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**The Evolution of Immigration Detention in the UK:  
The Involvement of Private Prison Companies**

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## **LIST OF ACRONYMS**

<b>ASI</b>	Adam Smith Institute
<b>CCA</b>	Corrections Corporation of America
<b>CIO</b>	Chief Immigration Officer
<b>DIMIA</b>	Department of Immigration, Multicultural and Indigenous Affairs
<b>GSL</b>	Global Solutions Limited
<b>HMIP</b>	Her Majesty's Inspectorate of Prisons
<b>IND</b>	Immigration and Nationality Directorate
<b>INS</b>	Immigration and Naturalisation Service
<b>IO</b>	Immigration Officer
<b>NCADC</b>	National Coalition of Anti-Deportation Campaigns
<b>PDS</b>	Premier Detention Services
<b>PFI</b>	Private Finance Initiative
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>UKDS</b>	United Kingdom Detention Services
<b>WCC</b>	Wackenhut Corrections Corporation

# THE EVOLUTION OF IMMIGRATION DETENTION IN THE UK: THE INVOLVEMENT OF PRIVATE PRISON COMPANIES

## INTRODUCTION

During the course of the last decade, asylum has become one of the most salient political issues in the UK. The years 1993-2004 have seen no less than 5 major pieces of asylum-focused legislation enacted, where previously none had existed. This increasingly restrictive and somewhat impenetrable accumulation of laws and regulations has developed in conjunction with a broad effort to control asylum numbers and 'root out abuse'.<sup>1</sup> Perhaps one of the most disturbing features of the armoury of measures employed in relation to the achievement of these aims has been the administrative and often prolonged detention of asylum seekers. Despite the government's assurance that detention is used only as a 'last resort', a growing number of asylum seekers, who are not suspected of or charged with any offence, are routinely detained in purpose-built detention centres and criminal prisons throughout the UK. This use of detention has expanded rapidly, from a capacity of 250 places in 1993 to the present capacity for 2,644 persons.

People concerned with immigration detention have tended to see it as an issue mainly involving government policy makers, detainees and immigration officers, but have neglected one of the key players, namely the private companies contracted to run the centres. These companies could arguably be seen as the 'missing link' in what appears to be a more and more anomalous practice, and may provide further insight into how and why the regime has managed to maintain itself over time. While this thesis does not suggest that the involvement of private companies constitutes an over-arching or driving explanation for the evolution of the detention regime or the rise of harsher practices over time, it offers a complementary explanation which seeks to demonstrate that the growth of the detention regime is not based solely on ever-restrictive asylum laws and policies. Its growth can also be attributed to the involvement private contractors, whose logic of response to asylum seekers has very little to do with the logic of the government's response, concerned as they are with winning and maintaining contracts and keeping their facilities full.

The privatisation of prisons in the UK and elsewhere remains controversial. Along with a sceptical public,<sup>2</sup> penal reformers and criminologists, in particular, remain deeply opposed to the movement and this interest has yielded a large volume of scholarly contributions (see for example Christie 2000; James et al 1997; Beyens and Snacken 1996; Coyle et al 2003). The privatisation of immigration detention centres, however, has tended only to receive a cursory glance in relevant debates and scholarly analyses. This omission is puzzling, given that the companies with a large stake in private prisons are the very same as those who have a large stake in privately run immigration detention centres. Malcolm Feeley points to a similar omission when he notes that private prisons in the US continue to attract controversy, but 'private facilities for juveniles go virtually unnoticed, although they house half, or more, juveniles in custody in the United States.' (Feeley 2002: 325)

The companies in question see their involvement in immigration detention as being firmly within the penal sphere. One company, for example, lists immigration contracts under its

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<sup>1</sup> See foreword by Prime Minister Blair in the Home Offices' *Controlling Our Borders: Making Migration Work for Britain*, February 2005 (Home Office 2005b).

<sup>2</sup> An ICM poll for the *Guardian* on March 21 2001 found, when asked if they thought prisons should be brought back into the public sector, 60 per cent of respondents said yes, 24 per cent said no, and 16 per cent were undecided.

'justice' sector and has called its involvement in immigration detention a 'natural extension' to its custodial work (Group 4 Falck 2002: 10). Immigration detention has been identified as the next, highly profitable frontier for the growing incarceration sector in recent years (Talvi 2003) and the executives employed to win contracts in custodial services bid for prisons and immigration detention contracts alike. Contracts with the Immigration and Nationality Directorate of the Home Office (IND) provide the private contractor with a fee per inmate per day and are extremely lucrative. In fact, United Kingdom Detention Services (UKDS) reported a turnover of £12.18 million for its operation at Harmondsworth immigration detention centre for the year ended 31 August 2002, not much less than its turnover for its Forest Bank prison operation at £13.6 million (Prison Privatisation Report International, #61, March 2004). Moreover, a great deal more immigration detention centres are managed by the private sector than are prisons. Australia is an extreme case, in which all of the detention estate is in private hands, but the UK is not far behind, with seven of the ten centres being run by the private sector. This compares to around ten per cent of prisons.

Furthermore, in comparison to the volume of legislation regulating private prisons and prison escorts, there is very little for immigration detention centres and the immigration escort sector. Immigration detainees are stripped of many of the legal safeguards suspected criminals are entitled to. At police stations, for example, a strict regime of time limits is imposed on the detention of criminal arrestees, while an immigration detainee can be detained for an indefinite period. After a maximum of 24 hours, a criminal suspect must be released or charged unless continued detention is authorised by an officer of at least the rank of superintendent and the suspect is under arrest in connection with a serious arrestable offence. The officer must have grounds to believe that detention is still necessary to secure, preserve or obtain evidence relating to the offence and that the investigation is conducted expeditiously (Police and Criminal Evidence Act 1984: s.42). In any event, no detention without charge is permitted after 96 hours. There is also a presumption in favour of release in criminal bail hearings and full access to legal assistance and full appeal rights. One of the major concerns about private prison operations is the inherent lack of transparency and accountability. As the IND is not part of the criminal justice system, there is even more scope for corporations to resist scrutiny and an environment of diminished legal oversight has come to characterise the asylum and detention system.

It has been suggested that the relative lack of public interest in the plight of asylum seekers and non-citizens and the fact that they enjoy fewer and narrower legal protections has made it possible to use the detention of aliens as an experimental ground for testing the effectiveness of privatisation in this field (Morante 1998: 107). However, this cannot fully explain the lack of interest in this area. Vagg (1994) points out that before the decision was made to contract out the first prison to private sector management, a large number of juvenile detention centres and probation hostels in Britain were actually run by private or voluntary agencies without attracting much concern. A more plausible explanation as to the lack of academic and public interest in this phenomenon is perhaps linked to the perception of immigration detention as 'administrative' rather than 'punitive'. Moreover, the fact that private management of the centres has become such an integral and essential part of the UK's immigration detention system has perhaps allowed its private nature to be practically invisible, even to those working in the area. This may explain why private prisons, being only a small part of the system, still manage to attract considerable controversy.

It would seem that any argument seeking to question the development and use of private prison operators would be strengthened by the case of immigration detention. While agreeing with David Garland (1990), who has argued that penal policy is the outcome of a 'large number of conflicting forces' and it is ultimately impossible to identify and analyse the full

range of ‘swarming circumstances’ that work to shape penal developments, detailed studies on private interests in immigration detention can lead to a fuller understanding of the determinants of detention policy in the UK. Refugee scholars have largely focused on legal, policy and human rights concerns when writing about immigration detention and have tended not to investigate the deeper structural factors and interests at play (see for example Amnesty International 1996; Goodwin-Gill 1986; Helton 1989; Ashford 1993; Jesuit Refugee Service 2004; Hughes and Leibaut 1998). These scholars, along with practitioners and advocates in the field, should be very concerned about mixing corporate business practice where private profit is the driving force, with the detention of asylum seekers and non-citizens, especially given that asylum applications in the UK have decreased significantly in recent years, while the use of immigration detention continues to expand. In this context, it would seem necessary to question a system in which private companies have a vested interest in keeping the immigration detention population as high as possible.

This thesis looks at how the privatisation of immigration detention centres<sup>3</sup> has affected the evolution of the immigration detention regime in the UK. The thesis is that the privatisation of immigration detention centres is open to criticism on a number of levels, and can be directly linked to the growth of the detention estate, the willingness to detain despite clear principles and rules limiting its use, the secrecy and lack of accountability inherent in immigration detention, and in some respects, the move towards increasingly harsh detention policy and practice. It concludes that the implications of privatisation of immigration detention centres are of grave concern and that at the very least, boundaries as to the extent of private involvement and the capacity of detention space, should be clearly defined. This is especially significant when considering the detention of asylum seekers, who should be detained only as a ‘last resort’.

Section 1 contextualises immigration detention centre privatisation in the UK, by identifying the major private companies involved and tracing the development of prison privatisation in the UK via motivating developments in the US. Section 2 explores the concept of the ‘prison industrial complex’ in order to argue that private prison companies are ‘expansionist’ in nature, and do not merely supply services, but have a role in creating demand for them. It also raises concerns about the inherent profit motive of private companies and the close ‘partnership’ role the companies occupy within the state apparatus. Section 3 addresses the common concerns about accountability and transfer of liability when contracting out such core government services as prison or detention centre management. The last Section concludes by considering what the implications of privatisation have been and are likely to be for immigration detention in the UK.

Further research in this area would benefit from a more empirical analysis of the specific nature of the relationship of the IND with private contractors and how it has evolved over time, as well as uncovering what influence the various contractors have had on government decision making. Especially valuable would be in-depth interviews with employees of the private firms, and examination of the relevant tender documents and contracts which have as yet, not been subject to public scrutiny.

