Immigration detention, punishment, and the criminalization of migration

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ABSTRACT

This chapter will set out the historical development, typologies, experiences, and impacts of immigration detention, concentrating on Australia, the United Kingdom, the European Union, Canada, and the United States. The aim of this chapter is to show the relevance of immigration detention to the field of criminology, including the ways in which this form of incarceration is similar to and different from 'traditional' penal logics and institutions. In doing so, it will highlight how immigration detention reflects the broadening reach of penal power and of race, gender, and postcolonial relations in a globalizing world.

INTRODUCTION

Since the turn of the century, immigration detention has garnered increased attention among scholars across a variety of disciplines, including anthropology, geography, psychology, medicine, law, and sociology. It is all the more surprising then, that until recently it has rarely been the subject of criminological scrutiny. Although, as this handbook attests, these days there is a burgeoning field of border studies within criminology (see McCulloch and Pickering 2012; Aas and Bosworth 2013; Guia et al. 2013), much of the work is very recent. If we narrow the lens further to criminological accounts of immigration detention, there are only a handful of texts, few of which contain any detail about the lived experience of this form of confinement (see, for

example, Welch 2002; Pratt, 2005; Leerkes and Broeders 2010; Grewcock 2011; Bosworth 2012; Bosworth 2013). Administrative rather than penal (Hernandez 2008), immigration detention seems to have been eclipsed by the prison, notwithstanding the long-standing ties between them (Simon 1998; Bosworth and Kaufman 2011; Kaufman and Bosworth 2013).

As the use of detention for immigration purposes continues to rise among countries of the western world (see Sampson and Mitchell 2013), questions about its purpose, justification, and legitimacy can no longer be ignored. The growing "use of penal tactics to manage international conflict and migrant and refugee flows" (Martin and Mitchelson 2009: 460) present important lines of inquiry for scholars of punishment and others interested in the expansion of penal power under conditions of globalization. Similarly, the racialized and gendered nature of immigration detention reveal interconnections between migration, criminal justice, and entrenched legacies of colonialism and imperialism in contemporary border control efforts and responses to mass mobility.

This chapter sets out the historical development, typologies, experiences, and impacts of immigration detention in Australia, the United Kingdom (UK), the European Union (EU), Canada, and the United States (US). While drawing attention to its historical roots, the analytical focus is primarily on the expanding policies and practices of detention in these places since the late 1990s and early twenty-first century.[i] The aim of this chapter is to show the relevance of immigration detention to the field of criminology, including the ways in which this form of incarceration is similar to and different from 'traditional' penal logics and institutions. In doing so, it will highlight

how immigration detention reflects the broadening reach of penal power and of race, gender, and postcolonial relations in a globalizing world.

OVERVIEW

Immigration detention is not new. However, states have been most active in pursuing immigration detention policies and expanding practices since the late 1990s. At present, most countries utilize some form of detention as part of their immigration and border control policies, although the structures, functions, and purposes vary. What most countries share, however, is a predominant focus on 'unauthorized' migrants—those 'irregular', 'illegal', 'alien', or 'undocumented' persons who lack formal immigration approval to enter and remain (Wilsher 2011).

Detention is best thought of as one of a set of border control measures, rather than an isolated tactic (Caloz-Tschopp 1997). It can be defined as the practice of confining individuals identified as non-citizens in order to achieve immigration-related aims (e.g. identification, removal, etc.). The apparatus of immigration detention is complex and ambiguous, combining elements of hospitality and care with coercion and control (Browning 2007; Khosravi 2009). Immigration detention is thus characterized by important affective elements, including fear, hope, disdain, empathy, and suspicion over identities, claims, and futures (Hall 2010; see also Bosworth and Slade 2014).

Conceptually, immigration detention is made up of a variety of geographies, knowledge practices, institutional legacies, material orderings (Martin 2012), and temporalities (Browning 2007). Detention can be understood as a 'technology of citizenship' that

minimizes migrants' ability to access resources to make claims to citizenship (Rygiel 2011: 7) while separating 'us' and 'them', 'legal' and 'illegal'. It is 'a practice', in other words, "that attempts to create territorial orders based on legal status and im/mobility" (Martin 2012: 326).

In most countries, the forcible confinement of non-citizens in immigration detention is accomplished through administrative rather than criminal means. Immigration detention thus is not formally a punishment and does not require a criminal conviction (Broeders 2010). Although sharing many of the central features of a term of imprisonment, from the deprivation of liberty and freedom of movement (Bashford and Strange 2002) to their uniformed custodial staff (Bosworth 2007; Bosworth 2011b), immigration detention is a non-punitive measure made possible through administrative power. As legal scholar Daniel Wilsher (2011: ix) observes, this means the detention of foreigners occurs "without the normal due process safeguards commonly demanded in liberal democracies".

