. The family of Jimmy Mubenga, an Angolan who died at the hands of private company G4S guards on board a British Airways flight at Heathrow last year, is still seeking justice: neither the company nor individuals have been charged with a criminal offence. An extensive dossier on physical abuse and assaults on deportees and detainees was published in 2008.^{vi}

10 A **culture of impunity** with regard to individuals and organizations involved in the detention and deportation of people in the UK continues to operate . The latest example of this is the decision by the Crown Prosecution Service not to prosecute individuals or their employer for causing the death of Jimmy Mubenga. His widow, Makenda Adrienne Kambana, said: ‘We are distraught my husband has been taken away from me and my children have lost their father. He was crying for help before he was killed. We can't understand why the officers and G4S are not answerable to the law as we or any other member of the public would be.’ A link to the report in the *Guardian* newspaper is provided in the endnotes to this submission^{vii}, and we would strongly advice the CPT to read it.

11 UK immigration detainees are pressurised (through boredom, financial incentive, seeking to please authorities) to work for 50 pence an hour in kitchen, cleaning and other jobs in the detention centre. **This is a cynical cost-cutting exercise by the private companies, which thus profit from the ‘slave labour’.** It flouts the spirit of UK Minimum Wage law, and is a gross exploitation of people who are in a very vulnerable situation. The practice has been condemned by trade union and other organisations in the UK.^{viii}

12 Until a detainee has his/her immigration status resolved or asylum application finalized, there is only one way he/she can obtain their natural liberty: by convincing an ‘immigration judge’ at an immigration bail hearing in one of the 12 courts across the UK of the First Tier of the Tribunals Service (Immigration and Asylum) that the Home Office is not justified in detaining him/her. **Extensive studies of immigration bail hearings have shown that they amount in many case to no more than a travesty of justice.**^{ix}

13 In these hearings the ‘immigration judge’ (who faces much lower entrance qualification requirements than for judges in other courts of the UK) is often seen not to be impartial, the Home Office representative being treated leniently while the bail applicant (the detainee) is frequently not properly treated. This is well documented in the study *Immigration Bail Hearings: A Travesty of Justice* referred to in the note above. The following is the account of one detainee of his bail hearing:

“This judge completely ignored the ethical requirement of the profession that gives no room for any partiality between the contending parties. He addresses me uncaring of the consequences of his utterances. The hatred he has for me was so manifest. He was blunt in his approach and he was openly prejudiced towards me. I felt so humiliated by his actions.

“He reacted stating that his advice for me was to withdraw all my judicial review claims and get on the plane to Nigeria if I do not want to continue suffering myself in detention. He said I’m the one suffering myself and he could not help my situation unless I help myself by getting on the plane to Nigeria. He never commented on my medications and condition in particular but concluded that the onus is on me to save myself the pain of detention.”

(Extract of complaint from Abiola Ayobola, 28 July 2011, then a detainee at Campsfield “House”, about his bail hearing held via video link.)

14 **Children are held in detention centres.** In June 2010 the incoming coalition government of the UK promised to end detention of children. This has not happened. It obviously should. But in September 2011 the government opened a new family and children detention centre at Pease Pottage in Sussex, naming it ‘The Cedars’.^x Families with children are still being detained at

Tinsley centre near Gatwick airport.

15 There are **serious concerns about the quality of medical care available to immigration detainees**. Access to health care in detention centres is subject to considerations of profit, which is not (yet) the case for the general public in the UK and should not be for those in detention. Recommendations that trained mental health nurses should be available^{xi} have not been carried out.

16 It is our belief that **the gradual creation of “Fortress Europe” not only in the UK but in EU and buffer countries to the east and on North Africa is not only unjust but unsustainable**. Serious attention to the above concerns will show that to be the case.

17 Quite apart from the above, the Campaign to Close Campsfield also believes that the following is necessary:

- Close Campsfield, other detention centres, and detention wings in prisons;
- Stop immigration detentions and imprisonment;
- Stop racist deportations;
- Repeal immigration laws which reinforce racism.