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<sup>3</sup> The Nationality, Immigration and Asylum Act 2000 officially changed the name of the centres to Immigration ‘Removal’ Centres, but I will refer to them as immigration detention centres.

## 1: CONTEXT AND HISTORY

### 1.1 Use of detention in the UK

The decision to detain in the UK is an act of administrative discretion. People who have been refused leave to enter the UK or who are required to submit to further examination at ports of entry are liable to be detained for an indefinite period under the 1971 Immigration Act. Most immigration detainees are either asylum seekers who have arrived legally and whose claims are being investigated, or asylum seekers whose claims have been rejected and are awaiting removal. They are liable to be detained at any point in the asylum process. Other detainees include people who have not arrived legally or who have overstayed their visas and a small amount of people with criminal convictions who are being deported. There are some overlaps between the categories. Immigration Officers (IOs) have power in law to detain or grant temporary admission to people who fall into these categories and they act without reference or effective accountability to any court or independent review body. However, as a matter of policy, the authority to detain is vested in Chief Immigration Officers (CIOs). The decision about whether to detain or grant temporary admission is therefore ‘a discretionary process in which IOs and CIOs play a part’ (Weber and Gelsthorpe 2000: 1). The Nationality Immigration and Asylum Act 2002 extended powers to authorise and prolong detention, allowing Home Office caseworkers to decide to detain someone.<sup>4</sup>

At the time of the creation of these powers in 1971 and for many years afterwards, it was never intended they would be used to routinely detain asylum seekers. Rather, it was intended that they would be used to briefly detain, pending their imminent removal, those refused entry to the UK as visitors, students or workers (see Ashford 1993; Hansard 8 March 1971). Chapter 38 of the Home Office’s *Operational Enforcement Manual* states that detention should only be used as a ‘last resort’ and ‘for the shortest possible time’. ‘There must be strong grounds for believing that a person will not comply with conditions for temporary admission or temporary release for detention to be justified.’ Despite these clear instructions, the detention estate has expanded rapidly over the last decade and continues to grow. An increasing number of asylum seekers are now detained for prolonged periods. This can be arguably be seen as a reflection of asylum numbers as well as the prevailing view that asylum seekers’ claims are largely ‘abusive’. Clearly, this has created a very different environment for the exercise of detention powers in comparison to the circumstances in which the 1971 legislation was enacted. However, in the context of this thesis, it is noteworthy that the detention estate has continued to expand despite asylum numbers decreasing in recent years.

The UK government does not release statistics on how many people are detained each year, their age, stage of immigration or asylum case, or the outcome of their detention. Instead, the IND releases quarterly statistics which detail a ‘snap shot’ of the detention estate on a particular day.<sup>5</sup> The most recent ‘snap shot’ was published in May 2005 and shows that at 26 March 2005, 1853 people were detained in the UK under Immigration Act powers, of which 1625 (76%) had claimed asylum at some stage (Home Office 2005a: 11)

While these figures indicate how many were detained on a particular day, there is, at present, capacity for 2,644 persons in the UK detention estate. This includes 456 family detention

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<sup>4</sup> See Refugee Council ‘Frequently Asked Questions’ <http://www.refugeecouncil.org.uk/infocentre/faqs/faqs001.htm#16>.

<sup>5</sup> It is notable that the same reluctance to provide detention figures, particularly how many asylum seekers are detained, can be found in the United States, even in the face of a federal statute requiring the Immigration and Nationality Service (INS) to report these numbers to Congress.

spaces, Yarl's Wood (232), Oakington (136), Dungavel (56) and Tinsley House (32). There are also a considerable number of asylum seekers and immigration defaulters who are held in police cells for up to seven days before being transferred to the detention estate or remanded to prison. However no figures for these people are available (NCADC 2005). A UNHCR study suggests that the UK detains more people for longer periods and with less judicial supervision than any other comparable country in Europe (UNHCR 2000). The absence of time limits or statutory criteria for detention has led one observer to conclude that the UK also has the 'most open-ended and unsupervised detention system in Europe' (Baldaccini 2004). The general conclusion is that detention during the full determination procedure (after an asylum claim has been determined to have some foundation and prior to the first rejection) is rare in western European countries apart from the UK and, more recently, Austria.<sup>6</sup> There appears to be a trend in the UK towards increasingly long periods in detention, particularly prior to expulsion (Hughes and Field 1998: 23).

## **1.2 Immigration detention centres in the UK**

Interestingly, the first immigration detention centres in the UK were run by the private sector. The decision to use private security companies was taken by the Conservative government in August 1970, which contracted Securicor to run Harmondsworth immigration detention centre (at Heathrow airport) and the small facility at Manchester airport. One of the original reasons for hiring a contract security company was that the use of prison or police officers would be seen as too oppressive for non-prisoners (George and Button 2001). Despite this original intention, many immigration detainees have been, and still continue to be held in prisons, including high security establishments such as Belmarsh Prison, and the distinction between prisons and immigration detention centres is tenuous at best.<sup>7</sup> Indeed, private guards are regularly transferred to immigration detention centres from prisons and in 1995, nobody was capable of explaining to Her Majesty's Inspectorate of Prisons (HMIP) what the difference was between a 'secure hostel' (the contractor's description of Campsfield House immigration detention centre) and a prison (HMIP 1995). A more recent study exploring the distinction between prison and immigration detention argued that 'there is little practical difference between many of the features of immigration detention and imprisonment ... those held in immigration detention are in many ways treated like prisoners' (Groves 2004).

In the late 1980s, existing detention facilities proved inadequate to cope with the rising numbers of (mostly Sri Lankan Tamil) asylum seekers and the Home Office experimented with the use of a hastily-converted car ferry to hold them, the management of which was contracted to Securicor. The ferry subsequently broke free of its moorings and began to sink during a violent storm in October 1987 (see Cohen 1987: 18). The language of deterrence started to be used at this time and in the IND's 1986 annual report, explicit reference was made to the 'use of the sanction of detention ... to deter' would-be asylum seekers (quoted in Amnesty International 1996: 4). Even if, as many observers have suggested, detention is being used for deterrence purposes, it can also be observed that detention may have been largely ineffective in this regard. Not only is it true, as Gibney states, that 'no western state that uses long-term detention has so far provided anything more than the flimsiest evidence to show that this practice has any effect on asylum seeker numbers' (Gibney 2004: 253); but the Home Office's own research in 2002 found that asylum and detention policies were among the least considerations of asylum seekers coming to the UK (Robinson and Segrott 2002).

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<sup>6</sup> Austria has only one detention centre (see JRS 2004: 50). While detention practice varies widely, many other European countries have constitutional limits on the length of detention.

<sup>7</sup> A commitment by the Labour government to end the use of prisons for asylum seekers was made in the Immigration and Asylum Act of 1999, but has been very slow to come into effect.

The government claims that detention is being used primarily to support removal and that it prevents asylum seekers from absconding and disappearing into the community. However, the Home Office does not know what proportion of those who are not detained abscond or fail to co-operate with removal directions, and has declined to carry out research into alternatives to detention (Baldaccini 2004: 80). A rare acknowledgement of the low rate of absconding among asylum seekers was made by the Home Office Minister in 1995, who informed parliament that of the 37,120 persons who were refused asylum in the three-year period 1992-94, only 220 were known to have absconded, the equivalent of 0.59 per cent (Dunstan 1994). Independent research carried out by South Bank University found that even amongst groups of asylum seekers classified as 'high risk' absconders – having been detained and later released on bail – rates of compliance with the terms of bail were higher than 91 per cent, and indicated that detention may be unnecessary to ensure that people remain in contact with the immigration authorities (Bruegel and Natamba 2002). Moreover, another study revealed that immigration officers are generally not in a position to base their decision on any ability to forecast absconding (Weber and Gelsthorpe 2000).

These conclusions, along with the sheer expense of detention<sup>8</sup> suggest that detention policies and practice may be underpinned by deeper, structural factors and interests, of which the involvement of private companies has been strangely overlooked.

### **1.3 The detention estate**

The detention estate in the UK has expanded quickly over the last decade and there are now ten centres used solely to detain people subject to immigration controls, of which seven are currently run by the private sector. The privately run centres and their various affiliations are listed in the Appendix to this paper.

In addition, Global Solutions Limited (GSL) manages a small detention facility at Manchester Airport (capacity 16) and four short-term holding facilities at Communications House in London, Lunar House and Electric House in Croydon and Dallas Court in Manchester. Premier Detention Services manages Queen's buildings (capacity 15) and Dover Harbour (capacity 20). The remaining three detention centres are actually prisons run under the 'Detention Centre Rules' by the Prison Service and staffed by government prison guards. These are: Dover (capacity 316), Lindholme (112) and Haslar (160, to be increased to 300). Asylum seekers are also detained in prisons in Northern Ireland, but there are no official figures for the number detained (O'Hagan 2001). On 18 June 2004, the Home Office announced that GSL had signed a ten-year contract to design, build and operate a new 750-place 'accommodation centre' for asylum seekers at Bicester, Oxfordshire (Prison Privatisation Report International, #63, July 2004).