Nonetheless, there is substantial crossover among imprisonment and immigration detention, which blurs the lines between these two practices. In jurisdictions such as Canada, Australia, the US, and the UK, the spaces and places of detention are usually either current or former carceral institutions or purpose-built centres based on prison design to achieve high security grade classifications. Similarly, immigration detention centres tend to utilize similar day-to-day operations and security mechanisms as penal institutions, including fencing, razor wire, security cameras, locking doors, segregation cells, head counts, cell searches, strip searches, and incentive systems. In some

countries, such as the UK, there is also a crossover effect related to staffing at both managerial and officer levels, with managers and frontline staff moving from prisons to detention centres and vice versa. In Britain, for example, detention centres are regulated by the same organizations as prisons, from HM Inspector of Prisons to the Independent Monitoring Board. Complaints over conditions can be directed to the Prison Ombudsman. Finally, in many countries, immigration detainees continue to be housed in prisons while held under immigration act powers (Bosworth 2011a; Bosworth and Kaufman 2011). In the UK, such persons account for 25 per cent of the total detained population.

In terms of rationale and purpose, immigration detention differs significantly from the traditional justifications of imprisonment in the criminal justice realm. Unlike the incarceration of sentenced individuals, the forcible confinement of immigration detainees "does not aim to 'correct', 'reform', or 'transform' souls, habits, or risks" (Pratt 2005: 23), nor does it produce citizen-subjects (Bashford and Strange 2002). In most countries, immigration detention is used to hold people until they can be expelled (Broeders 2010). Detention is rationalized as a mechanism to contain people so that they can be identified and not abscond until case decisions are made. It ends when detainees are either expelled from the country or released into the community (Schuster 2005; Broeders 2010; Hall 2010; Martin 2012).

One of the notable features of immigration detention is the way in which detainees are excluded from the 'receiving society'. Many scholars and activists argue that detention itself is an exclusionary process that separates 'us' and 'them', keeping 'them' isolated

and contained, often in remote and inaccessible areas (Evans 2003; Mainwaring 2012; Mountz et al. 2013). Practices of exclusion may extend to the daily operation of detention itself through the lack of activities or services provided to detainees under the logic that skills training or educational opportunities are mechanisms of 'inclusion' unbefitting this population. Indeed, if one of the primary objectives of immigration detention is to aid in the expulsion of unwanted migrants, programs for (re)integration are not easily justifiable (Leerkes and Broeders 2010).

The temporality of immigration detention is another defining feature. There is significant variation among countries in the length of time an individual can be detained. Whereas some countries have maximum durations specified by law, in others it can last indefinitely (Broeders 2010). The EU's Returns Directive, for example, limits immigration detention to a total maximum of 18 months for participating Member States (Hatzis 2013). The UK, however, did not adopt this directive, opting instead to allow for indefinite terms of detention (Stefanelli 2011). In contrast, France limits terms of confinement in its detention centres (known as *centres de rétention administrative*) to 32 days (Welch and Schuster 2005).

For critical race scholars, immigration detention helps constitute the nation along racial lines (Hernandez 2008). In this view, the detention of primarily non-white migrants in postcolonial contexts refines and reproduces the 'whiteness' of the citizenry and the state, while naturalising the illegality of non-white, non-citizen others. Indeed, the racial and ethnic make-up of detained populations in countries such as the UK and US speaks to long-standing connections between empire, colonialism, and imperialism. For

example, in the UK, the detention estate has large populations of ex-colonial subjects from Bangladesh, Pakistan, India, and Nigeria (Home Office 2013). In the US, Mexican nationals comprised 67 per cent of the total number of detainees, followed by Guatemalans (9 per cent), Hondurans (6.3 per cent), and El Salvadorans (5.5 per cent) (Simanski and Sapp 2012). Importantly, immigration detention is also a gendered phenomenon, with male migrants making up the majority of those who end up in detention (e.g. Ahmad 2008; Alberti 2010; Schuster 2011).

One of the most contentious issues pertaining to immigration detention is the confinement of children, either alongside their families or on their own as unaccompanied minors (Fekete 2007; Grewcock 2009; Dudley et al. 2012). Under the UN Convention on the Rights of the Child (Article 37(b)), a child should only be detained 'as a last resort' (Calvert 2004: 113), yet countries such as the Australia, the US, and the UK have been criticized for routinely detaining children. The immigration detention of children raises concerns as to their mental and physical health and development (Lorek et al. 2009; Jureidini and Burnside 2011), particularly in relation to self-harm (Parr 2005).