20 November 2011

ENDNOTES

ⁱ Association of Visitors to Immigration Detainees, ‘Immigration Detention in the UK: Residential Detention Spaces’, February 2012.

ⁱⁱ Christine Bacon (2005) *The Evolution of Immigration Detention in the UK: The Involvement of Private Prison Companies*, working paper 27, Refugee Studies Centre Oxford

ⁱⁱⁱ *Detained Lives: The real cost of indefinite immigration detention*, London Detainee Support Group, 2009.

^{iv} *Causing Mental Illness Is Cruel and Inhuman Treatment*, submission to the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, from Barbed Wire Britain Network to End Refugee and Migrant Detention, September 2008.

^v 1. *Warehousing: inventory of refugee rights*. 2005. Washington DC: US Committee for Refugees and Immigrants, 2005.

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- 2 Silove D, Steel Z, Watters C. "Policies of deterrence and the mental health of asylum seekers". *JAMA* 2000;284: 604-11.
- Sultan A, O'Sullivan K. "Psychological disturbances in asylum seekers held in long term detention: a participant-observer account". *Med J Aust* 2001;175: 593-6.
- 3 Mares S, Newman L, Dudley M, Gale F. "Seeking refuge, losing hope: parents and children in immigration detention". *Aust Psych* 2002;10: 91-6.
- 4 Steel Z, Momartin S, Bateman C, Hafshejani A, Silove D. "Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia". *Aust N Z J Pub Health* 2004;28: 527-36.
- 5 Palmer M. *Inquiry into the circumstances of the immigration detention of Cornelia Rau*. Canberra: Commonwealth of Australia, 2005.
- 6 Amnesty International. *UK: Seeking asylum is not a crime: Detention of people who have sought asylum*. London: Amnesty International, 2005.
- 7 Fazel M, Stein A. "UK immigration law disregards the best interests of children". *Lancet* 2004;363: 1749-50.
- 8 McCleish J, Cutler S, Stancer C. *A crying shame: pregnant asylum seekers and their babies in detention*. London: Maternity Alliance, Bail for Immigration Detainees and London Detainee Support Group, 2002.
- 9 Salinsky M, Dell S. *Protection not prison: torture survivors detained in the UK*. London: Medical Foundation for the Care of Victims of Torture, 2001.
- 10 Porter M, Haslam N. "Predisplacement and postdisplacement factors associated with mental health of refugees and internally displaced persons: a meta-analysis". *JAMA* 2005;294: 602-12.
- 11 Mina Fazel and Derrick Silove (2006), "Detention of Refugees", *British Medical Journal*, 332: 251-252 (4 February)
- 12 Derrick Silove (2000), "Policies of Deterrence and the Mental Health of Asylum Seekers", *Journal of The American Medical Association*, 284, 5, 604-611 (2 August)
- 13 Derrick Silove, Patricia Austin and Zachary Steel (2007), "No Refuge from Terror: The Impact of Detention on the Mental Health of Trauma-affected Refugees Seeking Asylum in Australia", *Transcultural Psychiatry*, 44, 3, 359-393. August 2, 2000 Vol. 284

^{vi} *Outsourcing Abuse: The use and misuse of state-sanctioned force during the detention and removal of asylum seekers*, Birnberg Peirce, Medical Justice, and National Coalition of Anti Deportation Campaigns, 2008.

^{vii} <http://www.guardian.co.uk/uk/2012/jul/17/jimmy-mubenga-death-fresh-questions>

^{viii} *Slave wages at Campsfield – statement by Oxford Trades Union Council, Campsfield Monitor, 2008.*

^{ix} *A Nice Judge on a Good Day: Immigration Bail and the Right to Liberty, Bail for Immigration Detainees, 2009; Immigration Bail Hearings: A Travesty of Justice? Observations from the Public Gallery, Campaign to Close Campsfield Bail Observation Project, 2011.*

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http://www.google.co.uk/search?hl=en&q=Home+Office+Pease+Pottage+Cedar+s&meta=&rlz=1I7GGLL_en-GB

^{xi} CPT, *Report to Government of the United Kingdom, December 2009.*