The Home Office also announced on June 29 2004 that they would transfer the management of Dover and Haslar from the Prison Service to the IND and that the use of Lindholme prison would be phased out as soon as spaces become available in the IND (NCADC 2005). As the IND has no organisational capacity to run detention centres, it is more than likely that the management will be contracted to the private sector, in which case, all immigration detention centres in the UK will be in private hands. The UK government has looked into the feasibility of erecting an 'Australian-style' detention system, whereby all asylum seekers are

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<sup>8</sup> The average cost of detaining an asylum seeker is £29,400 a year, yet the weekly cost of holding someone at Oakington detention centre in Cambridgeshire is £1,620 a week (around £85,000 a year), according to a parliamentary question answered in October 2001 (quoted in Melanie McFadayan 'Hard labour' *Guardian*, September 14 2002).

detained on arrival, and has found that it would amount to £2 billion in start-up costs, with annual running costs of more than £1 billion (*Hansard* 27 March 2001: Column 246). While this may not eventuate, it is eventually intended that all asylum seekers will have to attend an induction centre for up to 14 days to undergo identity screening and health checks before being dispersed elsewhere (Willman et al 2004: 31).

#### **1.4 The players**

The international market for private correctional services is a growing one, with a small number of global providers competing for contracts. With a choice of different companies there is an appearance of what free market advocates would describe as 'healthy competition'. What actually exists is a complicated and ever-changing set of intertwined relationships. The long list of aliases and subsidiaries used by the various companies, as well as the perpetual mergers, 'sell-outs', 'buy-backs' and 're-branding' which characterise the industry, make it extremely difficult to keep track of exactly which company has a stake in which UK facility. Stephen Nathan provides a typical illustration of this:

In 2002 Group 4 bought The Wackenhut Corporation and acquired a 57 per cent stake in Wackenhut Corrections Corporation (WCC). As well as its other international interests WCC owned 50 per cent of Premier Prisons, the largest private prison operator in the UK and so Group 4 also acquired that stake. However, following a legal challenge, Serco – which owned the other 50 per cent of Premier – eventually won the right to sole ownership. Also in 2003 WCC bought back the 57 per cent of the company that Group 4 had acquired. To add to the confusion WCC recently changed its name to GEO Group Inc (Nathan 2004: 8).

All companies who currently have contracts to run immigration detention centres in the UK also have contracts to run prisons; all have commercial interests in several other countries and a large shareholder base; all have won a significant amount of government business in a number of sectors (particularly security); and all have more than a passing interest in penal and immigration detention policies. At the time of writing, as a result of various Group 4 deals, including its acquisition of Securicor, there were just three players in the UK immigration detention and prison market.

#### **1.5 Ownership**

The private company running the largest number of immigration detention centres in the UK is GSL (Global Solutions Limited), who run four centres and will soon be running the new 'accommodation centre' in Bicester assuming construction is completed. GSL was sold by Group 4 Falck to venture capitalists Engelfield Capital and Electra Partners Europe in May 2004 and now trades as Falck/AS. On the ground, staff and management have stayed the same. Electra's managing director told FT.com that his group had been looking at the sector for a while. 'It was too good an opportunity to pass. The trend is towards greater outsourcing so the potential for GSL to grow is tremendous. We are going to continue to help it grow organically,' he said (quoted in Nathan 2004: 8). Amey Assets is a smaller player and is associated with Falck/AS in design and construction.

Premier Detention Services (PDS) runs two centres of which Colnbrook, opened in August 2004, is the UK's newest. PDS is owned by Serco, which estimated that its existing UK prisons and custodial services contracts were valued at £2 billion (Nathan 2004: 8).

UK Detention Services (UKDS) runs one centre, and is owned by Belgian firm Sodexho, a food services conglomerate. Sodexho ran the UK's voucher system (as opposed to cash

assistance) for refugees, which was dropped after a year of protests in 2001. It was a small player in detention and prisons in the US until a boycott campaign in college canteens forced it to sell its eight per cent share of the notorious Corrections Corporation of America (CCA). However, it has expanded its direct interest in the industry by acquiring CCA's stocks in UKDS and the Corrections Corporation of Australia (renamed Australian Integrated Management Services).

The private sector also has assumed a prominent role in the area of escorting. Group 4 Securicor is now the primary provider of the IND's immigration escorting operation. After winning three new IND contracts in March 2005, the Group 4 Securicor said: 'Average annual escorting movements within the UK are expected to be at least 88,000, plus accompanying foreign nationals to their home countries on around 60 charter flights and 1800 scheduled flights per year. The new contracts will generate revenue in excess of £125 million over the next five years' (Group 4 Securicor 2005). They are also responsible for electronically tagging criminal offenders, juveniles and people on bail. In 2003, chief executive Nick Buckles was hopeful that in the near future tagging could be extended to asylum seekers and illegal immigrants and become 'one of the company's growth drivers going forward' (quoted in Prison Privatisation Report International, # 62, May/June 2004).

### **1.6 Prison Privatisation in Britain**

Although this thesis focuses on the privatisation of immigration detention centres in the UK, it is impossible to treat it as an isolated phenomenon. The detention estate has grown in tandem with the trend towards privatisation of major public sector operations, of which private involvement in prisons has proved the most controversial. It was the UK government's willingness to contract prisons to the private sector which attracted the interest of the major companies which now have a stake in the immigration detention estate. Securicor and Group 4 Securitas, for example, set up subsidiaries specialising in the provision of detention services, in response to a government decision in to contract out selected prisoner services (Jones and Newburn 2005: 64). It is significant that the number of detention places spaces available began to sharply increase at the same time as private corporations were beginning to win lucrative contracts in the prison sector.

While Rutherford could conclude in 1990 that in the 'immediate future' the 'private sector's role in prison management in Britain is likely to be marginal at most' (Rutherford 1990: 62), the situation was to change very quickly. The Criminal Justice Act 1991 contained a provision allowing the management of any prison, not just remand centres, to be contracted out to any agency the Home Secretary considered appropriate (Newburn 2002: 170).

### **1.7 Recent developments in the United States**

What happens in the United States today, happens in the United Kingdom tomorrow.  
(Beyens and Snacken, 1994: 5)

When accounting for the emergence of private prisons and detention centres in the UK, it is necessary to refer to motivating developments in the United States. The move towards prison privatisation in the UK occurred under a Conservative government during the late 1980s, whose political ideology gave increasing emphasis to reducing the role of the state in the delivery of public services (James et al 1997: 1). While the domestic context has been undoubtedly influential, the trend has also been attributed to what Tim Newburn has termed 'policy transfer'. Writing about crime control in the UK and the US, he notes 'the alacrity with which British politicians look to the US for inspiration' and acknowledges that 'the United States has been either the direct source, or at least the inspiration for, a number of

policy developments in Britain over the past 20 years'(Newburn 2002: 184;166). David Garland (2001a) sees this in the context of what he argues is a 'largely shared culture of control' which arose in both the UK and the US in the second half of the 20<sup>th</sup> century and helped to shape penal-policy responses that look increasingly alike. Jones and Newburn similarly acknowledge that there are 'clearly "globalising" elements in the story of private prisons, in the way that policy ideas emerge, travel and are implemented in different jurisdictions when the political conditions are right' (Jones and Newburn 2005: 75). Evidence of this can be seen in private management of prisons and detention centres in Australia, which was first considered by the coalition government in 1988 following a successful promotional meeting with Corrections Corporation of America (CCA), chaired by the then Minister for Corrective Services. The decision to go private was not precipitated by problems such as overcrowding, litigation, or lack of public funds, but rather, according to Baldry, the 'client state nature of Australia's relationship with the US' (Baldry 1994: 129-130) which encouraged corrections companies to look for business there.

Private interest in immigration detention has been in evidence since the beginning of the prison privatisation movement. While Britain had contracted Securicor to run two small facilities in 1970, it was in the US that the private sector was contracted to run immigration detention centres on a much larger scale, leading one observer to refer to them as the 'seedbed' out of which relevant experience and opportunity to expand the use of private prisons began (McDonald 1994). Today's private prison industry had its beginnings in 1980 in Nashville, Tennessee, at a campaign fundraiser for Presidential hopeful, Ronald Reagan. The Chairman of the Tennessee Republican Party and the Corrections Commissioner of Virginia along with his counterpart in Tennessee, set up what became CCA, the Corrections Corporation of America. Three years later, they won their first contract, with the Immigration and Naturalization Service (INS) (ABC Radio National 2004; see also Thomas and Logan 1993; Hallet and Lee 2001), an agency which had no tradition of detaining illegal immigrants itself, although occasionally it turned to the Federal Bureau of Prisons.

Tom Beasley, one of the co-founders of CCA, described the early days of the company:

Don Hutto and I went down to Houston on New Year's Eve in 1983. We rented a car at the airport and drove around the major thoroughfares to find somewhere to put 200 illegal criminal aliens by February 1st. Literally, we stopped in ten motels, then finally about 3am found one that might work. I asked if they would be interested in selling or leasing the motel. And after negotiating with the owner for several hours, he finally agreed (quoted in ABC Radio National 2004).

In explaining how such a 'product' was promoted Beasley said: 'You just sell it like you were selling cars, or real estate, or hamburgers' (quoted in Shlosser 1998: 70). Indeed, when CCA was set up, it was backed financially by the Massey Burch Investment Group, which also funded the Kentucky Fried Chicken Group (Mobley and Geis 2001).