Historical development

Although academic interest in immigration detention primarily dates to the turn of twenty-first century, there are longer roots to practices of interning "presumably dangerous others" (Fassin 2011: 219; Wilsher 2011). The phenomenon of immigration detention can, therefore, be situated in historical processes of colonialism, nation-building, and immigration control. As Bashford and Strange (2002: 510) observe,

"detention has intermittently been part of the process in the definition and assessment of who belongs and who doesn't, and in enforcing and creating degrees of belonging and alien-ness in the project of nation-building".

In this section, we consider the historical developments that have informed present-day immigration detention practices in the UK, US, Australia, Canada, and EU. In so doing, we reveal commonalities as well as points of difference. An historical overview demonstrates the importance of cultural and legal context in understanding this complex practice.

United Kingdom

While the British government has had the power to detain foreigners for immigration purposes since the passage of Aliens Act in 1905 (Wilsher 2011), purpose built detention centres have only existed in the UK since the Harmondsworth Immigration Detention Unit opened with 40 beds adjacent to London's Heathrow airport in 1970. At the time, Harmondsworth, and a similar facility within Dover Castle, housed Commonwealth citizens denied entry at the border who were given in-country right of appeal by the Immigrant Appeals Act 1969. Following the passage of the 1971 Immigration Act, which expanded the power to detain and deport, the population subject to detention significantly expanded. In 1989, a special immigration detention wing was created in HMP Haslar, while, in 1993, Campsfield House was converted from a young offenders institution to an immigration detention centre. Those who could not be accommodated in these facilities were, as they had been before, placed in prison, or housed briefly in police cells and short-term holding facilities in ports.

The Immigrant Appeals Act 1969 followed years of wrangling about the status and claims of subjects of the former British empire. Initially, the government had encouraged immigration from the former colonies in the post-war period, bringing out thousands of men and women to help re-build the country. Racism and xenophobia, however, greeted many of the new arrivals, who found it difficult to rent suitable accommodation and were often given short shrift by the white working class communities in which they settled (Paul 1997; Hansen 2000; Gilroy 2002). Though initially reluctant to limit the access of Commonwealth citizens to UK shores, due to an enduring sense of empire, the British government was not unaffected by such xenophobia nor immune from populist sentiment. In a memorandum to the Cabinet in 1965, for instance, the Lord President of the Privy Council, Herbert Bowden, claimed that "Britain has always been reluctant to restrict the entry of people who hope to find greater opportunities within her shores",[ii] before setting out in detail the government's concerns about the growing numbers of Commonwealth arrivals and plans for their restriction.

Restrictions on settlement from the Commonwealth came into force with the 1962 Commonwealth Immigrants Act. Aimed specifically at economic migrants from the former empire, this Act, and an amended version passed six years later (the 1968 Commonwealth Immigrants Act) permitted only those with government issued vouchers (obtained in their country of origin prior to travel) to settle. Persons arriving without these documents would be denied entry. Though seemingly straightforward, this first attempt at border control faced a number of problems from the beginning. Not only was

the voucher system hard to police, but the restricted numbers on the vouchers vastly under-estimated the desire of people to move. The continual arrival of commonwealth citizens without proper documentation became a major administrative headache and a source of growing public concern.

Notwithstanding the changing legislative framework that effectively cut off access to the UK for many of its former colonial subjects, disquiet remained about the legitimacy of doing so. In particular, as the 1969 Immigrant Appeals Act made clear, a sense lingered for many years that former subjects were entitled to distinct treatment. They were not the same as foreigners from elsewhere. It is for that reason that the Immigrant Appeals Act 1969 is so important for our understanding of British immigration detention. This Act not only established the first purpose built centres for confining foreigners, but also established the parameters of an immigration system with tribunals, immigration officers, and so on. It also instituted the involvement of the private sector in looking after detainees, as Harmondsworth and Dover were both run by Securicor, the company better known these days as G4S (see Bacon 2005).

