

A protest at Yarls Wood in 2015. (Source: [iDJ Photography](#))

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In England and Wales, sanctions for immigration offenses, including illegal entry and obtaining leave to remain by deception, exist in multiple forms, including immigration detention.^[1] Immigration Removal Centers (IRCs) hold a variety of individuals, including asylum seekers, undocumented immigrants, and immigrants who await removal after finishing a prison sentence.^{[2] [3] [4]} Since 2008, once imprisoned immigrants in England and Wales complete their criminal sentences, they are eligible to be transferred and housed in IRCs prior to deportation.^{[5] [6]} Most former prisoners have been convicted of minor offenses but those who faced more serious charges can also be transferred to IRCs if they were well-behaved while serving their prison sentences.^{[7] [8]} Immigration detainees in England and Wales can, therefore, be interned alongside former prisoners convicted of committing criminal offenses.^{[9] [10] [11]}

Existing studies focus primarily on how overcrowding, understaffing, and high levels of interpersonal conflict put the well-being of immigration detainees at stake.^{[12] [13]} There is a lack of focus, however, on how co-detainment between immigration detainees and former prisoners impacts the former. An analysis of relevant immigration policies regarding co-detainment in IRCs in England and Wales is presented to reveal policy gaps that are detrimental to the well-being of detainees. To ensure the well-being of those detained, policy recommendations that support adequate medical staffing and the separation of former prisoners with a documented history of violent offenses from immigration detainees are recommended.

Immigration Removal Centers and Harm to Immigrant Detainees

The Immigration Act of 1971, passed by the Parliament of the United Kingdom, confers the power to detain immigrants to the Home Office.^[14] Immigration Removal Centers (IRCs) were established for the purpose of holding immigrants, including a small number of former prisoners, who await decisions on their asylum applications or await deportation following unsuccessful asylum applications.^[15] Currently, in 2018, there are a total of eight IRCs in England and Wales operated by Her Majesty's (HM) Prison Service or private contractors, namely G4S Group, Mitie, and Serco.^{[16] [17]} In the twelve-month period ending in June 2017,

there were a total of 27,819 individuals detained in Immigration Removal Centers (IRCs) in England and Wales.^{[18] [19]}

The mental and physical suffering of those detained in Immigration Removal Centers(s) is well-documented. A 2017 report published by Amnesty International UK examines how the absence of a statutory limit on detention length has impacted the mental and physical state of detainees.^[20] Among all countries in the European Union (EU), the UK is the only country without a specific time limit on detention.^{[21] [22]} The report states not only that unspecified detention duration causes mental and physical harms to detainees, but also that their immediate family members suffer from mental and psychological distress.^[23]

Overcrowding and understaffing are also identified as factors that threaten the well-being of detainees. At Heathrow IRC, for example, HM Chief Inspector of Prisons criticized the detention establishment for being unsanitary, overcrowded, and poorly ventilated, causing high degrees of interpersonal conflict and mental distress among detainees.^[24] Similar concerns were found in Harmondsworth IRC where some detention establishments were overcrowded, dirty, and bleak.^[25] In England and Wales, the Home Office awards contracts to private contractors who are responsible for operating and managing the IRCs. Yet, the amount of funding for private contractors has been cut continually.^[26] For example, from April 2015 onwards, the Home Office has been paying the private contractor Serco £8.8m annually, an amount which was significantly lower than the previous £12.4m a year contract.^[27] In order to save operation costs, private contractors have been cutting staffing and increasing the density of detained populations.^[28] For example, in Harmondsworth IRC, understaffing has led to poor monitoring and evaluation of IRC conditions and detainees' well-being.^[29] A portion of detainees have had their disabilities untreated.^[30] In Yarl's Wood IRC, many detainees were unable to receive timely access to quality medical care and medication.^[31]