While it was immigration detention that opened the door for CCA and other private security companies to tap into government custodial business by demonstrating that the private sector could bring construction projects to fruition substantially faster and at a lower cost than could government agencies, it remained a marginal part of the 'market' until the late 1990s. In the meantime, it was private prison contracts which allowed corrections and security companies, particularly CCA and Wackenhut Corrections Corporation to become multi-million dollar entities. Much of the correction corporations' early profits can be linked to the federal Sentencing Reform Act of 1984, which took effect in 1987. This law, as well as efforts to privatise major elements of the federal government, were policy hallmarks of the Reagan

presidency. The Act mandated prison terms for many offences that previously had received probation (mostly low-level drug offences); no parole and/or longer sentences for certain offences; and a reduction in the amount of good-conduct time federal offenders could earn (Bender 2000).<sup>9</sup> The well-documented ‘imprisonment binge’ in the United States during that time which saw unprecedented growth of the inmate population and resulted in major prison overcrowding (see Irwin and Austin 1994; Parenti 1999a), accompanied by access to substantial working capital, the movement of experienced administrators from the public to the private sector, and ‘charismatic leadership’ (Thomas and Logan 1993), certainly facilitated the rapid expansion of CCA and similar companies.

Between 1992 and 1997 CCA’s shares performed so well that the company was one of the top five on the New York Stock Exchange (Newburn 2002: 178). The growth and profit rates of private incarceration companies rivalled the leading sectors of the national economy at the height of the mid-1990s boom (Pratt et al 2005: 9), and one investor dubbed it a ‘theme stock for the nineties’ (Parenti 1999b). In 1998, the top managers of the major corrections firms were unanimous in predicting that their market share would at least triple over the ensuing decade.<sup>10</sup> With 26 federal prisons and 96 state penitentiaries under construction in 1996 (Pratt et al 2005: 10), the financing of carceral buildings had become one of the most profitable sectors in the bonds market. A number of big Wall Street firms such as Goldman Sachs, Smith Barney Shearson and Merrill Lynch, sunk two to three billion dollars per year into it during the 1990s (Parenti 2003).

However, this rapid growth in private prisons in the US eventually slowed down, and in September 2000, *Business Week* proclaimed that ‘the industry’s heyday may already be history.’ CCA stock lost 93 percent of its value that year (Solomon 2002). But in what criminal-justice policy analyst Judith Greene (2003) called ‘an astonishing bailout’ the federal government stepped in, seeking more beds for their own growing inmate population – of which more than 35,000 were asylum seekers and ‘criminal aliens’ – that is, non-citizens who have been convicted of crimes including immigration crimes.

### **1.8 Recent developments in Britain**

When the Thatcher government floated a number of public utilities on the Stock Exchange in the early 1980s, it signalled a commitment to privatisation as a means of reducing public spending. There were also very practical pressures which created the climate in which prison privatisation became a possibility, in particular, the steady increase of the prison and remand population<sup>11</sup> and the conditions in which they were confined. In report after report, various government bodies documented the ‘squalid’, ‘degrading’ and ‘unsanitary’ accommodation (see House of Commons, 1984: para. 1; Morgan, 1994).

However, much has been written about other ‘behind-the-scenes’ pressures exerted by various players, in particular, the influence of several right-wing ‘think-tanks’. The Adam Smith Institute (ASI), ‘undoubtedly one of the key think-tanks on the liberal and libertarian wing of the New Right’ (Gamble 1994: 146), has received the most attention in this regard. Ryan and Ward point out that ‘Just how much influence the Adam Smith Institute has is

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<sup>9</sup> Other helpful legislation included the Three Strikes and You’re Out Act (passed by 11 states) which mandates life in prison for those convicted a third time for violent or serious offences; and the Truth in Sentencing Act (passed by 24 states and the federal government) whereby prisoners are required to serve at least 85 percent of their sentences (see Clark, Austin and Henry 1997; Bender 2000).

<sup>10</sup> 127<sup>th</sup> Congress of Corrections, Orlando, Florida, August 1998 (bi-annual event).

<sup>11</sup> The remand population increased by no less than 76 per cent between 1979 and 1988 (*Prison Statistics England and Wales, 1988* (Cm. 825). London: HMSO). In 1988 the Green Paper *Private Sector Involvement in the Remand System* was published.

difficult to gauge as it works largely behind the scenes; but it boasts that many of its policies have been implemented by the Conservative government' (Ryan and Ward 1989: 45). The ASI had strong links to the powerful Washington DC think-tank, The Heritage Foundation, which refers to itself as 'a think-tank whose mission is to formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values and a strong national defense' (Prison Privatisation Report International, # 62, May/June 2004). Denham and Garnett argue that 'some of [ASI's] best publicised activities have apparently been copied from American conservative bodies' (Denham and Garnett 1998: 151). In *The Omega File*, the ASI pointed to the ailments of the British prison system; encouraging the government to take 'urgent steps to initiate private sector involvement' in prisons and detention centres (Butler et al 1985: 259-60). Shortly following this report, was an enthusiastic review – or 'eulogy', as Ryan and Ward describe it – of the achievements of private prisons in the USA by ASI member Peter Young (1987), claiming dramatic improvements with no adverse consequences. Jenkins illustrates the ideological commitment of the ASI thus:

For Peter Young [ASI senior member], the idea of private prisons had a symbolic political importance to the Institute – if you could persuade government to privatise prisons, you could get them to privatise anything. 'At the time it was regarded as a bit beyond the pale ... David Mellor and some of the other senior civil servants ... thought the idea was a bit of a joke'. Nonetheless, the Institute kept lobbying the Number Ten policy unit, which was more receptive to this kind of idea.' Looking back, he feels pleased that the once zany idea is now part of government policy. 'It's a good victory, that one, prison privatization. Quite an amusing one' (Jenkins 1993: 18).

The prison privatisation concept was also promoted from within government. In 1988, the Home Affairs Select Committee of the House of Commons, under the Chairmanship of the Conservative MP, Sir Edward Gardner (who was soon to become the chief executive of a new company, Contract Prisons, which was formed to exploit new opportunities in the sector), made a number of high-profile visits to private prison facilities in the United States, several of which were operated by CCA. The issue of private prisons dominated subsequent discussion of the Committee's deliberations (Jones and Newburn 2005: 64). One of the most influential of these Committee members was John Wheeler MP, who was also Director General of the British Security Industry Association (Newburn 2002: 182).

Beyens and Snacken observe that the lobby from industry was strong and persistent. They quote R.D.N. Hopkins, the Director of Corporate Communications of UKDS, a company specially formed by CCA to 'lobby the UK government about the merits of prison privatisation and to win contracts' (Prison Reform Trust 1994) and which subsequently won the contract for Blackenhurst Prison, saying in 1993:

It took us two or three years to finally convince the government that this was indeed the right course of action ... Prisons were not working and there was a viable alternative ... UKDS was very much involved in bringing forward the arguments in favour of the case (quoted in Beyens and Snacken, 1994: 6).

An article in *The Guardian* in 1989 demonstrated how these various interests had converged:

On September 15 [1988] the private prisons network came together at a dinner for more than 150 given by the Carlton Club political committee. All the various players were there: representatives of the ASI and other right wing policy units, civil

servants, John Wheeler and his colleagues, architects and people from the consortia ... a mood of satisfied expectation was beginning to emerge. (Rose 1989).<sup>12</sup>

Whatever the influence of these and other combined pressures was, it has been argued that few observers will fail to notice the close similarity between the proposals of the ASI and the industry lobby and what was to transpire (James et al 1997: 42). The September 1991 White Paper, *Custody, Care and Justice: The Way Ahead for the Prison Service in England and Wales*, outlined the government's programme for change, and the aforementioned enabling legislation took effect. During 1991, contract details were announced for two privately contracted penal establishments. The first was the Wolds remand prison, won by Group 4 and the second was won by UKDS to manage Blakenhurst prison. Shortly after winning the contract for Wolds, Group 4 won the contract to run Campsfield Detention Centre in Oxfordshire. Since then, prison and immigration detention privatisation in the UK has continued to expand, and has gained extra momentum, despite all expectations to the contrary, with the election of a Labour government in 1997. The UK has progressed from implementing one experimental prison management contract to having 'Europe's most privatised criminal justice system' (Nathan 2003).

Considering the above developments, it is clear that immigration detention in the UK has been heavily influenced by the prison privatisation movement. It is doubtful that the detention estate would have expanded in the same way, if at all, without the development and momentum of this movement, and the experience of prison privatisation in the US as a motivating force.

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<sup>12</sup> John Wheeler was the Chairman of the Home Affairs Committee in 1986/87 and also chairman of the British Security Industry Association, whose members included Group 4 and Securicor, both of which subsequently won prison contracts. The Carlton Club is a conservative political and social club.

## **2: THE ROLE OF PRIVATE PRISON COMPANIES IN THE CONTINUED GROWTH OF THE DETENTION ESTATE**

It's like a hotel with a guaranteed occupancy.

– Ron Garzini, Private prison promoter, quoted in Parenti (1999a: 211).

Punishing people is big business ... It is a multinational industry, which involves not only obvious players like security firms, but also less obvious players like catering companies, suppliers of prison furniture and clothing, and anyone who sells goods or services used in jails. The danger for public policy is obvious: there are global interests, with a direct interest in world-wide incarceration. (Lilly 1993: 20).

As the previous Section has illustrated, there were a range of different pressures which influenced the prison privatisation trend and which consequently left immigration detention open to increased private interest. There now exists a large and expanding set of private interests that have a stake in the growth of incarceration, not only in the US, but increasingly abroad. The UK is considered a key market, not least because of the announcement that all new prisons would be designed, constructed, managed and financed by the private sector, along with its enthusiasm for privatisation generally. George Zoley, Chief Executive of GEO (formerly Wackenhut) in a December 2004 press statement, said that his company intended to 'vigorously pursue new business opportunities in England Wales and Scotland, which currently represents the second largest private correctional market in the world' (quoted in Prison Reform Trust 2005). The question this Section addresses is whether these companies are simply responding to a 'market need', or whether they have had a much more direct involvement in creating demand. The manner in which the Corrections Corporation of America began gives a certain amount of credence to the notion that private interest and innovation has been one of the driving forces behind encouraging increased incarceration, and neatly demonstrates how 'the purveyors of particular policy "solutions" can seek out and develop "problems" to attach to them' (Jones and Newburn 2005: 68). This Section also looks at the how the profit motive operates in this context, as well as the growing 'partnership' role the private sector plays in its relationship with the government.