While various pieces of legislation were passed after the 1969 Act, the current system of detention—like many crime control measures in the UK—dates to the 1990s and the early part of the twenty-first century. During this period, the government passed a number of laws targeting so-called ‘bogus asylum seekers’, terrorists, ‘economic migrants’, and foreign ex-prisoners, thereby propelling a rapid expansion of the detention estate from a capacity of 250 in 1993 to 4,000 today. At the time of writing, approximately 3,400 detainees are placed in one of ten Immigration Removal Centres

(IRCs), 100 are housed for up to five days in short-term holding facilities at ports, and an estimated average of 635 detainees are in prison (Association of Visitors to Immigration Detainees 2013). Over the course of the year, the total figure of men, women, and children 'arriving in detention' expands ten-fold. Most detainees are awaiting deportation or administrative removal, although a small number are confined in order to process their asylum claims or to establish their identities.

United States

The historical roots of the detention of 'undesirable foreigners' in the US can be found in Ellis Island, New York, a site where many foreigners, even if most ultimately admitted, were detained and some expelled (Wilsher 2011). Additional practices of detention include the internment of Japanese Americans during World War II (Fassin 2011: 219) as well as Germans and Italians, and more recently the detention of Cuban and Haitian migrants at Guantánamo Bay Naval Base (Campisi 2005; Hernandez 2008). The detention of Latinos in the US has a particularly long history (Hernandez 2008). Not only are they the largest minority group in the US, but they are also most likely to be apprehended at the border where they may be detained prior to expulsion and they constitute the majority of detained 'criminal aliens'.

According to Simon (1998), it was the 1981 Mariel Boatlift, which brought nearly 100,000 Cuban migrants to Florida's coastline in just under a month, that began the contemporary reliance on incarceration in border control, precipitating the creation of Miami's Krome Avenue Detention Center. The first in a wave of immigration 'service processing centers' run by then US Immigration and Naturalization Service (INS),

Krome revitalized an immigration imprisonment practice that had died out when the Ellis Island facility closed its doors in 1954 (Simon 1998; Welch 1996). Four years later, the 1986 Immigration Reform and Control Act (IRCA) increased the use of detention and deportation—a development that was further consolidated by the Immigration Act of 1990 which modified much of the Immigration and Nationality Act of 1952, enabling the INS to detain foreign national citizens pending a decision whether or not they were to be deported.

Changes to immigration law complemented the more narrowly crafted criminal justice legislation brought in under Presidents Bill Clinton and George W. Bush, which extended the use of mandatory detention for a vast array of issues associated with non-citizens (Bosworth and Kaufman 2011: 114). Of particular relevance was the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996 (Lawston and Escobar 2009). The IIRIRA expanded the range of offences in the 'aggravated felony category' thereby increasing the use of mandatory detention for migrants who are deemed 'deportable' and 'inadmissible' (Heeren 2010). Notwithstanding its terminology, aggravated felonies are, in fact, a group of immigration offenses—many of which are criminal misdemeanours. They include forgery, perjury, non-violent theft and drug offenses, receipt of stolen property, and some forms of tax evasion (Bosworth and Kaufman 2011: 115).[iii]

Immigration detention must also be contextualized in the country's history of using imprisonment as a normalized response to social problems (Simon 1998). Such a view suggests that while the contemporary expansion of immigration detention may have

increased and shifted post-9/11, is not exceptional (Hernandez 2008). Rather, this practice has always been constitutive of the nation itself (Lawston and Escobar 2009).

In 2011, Immigration and Citizenship Enforcement (ICE) detained an all-time high of approximately 429,000 foreign nationals (Simanski and Sapp 2012). Detainees in the US may be held either in specific immigration detention centres, county jails, federal prisons, or ICE-owned 'service processing centres'. The majority (67 per cent) of detainees are held in one of the more than 250 local and state facilities. A further 17 per cent of detainees are kept in contract detention centres, followed by 13 per cent in processing centres, and 3 per cent within Bureau of Prisons facilities (US Immigration and Customs Enforcement 2011). In 2011, the US maintained a total of 33,400 detention beds (Immigration and Citizenship Enforcement 2011).

Australia

From its earliest days as a penal colony, Australia has evinced a particular enthusiasm for confinement, locking up a vastly disproportionate number of indigenous people and, in times of conflict, interning citizens of countries with which it was at war. Two Acts passed in 1901, just after Federation, made up what became known as the 'White Australia policy'. The Pacific Islanders Act and the Immigration Restriction Act barred Pacific Islanders from entering the country at all, and, by imposing an English-language test, made it very difficult for non-English speaking migrants to move to Australia. As the Rt Hon William McMillan, the Member for Wentworth succinctly put it in Parliament, "[n]o matter what measures are necessary, Australia must be kept pure for the British race who have begun to inhabit it" (Immigration Restriction Bill, Hansard,

September 6, 1901, Australian Parliament, cited in Moylan 2013: 16). While the policy was relaxed after 1966, enabling the migration of so-called 'distinguished' non-Europeans, it was not until 1973 that it was fully abandoned by the Labour government of Gough Whitlam (Sheikh, Macintyre and Perera 2008).