Assaults to detainees have been noted as another cause of suffering. Among IRCs located in England and Wales, immigration detention has been subject to continual denouncement given the reported incidents of assaults, verbal abuse, and the threat of violence, intensifying the levels of interpersonal tensions among those detained.^[32] From 2004 to 2008, approximately 300 cases of alleged assaults from staff members and other detainees were reported in IRCs.^[33] Findings from the Harmondsworth IRC 2013 Detainee Survey, for example, revealed that twenty-one percent of detainees experienced assaults by staff while thirty-two percent encountered assaults by inmates. In 2015, the HM Inspectorate of Prisons revealed forty-five percent of detained women felt unsafe within detention establishments due to the increase in violent incidents.^[34] Interpersonal conflicts contribute

to feelings of insecurity and the lack of well-being.^[35] A 2009 study conducted by Katy Robjant *et al.* surveyed sixty-seven immigration detainees, thirty other detainees, and forty-nine asylum seekers in the UK. The study found that higher degrees of anxiety, depression, and post-traumatic stress disorder (PTSD) were associated with both longer duration of detention and a history of traumatized experiences.^[36] In order to minimize the mental, psychological, and social harms inflicted on detainees, tackling overcrowding and understaffing problems among detention populations is crucial. Unless the Home Office provides sufficient funding for private contractors themselves are unable to arrange adequate detention facilities to host detainees or recruit more security and medical staff to systematically maintain the detention order and provide proper medical services.

Examining Co-Detainment of Immigrant Detainees and Former Prisoners

On November first, 2008, Her Majesty's (HM) Prison and Probation Services began enforcing Prison Service Order (PSO) 4630 Immigration and Foreign Nations in Prison.^[37] Section 5.3 of the PSO states that the Home Office's Detainee Population Management Unit (DEPMU) has the right to decide if a former prisoner who completes their criminal sentence in prison can be transferred to an IRC prior to deportation.^[38] The DEPMU is responsible for conducting a risk assessment of all prospective transferees based on a variety of factors, including the offense classification index, behavior in custody and health conditions. The offense classification index assists in determining the seriousness of a criminal offense committed.^[39] Those who are deemed no-risk or low-risk are priority candidates for placement in an IRC.^[40] However, former prisoners with a criminal history of violent and sexual offenses can also be transferred to an IRC, insofar as the IRC has available beds.^[41] In 2016, for example, between twenty-five percent and thirty-five percent of former prisoners were detained alongside immigration detainees at Heathrow IRC.^[42] In the same year, the Home Office was increasingly responsive to returning former prisoners who demonstrated intolerably disruptive behaviors in Yarl's Wood IRCs to prison, though the removal policy was in its preliminary stage.^[43] Former prisoners could be detained in prison establishments during the post-sentence period, released without deportation, or transferred to IRCs to await deportation.^{[44] [45]} On March 31, 2015, the National Offender Management Service (NOMS) and the Home Office agreed that the number of beds in IRCs located in England and Wales available to former prisoners would be limited to four hundred.^[46]

DEPMU staff members, mainly Foreign National Coordinators (FNCs), are responsible for deporting former prisoners.^[47] Specifically, FNCs have to help former prisoners find accommodations in their countries of origin, contact their families and friends, and arrange

transport prior to their deportation.^[48] In order to minimize any potential disturbance or conflict former prisoners might cause, FNCs strive to deport former prisoners expeditiously and to keep them in holding at IRCs for as short a time as possible. In most circumstances, former prisoners placed in IRCs are deported within two weeks in comparison to the 118 days that former prisoners housed in non-IRC facilities wait on average.^{[49] [50]} By prioritizing efficiency when deporting former prisoners, FNCs, in theory, minimize threats posed on immigration detainees and help create a safe housing environment. Logically, after their deportation, other former prisoners would be transferred to IRCs in lieu of those who left. With the continual presence of former prisoners at IRCs, potential threats to immigration detainees might still exist.

Although former prisoners are usually deported via an accelerated process, some are kept in IRCs for a longer duration. While England and Wales have no specified limits on the length of detention in IRCs, detainees, including some former prisoners who committed serious violent offenses or re-offended after release, could remain in IRCs for a prolonged period.^{[51] [52]} The level of violence varies among IRCs, but several have reported that their violence management tactics, including their violence reduction strategies, are underdeveloped.^{[53] [54] [55]} Furthermore, governance and communication within IRCs are also inconsistent and ineffective, resulting in some former prisoners being held in IRCs for a lengthy duration.^[56]