With regard to the privatisation of custodial functions, recent studies have led to an emerging consensus that supply and demand are inextricably linked. This pattern of interrelationships between private and government interests is an important element of the detention regime that has not been given enough weight by those concerned about its expansion. Private interest in immigration detention is anything but benign or passive. The developments in prison privatisation to date, seem to support the claim that there is a growing international prison industry, which influences prison and detention policies and encourages the expansion of imprisonment in industrialised societies. While a crude argument along these lines would amount to something in the vein of a 'capitalist conspiracy', in which trans-national capital is the key to understanding the growth of privatised custodial facilities, the reality is, of course, much more complex.

A more sophisticated reading of this relationship and its implications is based on what Lilly and Knepper (1993) have called the 'corrections-commercial complex', which holds that the alliance of public and private interests represented within the 'prison-for-profit' movement will lead to an inevitable increase in the prison estate and the number of people held in it. They argue that such a system may not be legally a form of government, but nevertheless may exert greater influence than more formal structures of the government. They base this

idea on the concept of the 'military industrial complex' which has been an object of analysis, particularly during the Cold War, ever since President Dwight Eisenhower made cautious reference to it in his farewell address on January 16 1961. It can loosely be defined as a cooperative relationship between the military and the industrial producers of military equipment and supplies in lobbying for increased spending on military programs. Similarly, we can speak of the 'prison industrial complex' which Eric Shlosser describes as 'a confluence of special interests that have given prison construction ... an almost unstoppable momentum' (Shlosser 1998: 52).

Within the military policy-making arena there is said to exist an 'iron triangle' of the Pentagon, private defence contractors, and various members of Congressional committees (e.g., armed services committees, defence appropriations committees). This three-way, stable alliance has been called a 'sub-government' because of its durability, impregnability, and power to determine policy (see for example Allison and Zelikow 1999).

Barbara Stolz's analysis builds upon this in the context of prisons by introducing the idea of the 'correctional sub-government', which she defines as 'a group of like-minded individuals representing key parts of the legislature (usually subcommittees), the executive branch (usually bureaus operating specific programs) and the private sector (most often industries or producer-oriented interest groups)'. Privatization of prisons, she argues, introduces major changes in the corrections sub-government. Moreover, '... it is evident that private corporations that operate or may seek to operate corrections facilities will become involved in the corrections policy-making arena' (Stolz 1997: 108; 99).

David Garland draws a distinction between the *organizing* and *perpetuating* causes of 'mass imprisonment' in the United States. Organizing causes include public anxiety about crime and the consequent demand for public protection, as well as a discrediting of social solutions to problems of order and a disregard for the plight of the 'undeserving poor.' Perpetuating causes, he proposes, are factors which give rise to adaptive behaviour, once the system is established and starts to take on a life of its own. He suggests that the 'penal industrial complex' is 'the most striking example' of a perpetuating cause with its vested interests in continuing profits (Garland 2001b: 197-198). While this sounds like a reasonable distinction, it is arguable that the entrepreneurial and 'net-widening' tendencies of the private sector can also be seen as organising factors, and, as Newburn points out, 'in seeking new markets, such as that in the UK, [the penal industrial complex] may have operated more of an "originating" role' (Newburn 2002: 180).

In relation to this entrepreneurial relationship with government, Feeley (2002) takes an historical perspective and argues that privatisation of incarceration and related 'services', unleashes 'entrepreneurial energies that, at least in the ... United States, Britain and Australia, have led to new and more expansive forms of social control'. He demonstrates that private contractors have been very important sources of innovation in Anglo-American criminal justice, particularly as these systems have 'no agency, no office, no official charged with thinking about the system as a whole or developing new and improved ways of doing things'. The UK and the US 'pale in comparison' to more centralised continental systems, with their well-developed oversight functions. Given this lack of oversight and scope for innovation, the private sector has – in Feeley's view – filled the gap, and he contends that the 'R&D function [of the private sector] is not an occasional or marginal by-product of other activities; it is an enduring, important and distinct feature of the Anglo-American criminal process ... Historically, entrepreneurs may have been the single-most important source of innovation in these systems ... Many – perhaps most – new forms of punishment in modern Anglo-American jurisdictions have their origins in the proposals of private entrepreneurs.'

Some of the more well-known private innovations which were eventually embraced by the state are the transportation of convicts to North America and Australia; and exploiting the labour of prisoners to offset operational costs to make the construction of long-term, purpose-built prisons more palatable at a time when prisons were not a foregone conclusion. Jeremy Bentham, who is well known for his Panopticon design for the prison, is less well known for his 20 year quest for a monopoly contract to build and run self-financing prisons from which he expected to reap huge profits from the small fees paid by the government and the productive labour of the convicts (see Semple 1993).

## 2.1 Profit motive

While arrests and convictions are steadily on the rise, profits are to be made – profits from crime. Get in on the ground floor of this booming industry now!<sup>13</sup>

Perhaps the most controversial aspect of prison privatisation has been the introduction of the profit motive. Anyone working for an organisation which has the objective of making a profit is likely to make decisions in the light of that imperative. Simply put, the more people incarcerated in a particular facility, the more profit the company which runs it will make. Industry experts say a 90 to 95 per cent capacity rate is needed to guarantee the hefty rates of return needed to lure investors (Silverstein 1998). It is also clear that for-profit organisations, especially those with a global presence, have a vested interest in seeing the market for their services expand. ‘There is no surprise therefore, that the big private prison organisations are involved in heavy lobbying activities’ (Newburn 2002: 179). Shichor contends that it ‘is very likely that when privatisation [of a correctional institution] takes place, profit making will climb to the top of the system’s goal hierarchy, because if a satisfactory level of profit does not materialise for an extended period of time, the corporation will not be able to continue operating the facility’ (Shichor 1999: 228). Garland also notes that ‘commercial interests have come to play a role in the development and delivery of penal policy that would have been unthinkable twenty years ago’ (Garland 2001a: 18).

In the US, one does not need to look far to find examples of how the profit motive has interacted with the detention of asylum seekers and non-citizens. While detention of this category of persons had been growing during the late 1990s, it was after September 11 2001 that the major companies really started to take notice. For example, the chairman of the Houston-based Cornell Companies (one of the top four private prison companies in the US) spoke candidly in a conference call with other investors:

It can only be good, with the focus on people that are illegal and also of Middle Eastern descent ... there are over 900,000 undocumented individuals of Middle Eastern descent. That's half of our entire prison population ... The federal business is the best business for us ... and the events of September 11 [are] increasing that level of business.<sup>14</sup>

The head of the Wackenhut Corrections Corporation was also optimistic:

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<sup>13</sup> An advertising brochure from an investment firm called World Research Group, cited in Silverstein (1998: 156).

<sup>14</sup> Quotation from Steve Logan, chair and CEO of Cornell: Cornell Earnings Conference Call, Third Quarter, 2001; online broadcast transcribed by justice policy analyst Judith Greene (unpublished). Also cited in Dow (2004).

It's almost an oddity ... that given the size of our country and the number of illegal immigrants entering into our country that we have such a small number of beds for detention purposes ... This has become an issue under the homeland security theme, and I think it's likely we are going to see an increase in that area (quoted in Greene 2003 : 145).

While executives in the UK have perhaps been more cautious about stating their positions so explicitly, there have been various statements made which demonstrate how the profit motive overrides various associated concerns. For instance, a director of Premier Prison Services in the UK said: 'As a citizen I would not like to see that many people locked up. But as we're in the business, I'd like to play our part in this' (quoted in Mathiason 2001).

There is concern among some scholars that private correctional corporations may attempt to increase the number of those incarcerated (Austin and Coventry 2001: 16; Sarabi and Bender 2000); indeed, Nathan quotes an executive in the sector encouraging providers to build prisons even if there was no contract. 'Build and they will come', he said (Prison Privatisation Report International, #6, Jan/Feb 1997). Christie recognizes this propensity for prison privatisation to be 'expansionist' in nature and notes the likelihood for any corporation to be content with its current profit margins is rare, and that increased profit margins appear to be the measure by which performance is gauged (Christie 2000: 13). A study by Lilly and Deflem (1993) gives empirical evidence for the US on the intertwining business interests of corrections and non-corrections industries, the internationalisation and strive for expansion and huge amount of capital invested. Newburn lists some of these non-corrections industries whose profits have come to rely upon entrepreneurial success in the policy arena, such as construction companies, caterers, escort services, investors, as well as the 'new breed' of policy consultants and 'experts' (Newburn 2002: 180).