Like the UK, Australia has responded increasingly harshly to irregular arrivals since the 1990s. In 1992, under the helm of Liberal Prime Minister John Howard, the Australian government established mandatory detention of individuals arriving by boat without visas (Zion, Briskman and Loff 2012). This policy was later revised to enable the mandatory detention of all individuals arriving by boat, a move that was justified by the Australian government, despite no evidence for their claim, as a deterrent to asylum seekers (Zion et al. 2012). Since that time, Australia has developed a series of remote off-shore detention centres in other sovereign states, including Papua New Guinea and Nauru as well as on Australia's own remote outpost, Christmas Island (Mountz 2011). As of 31 August 2013, Australia detained 8,732 people in immigration detention. This figure includes 6,173 individuals in immigration detention on mainland Australia and 2,559 on Christmas Island (Australian Government Dept of Immigration and Citizenship 2013: 3). A further 2,739 individuals have been approved for a residence determination and are under a form of 'community detention' (Australian Government Dept of Immigration and Citizenship 2013: 4). The vast majority (96 per cent) of those in immigration detention are what the government terms 'unauthorized maritime arrivals' (Australian Government Dept of Immigration and Citizenship 2013: 6). At the time of writing, Australia has nine detention centres, three residential housing centres, and three immigration transit accommodation facilities, as well as an unknown number

of ‘alternative places of detention’ (Australian Government Dept of Immigration and Citizenship 2013).

Canada

As in Australia and the US, the historical roots of immigration detention in Canada can be similarly linked to colonialism and race-based processes of nation building. Canada has a history of interning populations deemed to be a threat to the nation, including Ukrainian Canadians (see Kordan 2002) during World War I and Japanese Canadians during World War II (see Omatsu 1992). Through genocidal practices of colonization, indigenous peoples were either killed or ‘relocated’ (through force and/or negotiation of treaties) onto reservations, thereby making way for race-based, exclusionary immigration policies and the creation of a ‘white’ Canada.

Canada’s concern with letting the ‘right’ people ‘in’ the country has continued to the present. The passing of the Immigration and Refugee Protection Act (IRPA) in 2002 is notable for its focus on protecting Canadians from ‘foreign nationals’ by keeping ‘out’ criminals, fraudsters, and—after the events of 9/11—terrorists. Under the IRPA, asylum seekers, in particular, were only mean to be detained if they were considered a danger to Canada, a flight risk, or if they lacked proof of identity (Pratt 2005).

In 2012, however, the Conservative government, led by Prime Minister Stephen Harper, radically altered the country’s immigration detention practices, vastly expanding the powers of the state to incarcerate foreign nationals, with specific focus on ‘bogus asylum claimants’, ‘human smugglers’, and others perceived to be a threat to the nation

(Citizenship and Immigration Canada 2012). Following the passage of the Protecting Canada's Immigration System Act (as an amendment to the IRPA), new mandatory detention rules were ushered in for all 'irregular' migrants over the age of 15. Under the new Act, the Minister of Public Safety has discretionary authority to designate the 'arrival' in Canada of a group of persons seeking asylum as an 'irregular arrival' (Béchard and Elgersma 2012). The Act also includes a specific clause that allows the designation of an 'irregular arrival' to apply retroactively to 31 March 2009, which conveniently provides Ministerial discretion to designate the 'mass arrival' of Sri Lankan asylum seekers who arrived by boat off the coast of the province of British Columbia in October 2009 (*Ocean Lady*) and August 2010 (MV *Sun Sea*).

Detainees may be held in a provincial correctional facility, at a short-term detention facility, or at one of two minimum-security immigration holding centres (IHCs) (Canada Border Services Agency 2009). In 2010-11, Canada had a total of 8,838 'immigration holds', of which 47 per cent are labelled 'refugees' (i.e. asylum seekers and refused refugee claimants) (Nakache 2011). Detainees outside of Toronto and Montréal (where the two IHCs are located) are held in correctional facilities, including those categorized as high-security. In 2010-11, 27 per cent of 'refugees' were detained in a correctional facility (Nakache 2011).