In order to minimize any detrimental impact former prisoners might inflict on immigration detainees, corresponding policies have been implemented. For example, since 2008, the Home Office has implemented a policy where nationals from non-European Economic Area (EEA) countries sentenced to at least a year, and EEA nationals sentenced to at least two years, individually or cumulatively, in the past five years, face mandatory deportation.^[57] This policy is a response to the nationwide criticisms when former prisoners who committed among the most serious violent offenses were permitted transferral to IRCs prior to 2008.^[58] Alongside the aforementioned policy of expeditious deportation of former prisoners, the Home Office endeavors to ensure those among the most dangerous former prisoners are deported immediately after their prison terms without being transferred to IRCs.^{[59] [60]} These policies ostensibly help minimize any adverse threat inflicted on immigration detainees by individuals with substantial criminal records.^[61]

Policy Gaps and Factors Influencing Detainees' Well-being

Underdeveloped Medical Screening

Former prisoners held in IRCs before deportation can be long-term residents in England and

Wales with well-established familial, social, and cultural ties.^[62] Detention in IRCs can be particularly mentally devastating to them for multiple reasons, including the suffering from anxiety, depression, and post-traumatic stress disorder (PTSD).^[63] In 2014, at the Harmondsworth IRCs, Immigration Monitoring Bodies (IMBs) reported those with a history of threatening behaviors might display violence to prevent deportation.^[64] IMBs are a team of local volunteers appointed by the Ministry of Justice which is responsible for monitoring the operation of IRCs.^[65] In the same year at the Yarl's Wood IRC, IMBs argued that those presenting acute mental disorders extremely disturbed and even threatened other detainees by acting violently and destructing properties, though there was a low diagnostic rate of mental disorders at the detention establishment.^[66] IMBs also emphasized that former prisoners at Yarl's Wood IRC showed insubordinate behaviors.^[68]

The low reported diagnostic rate of mental disorders in IRCs is likely to be underestimated due to the underdeveloped health screening system. As reported by the Home Office, in some cases, the cursory arrangement of health screening at reception and the absence of an interpreter might result in poor diagnostic accuracy when assessing detainees' well-being.^[69] At Colnbrook IRC's reception, detainees were interviewed at open counters. The insufficient privacy impeded disabled detainees from disclosing their medical situations and welfare needs. Also, any requests by someone with medical needs might not be passed on to the responsible staff members.^[70] Additionally, although the initial health screening should take about half an hour, in practice each screening lasted approximately ten minutes. Therefore, a thorough, accurate screening was often discouraged at reception.^[71] In addition, the Home Office stated that healthcare staff members sometimes misinterpreted self-harming behaviors as attention-seeking behaviors, delaying the treatment of those who were mentally unstable and had a record of self-harm.^[72] In consequence, any misdiagnosis of mental state could further hamper those with medical needs from receiving prompt, proper treatments. While residents whose well-being is harmed during detention should be assessed and identified through medical screening, the underdeveloped health screening system in IRCs may bar mentally disordered detainees from receiving timely, appropriate medical assessments.^[73]

Disturbances Caused by Former Prisoners with Violent Histories

Co-detainment of former prisoners with a history of violent offenses and immigration detainees could exacerbate the existing interpersonal tensions in IRCs, causing further harm to the well-being of the latter. At Morton Hall IRC, staff members argued the rise in violent and alternative disruptive behaviors should be attributed to the increasing proportion of former prisoners being housed there. However, HM Chief Inspector of Prisons

Peter Clarke was reluctant to confirm such a claim without further research and analysis.^[74] According to Piyal Sen et al., nearly thirty percent of former prisoners had antisocial personality disorders while virtually no immigration detainees had this diagnosis.^[75] At Heathrow IRC, for example, those suffering from antisocial disorder might demonstrate disruptive behaviors, including causing sink drains and blocking toilets, resulting in severe disturbance against other detainees.^[76] In 2016, IMBs mentioned that the high proportion of former prisoners at Heathrow IRC deteriorated the atmosphere within the detention establishment. IMBs suspected that the more former prisoners concentrated in an IRC, the more severe the gang culture and drug use were within the center.^[77] Consumption of illicit substances could facilitate serious assaults and violence, leading to more threatening behaviors and interpersonal conflicts.^[78] Therefore, IMBs argued co-detaining former prisoners who have a history of serious criminal records with immigration detainees is not recommendable.^[79]