In relation to immigration detention, a worrying trend has been observed in the US where local politicians and entrepreneurs have taken full advantage of the revenue possibilities in the sector. In 2003, approximately 60 per cent of INS detainees were incarcerated in almost 900 local prisons and jails and in private contract facilities around the country. Along with other federal prisoners, many of whom are non-citizens, INS detainees have been recognised as the only incarcerated populations sustaining reliable growth (Dow 2004: 9; Solomon 2002). Private companies incarcerate approximately ten per cent of INS detainees (this figure is growing, see Dow 2004), and while local prisons and jails are not private companies in the traditional sense, the manner in which the profit motive has interacted with the detention of asylum seekers and non-citizens is instructive. The Mayor of Oakdale Louisiana, for example, led a successful lobbying campaign to bring a new federal detention centre to his town. He told Robert Kahn that immigration prisons are a 'recession proof industry' because if the US economy suffers, the world economy will follow, which will lead to more undocumented aliens coming to the United States, and thus 'more employment for Oakdale' (Kahn 1996: 151-152). A Perry County Commissioner told the a local newspaper: 'We tried like the dickens to get some of the Chinese ... but it didn't pan out ... If no immigrants are secured, some layoffs may be inevitable.'<sup>15</sup>

The profit motive has also led to some disturbing practices within private prisons and detention centres, of which cost-cutting is a well-documented one. Companies receive a guaranteed fee for each prisoner or detainee, regardless of the actual costs, so whatever they manage to save in costs for staff, maintenance and services can be retained as profit. A recent report found hourly basic pay for private sector prison and detention custody officers in

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<sup>15</sup> *Harrisburg Patriot*, June 22, 1993.

England and Wales was 43 per cent less than their public sector counterparts receive (DLA MCG Consulting 2004), although senior managers and directors are paid better than their public sector counterparts (Centre for Public Services 2002: 7). A report of the Prison Inspectorate to Campsfield House in 1998 found that staff worked 12-hour shifts, and their salary was a mere £4 per hour (HMIP 1998: para 2.01-2.02). To make matters worse, the shift pattern required each employee to work seven consecutive shifts (*Ibid*: para 7.09). In 2002, they were paid slightly more, at £6.75 per hour, still not much more than the current minimum wage (Morris 2002). Private prisons are designed to minimise the number of staff required<sup>16</sup> and extensive use of electronic control (cameras, tagging) to replace personnel is common (Beyens and Snacken 1996: 259).

In terms of cutting down on the costs of basic services, Michael Welsh, when looking into how private detention centres were run in the US found that in order to save money, one company provided very little food and then left detainees to fight for it. Another institution decided that detainees were not allowed to go outside when it was cold because the company would have to purchase coats (Welch in Talvi 2003). A former CCA nurse interviewed by Mark Dow went through the medical records at the detention centre where she worked and found that adult detainees with hepatitis B were being given paediatric doses of the medication because it was cheaper. Even though INS regulations stated that detainees were entitled to the proper doses of medicine, the nurse found she was constantly fighting company policy. To quote her: 'What did [the warden] always say? If it's costing you money, put 'em on a [deportation] list' (Dow 2004: 101-105).

Moreover, it is in the interests of the company running a detention centre or prison to keep any reported 'incidents' out of the public eye, lest it affect its business reputation, or indeed, its share price. The outcome of the riot at a private prison in New Jersey, USA, which was operated by Esmor Corrections Corporation is illustrative. After this riot, there was wide media coverage, and Esmor's stock went from \$20 per share to \$7 in a matter of days. It has been noted that since this riot, numerous private prison corporations have been caught failing to report problems within their prisons. Dyer argues that the reason is simple: such secrecy protects shareholders from 'adverse market reactions that would likely occur if a problem were to be reported' (Dyer 2000: 204). Moyle has found that this commercial interest, particularly the protection of the business name, influenced a decision to breach an inmate so he could then be transferred because he was 'too much trouble for CCA' (Moyle 2001: 89-91).

## 2.2 Staying power

The influence which large companies wield in private prison arrangements has become more and more substantial. The financing and contractual arrangements are designed to be 'election-proof' and tie governments into private sector participation in ways that would be difficult to unscramble (Harding 1998: 635). A private prison executive, when advising delegates at a corrections conference said: 'A contract must be tightly written so that inmates can't be pulled out easily, leaving a prison without revenue. You want to keep it so that there's not a lot the state can do if there's a riot or unhappiness with the management' (quoted in Stern 1998: 290).

This may go a long way towards explaining why the newly elected Labour government in 1997 continued with prison privatisation, to a much more radical degree than the Conservative government before them, despite very clear pronouncements during the election campaign that prison management would return to the public sector. In 1995, Jack

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<sup>16</sup> Overall, private prisons in the UK have 17 per cent fewer staff per prisoner (Sachdev 2004).

Straw, the Shadow Home Secretary stated that '[i]t is not appropriate for people to profit out of incarceration. This is surely one area where a free market does not exist' and '... at the expiry of their contracts a Labour government will bring these prisons into proper public control and run them directly as public services'.<sup>17</sup> However, within days of taking office, in 'a U-turn sharp enough to make a teenage joy rider proud' (Mathiason 2001), he sanctioned two new private finance prison deals. On 8 May 1997 (seven days after the general election), he said '... if there are contracts in the pipeline and the only way of getting the [new prison] accommodation in place very quickly is by signing those contracts, then I will sign those contracts' (quoted in Nathan 2003). In a speech to the Prison Officers Association's annual conference on 19 May 1998, Mr Straw revealed that he had reviewed the recommendations of the Home Affairs Committee and decided that all new prisons in England and Wales would both be privately built and privately run (Nathan 2003). This included architectural planning, building, refurbishing, raising capital and prison operations.

A further explanation for Straw's actions may be found in the idea of 'institutional path dependence' which has been applied to a number of political problems and bureaucratic structures. Krasner (1988) uses this idea to challenge the prevailing perspectives of institutions as existing in a fluid environment where a change in incentives or resources will quickly lead to a shift in behaviour, and suggests that 'prior institutional choices limit available future options'. This encourages large institutions, in particular, to develop a propensity for inertia rather than quick behavioural shifts. Hansen elaborates on this idea by suggesting that this situation 'encourages continuity in the form of retention of the original choice. The decision may be truly "locked-in", in the sense that reversal is impossible, or, as is more likely in politics, reversal may be rendered more difficult by the path-dependent effect' (Hansen 2000: 31; 34).

Schiflett and Zey (1990) also shed some light on the influence private contractors have over the decisions of government agencies. They argue that when governments become clients of human service organisations, they become *dependent* on the service provided to them and therefore less powerful. The private security industry, which Garland describes as growing up 'in the shadow' of the state, has seen remarkable expansion and is now 'recognised by government as a partner in the production of security and crime control'. He adds that the government is aware that it 'can deliver the punishment but not the security' (Garland 2001a: 17-18; 200). The UK government has come to depend on large private firms to provide them with a variety of security services, of which the management of prisons is but one. Group 4, for example, provide a number of security services for the UK government in Iraq and were asked in 2003 to participate in the rebuilding of Iraq's prison sector (Prison Privatisation Report International, #58, October 2003). The three companies which run custodial facilities in the UK also have key contracts in the defence sector, constructing and guarding government facilities,<sup>18</sup> guarding government personnel, providing infrastructure and support services for the police force, building and running schools, universities and hospitals, and a range of other services, such as maintenance of railway stations and tracks.

### **2.3 The Private Finance Initiative**

The current Labour government's commitment to privatisation is exemplified by an 'unswerving commitment' (Milne 2001), to the Private Finance Initiative (PFI), which was launched in November 1992 to encourage each government department to explore actively

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<sup>17</sup> 'Labour gives pledge to end prison privatisation' *The Times* 8 March 1995.

<sup>18</sup> GSL, for example, recently won a 30 year contract to construct and service the new Government Communications Headquarters (GCHQ), which will be roughly the size of Wembley Stadium [http://www.gslglobal.com/markets/foreign\\_office.asp](http://www.gslglobal.com/markets/foreign_office.asp).

the scope for private finance in future planning. Despite considerable professional and public opposition, the PFI is currently the only option for procuring new prisons (Nathan 2003) and supports the economic infrastructure which is vital for the expansion of the detention estate. The industry's ideal model includes complete service provision and is heralded as the PFI's 'purest' model (Nathan 2004).

While the government has always hired private contractors to build prisons and other infrastructure, the PFI means that contractors pay for the construction costs and then rent the finished project back to the public sector. The particular facility is built quickly, without the lengthy and complicated Treasury approval procedure, with promised cost savings and does not necessitate raising taxes. The contractor, for its part, is allowed to keep any cash left over from the design and construction process, in addition to the 'rent money' (Milne 2001) during the course of long-term contracts, which are typically between 10 and 30 years. This has engaged the interest of large construction companies, which expect to make between three and ten times as much money under the PFI as they do under traditional contracts.<sup>19</sup> Vast windfall gains have been made during the refinancing of PFI loans, such as in the case of Fazackerly prison in Liverpool. The initial cost of the project has, it is claimed, been paid back within two years, leaving 23 years of pure profit from the construction.<sup>20</sup>

The PFI continues to attract controversy in all sectors in which it operates, particularly as a growing body of evidence suggests that the PFI is shaping how services are delivered rather than the system directly identifying needs and priorities; cost comparisons with hypothetical public sector projects are flawed; cost savings have been overstated and in some cases costs have actually increased; and that in the end, public and private prisons cost tax payers roughly the same (see for example, Centre for Public Services 2002; Austin and Coventry 2001; US General Accounting Office 1996). It has also been argued that to the extent that savings have been achieved by private prison operators, it has been at the expense of employment conditions for staff, which is reflected in part by the staff turnover rate, which is at least double, and in one case, almost seven times the public sector average (Prison Reform Trust 2005).

The private sector has now been working in partnership with the IND to run detention facilities for over 30 years, and has not only developed expertise which the IND doesn't have, but also a tight working relationship with some of the highest levels of government. With the help and encouragement of the private sector, immigration detention centres have reproduced themselves and become part of the 'scheme of things'. They have survived long enough to form habits, vest interests and to channel thinking.

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<sup>19</sup> Terry Macalister 'PFI triples profits, say firms', Guardian 8 September 2003.