European Union

Immigration detention in the EU reflects the domestic policies, local politics, and sentiment within Member States as well as a series of agreements that govern mobility within and into the EU. Member States of the EU vary in their reliance on detention and

in the size of their detention estates. Some southern nations, like Malta, Italy, Spain, and Greece, which are the entry points for Europe, incarcerate large numbers of migrants at the point of arrival, before rapidly expelling them onto the streets. Other northern countries, like Holland, have seen in recent years an expansion of their detention estates to house long-term foreign residents and former foreign offenders.

During the 1980s, prior to the existence of an integrated European asylum policy, individual states pursued domestic policies to control unwanted migration (e.g. visa restrictions, fingerprinting, etc.) (Schuster 2005). In the 1990s, lists of safe countries were introduced alongside the so-called third country rule as a means to ensure only one European country assessed asylum seekers' cases. More recently, in the 2000s, greater efforts have been made to align, or 'harmonize', immigration control in Member States through the introduction of EU directives, the most important of which are the Returns Directive, the Reception Conditions Directive, and the Dublin II Regulation (Schuster 2005; Majcher 2013). EU Member States, including the UK, are also subject to the European Convention on Human Rights (Majcher 2013).

Until the 1990s, as elsewhere, immigration detention was relatively rare in most EU countries. Before then, the majority of foreign nationals were incarcerated in prisons. In response to the growing numbers of arrivals, as well as a deepening politicization of the issue, the EU has been at the forefront of border policing functioning legislatively and at an operational level (Aas 2013). Organizations like FRONTEX, charged with policing the boundaries of Europe, alongside a surge in nationalist and right-wing anti-immigrant political parties from Greece to Holland, has resulted in a swell in EU countries'

detention populations. In the Autumn of 2013, the inevitable outcome of 'Fortress Europe' was drawn to popular attention when more than 300 migrants drowned less than a kilometre off the coast of Sicily, in their bid to sail from Africa to the Italian island of Lampedusa. At the time of writing, it is unclear what the outcome of this tragedy will be.

TYPOLOGIES

Spaces, locations, and durations of immigration detention vary significantly. Immigration detention centres may be open or closed (Guild 2005). Open facilities typically require detainees to reside while allowing them to leave at will or under certain conditions, whereas in closed facilities detainees are not permitted to leave of their own accord (Guild 2005), unless they agree to leave the territory. Depending on the country's immigration system, individuals may be detained at various times during their migration trajectories: at the border upon arrival, during their residence within a country, and/or as the final point in their removal or deportation. Detention centres may be located in or near major ports of arrival (e.g. airports), dispersed throughout a country's territory, or located off-shore in another territory altogether. Finally, immigration detention centres may be places of temporary, short-term 'holding' or long-term confinement.

In all countries, prisons remain a common place of detention. Sometimes detainees held in prison are kept separate from those serving criminal sentences, while at other times they are housed alongside them. Even when separate institutions exist, the prison provides an important comparator. In the UK, for instance, despite a change of policy in

2001 designed to end the practice of holding asylum seekers in prison, the detention estate remains dependent on the prison in a number of ways. Not only are 'non-compliant' detainees and former foreign offenders routinely held in prison, but most of the centres built and/or refurbished after 2002 have been designed according to high security (i.e. Category B) prison architectural standards.

The facilities and amenities at immigration detention centres vary from centre to centre and from country to country. In the Netherlands, for example, there are limited with few opportunities for work or education (Leerkes and Broeders 2010), whereas in the UK detainees are encouraged to work in the centres in which they are confined (Burnett and Chebe 2010). Depending on the country and facility, detainees may also have restricted access to health care (Ochoa et al. 2010; Venters, Foote and Keller 2011) and legal aid, and often find it difficult to maintain contact with their friends and relatives outside (Leerkes and Broeders 2010).

In many jurisdictions, immigration detention is privatized, meaning that governments contract with for-profit companies—such as Serco, G4S, and Corrections Corporation of America—for the provision of detention services. In turn, these companies may sub-contract with others for services such as health care. Privatized immigration detention centres can be found in the UK, the US, and Australia. Many of these companies also provide other contracted services within the criminal justice realm, including operating prisons.

The following are additional mechanisms of immigration detention that can be found in western countries.

Camps

Unlike more formalized mechanisms of immigration detention through purpose-built or refurbished centres, camps are another form of detention that exists to separate non-citizen from citizen, illegal from legal, and control migrant mobilities (Rygiel 2011). While typically associated with humanitarian disasters, and with the care of refugees, camps may be used to hold immigration detainees, both when their numbers are too high to be housed elsewhere and as an informal mechanism of punishment or humiliation. In Malta, for instance, new arrivals often outnumber the available beds. When that happens they are placed in tents. On Manus Island, Australia held detainees in tents while a more permanent structure was built. In the US state of Arizona, detainees held in local jails will be housed alongside those awaiting trial or serving short sentences under canvas tents.