From a broader perspective, Piyal Sen et al. and Juliet Cohen indicated that experiences of interpersonal struggle could worsen the mental well-being of those detained, causing or exacerbating mental disorders.^{[80] [81]} In 2017, at the Campsfield House IRC, the leading cause (nearly thirty-four percent) of segregated detention was ascribed to any disruptive behavior performed by those detained. Additionally, the third leading cause (nearly seventeen percent) of temporary confinement was attributed to any threatening behavior exercised by those detained.^[82] These facts demonstrate the prevalence of threatening and disruptive behaviors by those kept in IRCs. Allowing the transferral of former prisoners, especially those who committed serious violent offenses, to IRCs could potentially deteriorate the safety of the detained population as a whole.

Policy Recommendations

According to Part II, Section Three of The Detention Centre Rules 2001, IRCs aim at providing “for the secure but humane accommodation of detained persons in a relaxed regime...and assist detained persons to make the most productive use of their time, whilst respecting, in particular, their dignity...”^[83] Any unnecessary and inhumane threat to the well-being of immigration detainees certainly violates the relevant legislation and purposes of immigration detention. Therefore, short-term, mid-term, and long-term solutions are recommended as follows in order to help ensure the well-being of immigration detainees.

Short-Term: Sufficient Medical Staffing

In the short-term, the Home Office must implement further preventive policies to minimize

any detrimental impact former prisoners enact upon immigration detainees. A priority is to maintain sufficient medical staffing and facilities. At Heathrow IRC, for example, there is reportedly a shortage of mental health beds, engendering a significant delay for those in need of mental health services.^[84] Alternatively, at Tinsley House IRC, studies found medical staff members have negative attitudes against detainees and deliver unproductive and ineffective medical services to them.^[85] A primary contributor to these medical concerns is the shortage of staff, which results in the delivery of poor medical services in IRCs.^[86]^[87]^[88] At Yarl's Wood IRC, Serco proposed to cut the staff by nineteen percent.^[89] Another private contractor Mitie also cut their staffing resources, as reported in *Financial Times*.^[90] In so doing, the effectiveness and efficiency of the provision of medical services would worsen.

The Home Office continually cuts funding for private contractors running IRCs, creating an ongoing staff shortage problem in detention establishments.^[91] The poor contract management as delivered by the Home Office causes a significant deterioration in the quantity and quality of healthcare services provided and a reduction of available medical training opportunities for senior clinical staff.^[92] As stated in Article Twelve of the International Covenant on Economic, Social and Cultural Rights, each detention establishment should be entitled to the "highest attainment standard" of health, both physically and mentally.^[93] According to Rule Twenty-Five of the Standard Minimum Rules, at least one qualified general medical personnel needs to be on duty in every IRC on a daily basis to maintain the well-being of those detained, a condition that should urgently be addressed by the Home Office.^[94] Therefore, sufficient funding needs to be awarded by the Home Office, allowing private contractors to maintain well-facilitated and high-quality medical support in each detention center.^[95]

Mid-Term/Long-Term: Separated Detention

Although the Home Office has implemented a number of policies to minimize threats former prisoners might pose to immigration detainees, the co-detainment of former prisoners and immigration detainees could still raise certain degrees of unnecessary unpleasantness or even harm for the latter. Therefore, as mentioned, IMBs do not comply with the co-detainment between former prisoners and immigration detainees to some extents. In many cases, former prisoners committed non-violent offenses, including dishonesty offenses.^[96] However, some former prisoners possess a documented history of violent offenses and may potentially exacerbate interpersonal tensions within detention establishments.^[97] It is, therefore, necessary to undertake a judicial review and amend the PSO 4630 in order to ensure former prisoners who previously committed violent crimes are detained in separate facilities. This can minimize any physical and mental harm former prisoners with a tendency

toward violent behaviors might inflict on immigration detainees or other former prisoners with an absence of violent offense records.

Placing former prisoners with violent tendencies with immigration detainees might not be the primary contributor to the physical and especially mental suffering of the latter. Existing studies, however, demonstrate that the co-detainment does pose a degree of unnecessary disturbance and harm on immigration detainees. While former prisoners, with and without violent offense records, and immigration detainees are both awaiting deportation, the Home Office should house them separately.

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