<sup>20</sup> BBC News Online 'What are Public Private Partnerships?' 12 February 2003.

### 3: PRIVATE SECTOR MANAGEMENT AND ACCOUNTABILITY

The [UN Human Rights] Committee is concerned that the practice of the State Party in contracting out to the commercial sector core State activities which involve the use of force and the detention of persons weakens the protection of rights under the Covenant [on Civil and Political Rights].<sup>21</sup> (UN Human Rights Committee 1995)

This Section will not consider the human cost of detention *per se*, but it is important to acknowledge that there is a growing body of sufficiently compelling evidence which demonstrates how prolonged detention of unspecified duration can be detrimental to the physical and mental health of the detainee (see for example Pourgourides 2002; Sultan and O'Sullivan 2001; Silove, Steel and Mollica 2001). There is no reason, however, to suggest that if the detention estate was managed solely by the public sector that the psychological and physical effects would differ significantly. Nor is it likely that the suicide attempts, the riots, the hunger strikes, the self-harm and the protests which have come to characterise immigration detention throughout the world would not be evident.<sup>22</sup> While the track records of all immigration detention centres and prisons run by the private sector in the UK can be seen as poor,<sup>23</sup> there has always been plenty of criticism of government performance in running prisons. This largely stems from the nature of incarceration. According to Vivien Stern: 'Private prisons are not scandal free, but prisons are made for scandals and they all have them' (Stern 1998: 297). This tendency is perhaps best exemplified by the now famous Zimbardo prison simulation study at Stanford University in 1971, which demonstrated how prison tends to ultimately defeat our most humane intentions.<sup>24</sup>

However, there are important areas where private management does specifically impact on the lives of detainees. Apart from the impact of cost-cutting tendencies which have already been mentioned, accountability is an obvious concern, expressed by almost all of the major commentators on the issue. Government agencies, by virtue of the fact that they have to make their decisions more publicly with their records open to public scrutiny, are less flexible and are bound by more rules and obligations than private companies which 'can make decisions behind closed doors' (Shichor 1999: 243). In relation to immigration detention, a Scottish Parliamentary visit to Dungavel immigration detention centre in 2002 recommended that: 'The lack of accountability for service provision by Premier must be addressed. Information is very difficult for the public to access, as a direct result, it is very difficult to determine if Premier is performing well or not or to investigate any claims about conditions at Dungavel' (Scottish Parliament 2002: 6). The IND presence at detention centres is limited to a permanent 'contract monitor' who receives complaints from detainees and acts, in the words of an HMIP inspector 'as a post-box' for the IND. The inspector also noted that, compared to the Prison Service which is accustomed to inspections and oversight, the IND is not used to independent scrutiny, and is particularly unfamiliar with being scrutinized

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<sup>21</sup> UN Human Rights Committee *Concluding observations/comments on the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/95/Add.3)* July 1995

<sup>22</sup> See JRS 2004 for a discussion of the detention practices of other European countries

<sup>23</sup> Some of the more serious incidents at detention centres include the fire at Yarl's Wood in February 2002, numerous riots at hunger strikes at Campsfield House, a major riot at Harmondsworth in July 2004 and a hunger strike involving 220 detainees in May of the same year, 10 suicides and countless attempted suicides in UK detention centres over the last five years, numerous assault allegations directed at private guards and escorts. For a discussion of some of these, particularly Campsfield House, see Molenaar and Neufeld 2003.

<sup>24</sup> Dr Phil Zimbardo set up prison simulation experiment which transformed most of the subjects who played the role of 'guards' into 'brutal sadists' and most of those who played the role of prisoners into 'abject, frightened, and submissive men', some having such severe mental symptoms that they had to be released after a few days. In fact, the reactions of both groups were so intense that the experiment which was to have lasted for two weeks was broken off after six days (see Zimbardo 2004).

under humanitarian criteria.<sup>25</sup> While this limited presence is a feature of the various detention centres, an inspection of four short-term holding facilities (non-residential)<sup>26</sup> for immigration purposes found that there was a complete absence of independent or operational oversight (HMIP 2005).

In a rare (albeit brief) piece of research about the human rights implications of the use of privatised centres for asylum seekers in Australia and the UK, concern was expressed about the lack of information available on the contracts governing the relationship between the governments and the private companies running detention centres, as well as 'a large degree of confusion regarding the powers of the detention staff in the UK' (Molenaar and Neufeld 2003). Similarly, the Prison Reform Trust (2005) note that due to 'commercial confidentiality' the key financial and operational details of the contracts drawn up between the private companies and the Home Office are not available for public scrutiny and that the process remains secretive. It is therefore very difficult for Parliament to hold these companies to account. The Prison Reform Trust illustrate this by referring to a number of Parliamentary questions about tender documents which were unable to be answered because of 'commercial-in-confidence'.

While the contracts between the IND and the private companies have not been subject to public scrutiny as yet, the Australian National Audit Office's (ANAO 2004) examination of the management of the Department of Immigration, Multicultural and Indigenous Affairs' (DIMIA) contract with Australasian Correctional Management and Group 4 Falck Global Solutions (GSL)<sup>27</sup>, offers some insight. The audit found that, other than the contract itself, there was no documentation of the means by which the detention objectives would be achieved. This meant that DIMIA was not able to assess whether its strategies were actually working in practice. There was a lack of clarity around the roles and responsibilities of key personnel and very low levels of contract management training for DIMIA officers. Although DIMIA used a range of mechanisms to communicate internal roles and responsibilities, a manual for DIMIA centre managers was not issued until December 2001; some four years after the contract commenced. At the time the audit was conducted in 2004, this manual had not been kept up to date. A similar situation was uncovered by a 1998 visit to Campsfield by HMIP, which found that despite being in operation for five years, there were no statutory rules for the governing of the centre (see also Chapman 1998). This was only remedied in 2001 with the introduction of the 'Detention Centre Rules' which are largely mirrored by the 'Prison Rules' (Malloch and Stanley 2005).

Charles Logan, one of the more outspoken proponents of private prisons, does not see the issue of accountability as a controversial one. While acknowledging that private operation of prisons can be seen as an extreme test of the limits of privatisation because it is widely perceived as a core function of the government and the exclusive prerogative of the state, he argues that the authority of the state to imprison (and exercise ancillary powers) can legitimately be delegated to private companies. He asserts that contracting actually *increases* accountability because 'market mechanisms of control are added to the political process'. In contracting, he adds, 'competitive bidders are motivated to supply relevant information to a small number of politically accountable decision makers. If it is reasonable at all to suppose that a diffuse public can hold political actors accountable for their own actions and decisions,

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<sup>25</sup> Eileen Bye, HM's Inspector of Prisons Team – 'Inspecting Conditions in Removal Centres and How This Can Bring About Change' speech given at Association of Visitors to Immigration Detention (AVID) Annual General Meeting, 16 April 2005.

<sup>26</sup> People are detained in these holding centres for up to a few hours pending transfer to a residential holding centre or the airport

<sup>27</sup> This company took over the management of immigration detention in December 2003.

then it is even more reasonable to suppose that those actors in turn, as a small and well-informed decision-making body, can hold contractors accountable for theirs' (Logan 1990: 255-256).

What Logan fails to account for is the influence which the private contractor exercises in such arrangements, particularly decision making. This can be regarded as an especially salient concern in the case of immigration detention in the UK, considering that the IND depends on private contractors to have a detention regime at all. The private contractors are in fact the administrators of the system, while the IND acts as a manager of the contract. This contract management role, Moyle argues, erodes the policy, resource allocation and standard setting roles of governments (Moyle 2001: 79). The directors of private prisons usually have extensive experience of working in public prisons and, in the event of conflicting demands from the Prison Service and the private company, it has been found that they have a key role in negotiating agreements and forging new norms (Boin et al 2004: 11). This is reinforced by the 'revolving door' practice, very common in the prison industry, in which regulatory officials are hired by companies that were monitored by their agency, after leaving their government position (see Shichor 1995; James et al 1997).

Secondly, Logan fails to acknowledge the way in which the expedient relationship with the private contractor actually shields the government from liability, and the extent to which the principle of 'commercial confidentiality' has been used by the industry *and* governments to keep fundamental information from scrutiny. Stephen Nathan (2003), for example, recounts an incident where, as a result of pressure from both the Scottish Executive and Premier Prison Services Ltd., the chief inspector of prisons was forced to have his first inspection report pulped at the printers because it included the company's staffing levels at the prison.

Judith Greene notes how this transfer of liability has been one of the incentives of the government for prison privatisation. Although it doesn't leave the government completely off the hook when problems occur, she argues that 'it makes the whole thing cloudy, it dilutes responsibility. In cases where mismanagement or violent behaviour or deaths in private prisons have resulted in lawsuits, then what you get is a great deal of finger-pointing' (ABC Radio National transcript 2004). Mark Dow reiterates this in relation to the immigration detention regime in the US, by saying that 'The buck stops nowhere. While the INS pretends to be open to scrutiny, the corporate offices of the CCA make no secret of their antipathy to oversight, at least not in materials directed to shareholders' (Dow 2004: 90). CCA's 1998 annual report warned that one of the 'risks inherent' in the business was that 'the private corrections industry is subject to public scrutiny'.<sup>28</sup>

This dilution of responsibility and the manner in which public accountability is undermined by private contractors can be perhaps best illustrated by a May 2001 High Court (UK) ruling, which held that once the management of an immigration detention centre has been contracted out, the government cannot be held responsible for any wrongdoing suffered by a detainee at the hands of the contractor (Prison Privatisation Report International, #42, July/August 2001). As far as the government holding the contractors accountable for this wrongdoing, as Logan argues would be the case, it was noted that two years after the incident at Campsfield House,<sup>29</sup> which was the basis for the above ruling, the government had taken very few steps

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<sup>28</sup> Prison Realty *Letter to Shareholders and Annual Report Form 10-K*, 1998. CCA is the primary tenant of Prison Realty.