Alternatives to immigration detention

Alternatives to detention (ATDs) refer to non-carceral forms of state supervision and may include house arrest, 'tagging' (i.e. wearing of an electronic bracelet for monitoring), and other sorts of conditions (e.g. curfews, restrictions on association, reporting to police or immigration officials, etc.) (Costello and Kaytaz 2013). ATDs are viewed as 'effective migration management' tools that also better project migrants' rights and dignity (Sampson and Mitchell 2013: 98). In Australia, a practice known as 'community detention' enables asylum seekers to live in the community while reporting

regularly to the police. Used in the UK as well (although not under this appellation), this technique is the most common means of managing asylum seekers as well as populations facing deportation or removal.

Island and extraterritorial detention centres

According to Mountz (2011: 118), island detention centres are "a key component of a broader enforcement archipelago designed to control migrants deemed out of place, reducing their chances to reach sovereign territory". Certain countries, such as Australia and the US, utilize detention centres on islands as a means to confine liminal non-citizen populations, thereby isolating them from key resources (e.g. legal representation, advocacy groups) and limiting monitoring by the media and human rights organizations (Mountz 2011).

Australia runs a maximum security immigration detention centre on Christmas Island, a remote island located between Indonesia and Australia (Dimasi and Briskman 2010). Other locations on the island hold children and unaccompanied minors awaiting determination of their cases. As part of the 'Pacific Solution', Australia also has extraterritorial detention centres on the neighbouring state island of Nauru, on Manus Island in Papua New Guinea (Silove, Austin and Steel 2007), and on Indonesian islands such as Lombok (Mountz 2011).

The US operates the Guantánamo Bay Naval Base on Cuba and Guam, its island territory in Micronesia, for detention purposes. In 1992-93, the US began detaining Haitians at Guantánamo Bay, in addition to the US Coast Guard interdicting Haitian

refugees at sea and returning them to Haiti (Carey 2002). In the Mediterranean, Malta and Lampedusa have been effectively turned into island detention centres, overwhelmed particularly in the summer months by new arrivals (Gerard and Pickering 2012).

France redraws its borders at certain sites of arrival into 'international zones' in order to 'detain' irregular migrants (O'Nions 2008; Makaremi 2009). In these sites, some of the usual legal protections of French national law are suspended. Although this power is predominantly used at ports as means of excising space that is physically within the borders of France from its legal protections, it can be extended under exceptional conditions elsewhere (e.g. police stations).

EXPERIENCES OF IMMIGRATION DETENTION

At present, there is a limited amount of academic scholarship on the experiences of immigration detention. Immigration detention centres are extremely difficult to access for research purposes and pose a number of methodological challenges including language barriers, cultural and religious differences, and low levels of trust. With a few notable exceptions (see, for example, Bosworth 2012; Bosworth and Kellezi 2012; Hall 2012; Whyte 2011; Bosworth, Fili and Pickering 2014), much of what is known comes from post-detention interviews or covert research during visits with detainees.

Despite the relative paucity of evidence, a few clear themes have emerged. First of all, detention centres are sites of great uncertainty (Griffiths 2013). In the UK, Australia, and the US, for instance, nobody knows how long they will be detained. Even in

countries like Greece, where there is an upper-limit to the duration of detention, detainees are unsure what will happen next (Bosworth, Fili and Pickering 2014).

Although detention is not technically imprisonment and detainees are not prisoners, detainees and staff habitually compare the two institutions (Bosworth 2012). In this comparison, not only does the prison act as a means of interpreting and legitimizing detention (Bosworth 2013), but it also helps individuals make sense of where they are. Despite this inaccuracy in legal terms, the comparison is a means of dealing with this uncertainty.

Detainees often find it difficult to relate to one another. Under great pressure due to their immigration cases, detainees are also divided from each other by language, religion, and culture. In one study, of Yarl's Wood, a women's removal centre in the UK, the authors found racialized tensions within the population, particularly among Chinese, Nigerian, and Jamaican women (Bosworth and Kellezi 2013a). Staff at Yarl's Wood and other removal centres in the UK often rely on national stereotypes to make sense of the population in their care (Bosworth and Slade 2014).

Medical provision is notoriously poor in many jurisdictions. Detainees often exhibit complex medical needs, from addiction to torture. Women are likely to have endured sexual violence and might arrive with related conditions such as pregnancy and sexually transmitted diseases (Heeren 2010). In determining whether someone is a torture survivor or has a particular medical condition that might preclude deportation, medical professionals wield considerable power (Fischer 2013).

Detention centres are frequently beset by violence. In the US, disturbing evidence exists of staff brutality (Welch 1996; Dow 2007), while in the UK and Australia, all too often detainees turn their violence towards themselves through self-harm (Parr 2005; Athwal and Bourne 2007; Cohen 2008) and hunger strikes (McGregor 2011).[iv] In 2013, allegations[v] emerged in the UK of sexual abuse of female detainees, accusations that, at the time of writing, have still not been resolved. While not especially prevalent, fights between detainees, suicides and attempted suicides, fires, riots, and escapes do occur and can heighten feelings of fear, instability, and distrust in spaces of immigration detention (Griffiths 2013).

Together, such examples paint a dispiriting portrait of life inside. Notwithstanding considerable individual efforts, the literature on detention is bleak. Depression rates are high (Silove, Austin and Steel 2007; Robjant, Hassan and Katona 2009; Bosworth and Kellezi 2013b), and the negative effects of detention linger after release (see, for example, Robjant, Hassan and Katona 2009; Steel et al. 2011), particularly for those who have experienced prolonged periods of detention (Coffey et al. 2010; Bull et al. 2013). As a mechanism of social control, such institutions raise profound ethical questions.

CONCLUSION: RELEVANCE FOR CRIMINOLOGY

Immigration detention is relevant to the field of criminology for a number of reasons. Most obviously, the intermingling of criminal justice and immigration policies and practices has reanimated penality at the precise moment that economic and other

concerns over efficacy looked set to challenge it. Some commentators (e.g. Welch 1996; Broeders 2010) have thus considered immigration detention in the context of the new penology as symptomatic of broader shifts in punitiveness, including the heightened surveillance and imprisonment of an 'underclass' of unwanted migrants. Immigration detention, in this view, can be understood as a localized response to globalization as states pursue increasingly regressive reassertions of sovereign power (Schinkel 2009), drawing on and expanding existing penal infrastructures to do so.

Immigration detention also challenges criminology, highlighting the relevance of race, gender, and postcolonialism to the study of security and governance. Issues of identity are fundamental to the practice of detention: people are detained because of who they are (or are not). The similarities in the representations of detainees as criminals, deviants, and 'risky' along gendered and racialized lines (Pickering and Lambert 2001; Malloch and Stanley 2005) can thus be linked to the 'criminology of the other' (Garland 1996) and the expansion of detention in a culture of control (see Welch and Schuster 2005). The context of postcolonialism is central to understanding the global movement of people and the increasing use of penal power to manage irregular migration.

As states around the world seek to reduce irregular migration at the same time that mobility is growing, reliance on immigration detention seems set to expand. That it does so, despite its considerable financial costs and in the face of significant human pain, without evidence of its deterrent or instrumental effect, is worth exploring in more detail. The extension of penal logics and practices to efforts to control global mobility

makes immigration detention an important site for understanding contemporary responses to migration and crime.

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[i] The practice of immigration detention is no longer confined to western countries but rather has 'expanded' to developing nations as well (see Wilsher 2013: xii). In this chapter we focus on western countries as the vast majority of academic engagement on immigration detention focuses on the 'west'.

[ii] 23 July 1965, *Commonwealth Immigration*, Memorandum to Cabinet by the Lord President of the Privy Council, CAB 129/122/9.

[iii] Other relevant pieces of legislation signed into law by President Clinton in 1996, such as the AEDPA and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), further criminalized immigration and curtailed migrants' access to benefits. As Bosworth and Kaufman (2011: 116) observe, "AEDPA and IIRIRA increased the penalties for immigration violations while expanding the list of crimes for which resident non-citizens could be removed, starting a process of criminalization of immigration and an accompanying erosion of protections of foreigners' civil liberties—particularly their right to habeas corpus—that the Patriot Act continued with such effect. Alongside those provisions, PRWORA not only denied benefits to most legal and illegal immigrants and their children but also kept them from thousands of female American citizens. Taken together, these Acts fostered an environment wherein immigration, poverty, and criminality became equally feared and regulated; in turn they contributed to a growing dependence on incarceration."

[iv] In Australia, the Detention Logs project publishes data on its website of 'incidents', including self-harm and voluntary starvation. See http://detentionlogs.com.au/.

[v] Several media outlets, including The Guardian (UK), have publicized these stories. See, for example, http://www.theguardian.com/uk-news/2013/sep/21/sexual-abuse-yarls-wood-immigration.