<sup>29</sup> Nine detainees were prosecuted in 1998 on charges arising from a disturbance at Campsfield House in 1997, but the prosecution collapsed after video surveillance footage exposed the unreliability of the evidence of Group 4 officers. The detainees were acquitted of all charges and one former detainee then sued the government and the company on the grounds that Group 4 staff had made the allegations against him dishonestly.

to hold the contractors officers accountable for the false testimony they provided or the questionable practices in which they engaged. No officer was charged, sacked, or even disciplined (Corporate Watch 1999). Theoretically, the accountability of private prison operators could be improved through rigorous monitoring. However, as Shichor (1993) argues, this is unlikely to happen as the costs associated with the maintenance of this sort of mechanism may impact negatively on the cost-effectiveness of private prison operations, which is considered to be one its main advantages.<sup>30</sup>

Another related concern about privatisation of custodial functions is raised by Robbins who is concerned with the routine, quasi-judicial decisions that affect the legal status and well-being of inmates:

To what extent for example, should a private corporation use force – perhaps serious or deadly force – against a prisoner? It is difficult enough to control violence in the present public-correctional system. It will be much more difficult to assure that violence is administered only to the extent required by circumstances when the state relinquishes direct responsibility. Another important concern is whether a private employee should be entitled to make recommendations to parole boards, or to bring charges against a prisoner for an institutional violation, possibly resulting in the forfeiture of good crime credits towards release. With dispersion of accountability, the possibility for vindictiveness increases. An employee who is now in charge of reviewing disciplinary cases at a privately run INS facility in Houston told a *New York Times* reporter last year: ‘I’m the Supreme Court’ (Robbins 1987).

In the same vein, Dow cites an ‘unusually talkative and thoughtful’ Denver INS official reflecting on his authority under the 1996 laws<sup>31</sup> to keep illegal immigrants in detention until he wants to let them out (Dow 2004: Chapter 12).

This general lack of scrutiny and accountability has led Molenaar and Neufeld (2002) to conclude that by encouraging detention and delegating the responsibility to detain to private companies, ‘the UK has created a greater likelihood of human rights abuses.’ It can also be concluded here that the shroud of ‘commercial-in-confidence’ has compromised the transparency of the system. Furthermore, the transfer of liability from the government to the private contractor has contributed to confusion as to which party is responsible when ill-treatment or abuse occurs, often leaving nobody to answer for it. These elements compound the problems for detainees in detention centres run by the private sector.

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<sup>30</sup> The cost to the government of monitoring contract performance is an expense not normally included in the financial calculation of private firms (see Austin and Coventry 2001: 15).

<sup>31</sup> Illegal Immigration Reform and Immigrant Responsibility Act 1996.

## CONCLUSION: IMPLICATIONS FOR IMMIGRATION DETENTION

Immigration removal centres are an essential part of effective immigration control – helping us to remove those with no legal right to be in the UK.

– Beverley Hughes, Home Office Minister, 2003<sup>32</sup>

The above discussion exposes many of the reasons penal reformers, criminologists and the public remain opposed to the privatisation of prisons. None of these reasons can be seen as separate from the immigration detention sector. While it is true that prisons are run under slightly different rules and are used for largely punitive reasons, an immigration detention centre is more than just a place where a person is deposited or held. Next to the right to life itself, the right to liberty and freedom of movement are among the most fundamental, and incarceration – which constitutes the ultimate punishment for law-breakers available within the British criminal justice system – is an extreme sanction for individuals who have not committed, nor are suspected of committing, any crime.

Those who are serious about reforming the detention regime or challenging private interest in custodial functions generally, would be well advised to regard the interest of private companies as an important element in the evolution of the detention estate. It is not only formidable government policies and legislation which construct barriers to reform, but also a large, politically and economically powerful private industry which relies on the continued profits and consequently the continued incarceration of a growing number of asylum seekers. The decrease in asylum numbers and the culmination of the 2005 election has made the issue of asylum control slightly less urgent, and it is likely to become less prominent in political discourse. However, once the parade has passed, the institutions and the contracts will still exist, and as long as there is excess capacity in the detention estate, there will be pressure to fill the empty spaces. This means there will be a continued commercial interest in the continuation of a ‘get tough’ attitude towards asylum; maintaining detention as an integral part of the asylum regime; and encouraging the prevailing view that asylum seekers are compromising the interests of the state. As the ever-strengthening relationship between government and the private sector becomes an essential part of the UK economy, and the IND becomes increasingly responsive to the market imperatives of the prison industrial complex, this interest will be even trickier to combat.

One of the most obvious implications for immigration detention is that within the current framework – particularly the long-term PFI contracts, the speed with which detention facilities can be built by the private sector,<sup>33</sup> and the industry’s ‘partnership’ relationship with the state – any official commitment to or research into the development of non-custodial alternatives to detention could arguably be precluded for years to come. Alternatives do exist and a number of countries have reported, through UNHCR, that reporting restrictions have proved as effective as detention (Hughes and Field 1998: 47). The views and the needs of private prison operators are likely to become more deeply embedded in detention policy making; views and needs which do not correspond with scaling down the detention estate, or investigating cheaper, more humane methods of keeping track of asylum seekers. It is plausible that, like industries reliant on military expenditure, the private prison industry will

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<sup>32</sup>Home Office response to the HMCIP Report on Harmondsworth Immigration Removal Centre’ 29 September 2003.

<sup>33</sup> Private companies can finance and build entire prisons in a matter of a few months, whereas it may take years for the government to complete a building (Logan, 1990:255).

be able to influence government policies for its own benefit without regard to the public interest. Like any industry, the private prison industry needs raw material, in this case, asylum seekers and undocumented migrants. A detention regime based on presumption of release, or a reductionist ethos, would destroy the alliance of public and private interests inherent in the prison industrial complex thesis.

The current framework of private management of immigration detention centres may also shed some light on why there is no system of routine bail hearings in front of magistrates or adjudicators for all those detained under immigration powers. The Immigration and Asylum Act 1999 provided for such a system, in which the hearings were to take place after eight days and 36 days in detention. A general presumption in favour of bail was also to be placed on a statutory footing. Despite the existence of this legislation, these safeguards have never been implemented and were abolished by the Nationality Immigration and Asylum Act 2002. The government maintains that they are inconsistent with the need to streamline the removals process and would be unworkable in practice with the significant and continuing expansion of the detention estate (Home Office 2002: para 4.83; Baldicini 2004: 82). While this may be the case, it can be argued that such a provision is also inconsistent with its contractual arrangements with private sector providers.

It has been argued above that the private contractors can have a significant amount of influence on the policy and decision-making processes of government. Private contractors however, do not decide who is to be detained. While this decision is made by the immigration authorities, a study by Weber and Gelsthorpe (2000) has shown that there is a clear distinction between the reasons for making the decision to detain and the *written justification* recorded afterwards. In their very detailed study, immigration officers spoke candidly to them about how and why they decided to detain somebody, and it was found that detention decisions were not driven by principle, but largely by the availability of detention space, a situation, this thesis argues, which the private sector has played a large part in facilitating. The concept of who is the 'most deserving' of detention changes with fluctuations in supply and demand of 'beds'. Immigration officers at larger ports sometimes spoke of 'competition' for spaces, and described practices such as 'swapping beds' in which last week's 'worst case' might not seem, in comparison with today's arrivals to be 'so bad'. This situation may be said to operate in favour of applicants who would otherwise be detained, but some immigration officers thought that day-to-day variations in supply and demand led to unnecessary detention on occasions when more space was available. To quote one interviewee: '...if they had more detention space the last resort would change wouldn't it?' In acknowledgement of this tendency of immigration officers to simply fill up the available detention spaces, Teresa Hayter has suggested that 'the best advice to any intending asylum seeker would be to make sure he or she was at the back of the queue at the immigration counters' (Hayter 2004: 119).

An expansionist detention regime has arguably made certain asylum policies possible, for example, the government's 'fast track' system at Oakington detention centre. While detention at Oakington was initially only used for 'White List' countries, where it was presumed that the claim was likely to be 'clearly unfounded' (Nationality Immigration and Asylum Act 2002, s 115(7)), it has considerably expanded and is now available for persons coming from countries or with types of claim which are on the 'Oakington list' of over 60 countries from Afghanistan to Zambia, including major asylum source countries (Doughty Street Chambers 2004: 114). The government's five-year asylum strategy has indicated that there will be an increase in fast track procedures and expect that 30 per cent of cases are expected to be fast tracked eventually.

The Home Office has made numerous pledges in recent years to increase detention capacity (see for example Home Office 2003). This thesis has demonstrated that although the increased growth of private interest in immigration detention is dependent on detention policies, it is also apparent that detention policies have become increasingly dependent on private interest. At the very least, an increased awareness of this relationship should precipitate a call for boundaries to be clearly defined, both in terms of detention capacity and the extent of private involvement, which at this stage, verges on the monopolistic. The legitimacy of detention services being provided by a private industry which is incentivised by expanding its profits and therefore its operational scope, needs to be challenged. While it is overstating the case to suggest that private interest drives detention policy or the decision to detain, private interest has nevertheless played an important role in the expansion of the detention estate. Indeed, legislators and policy makers would not be able commit to increasing detention spaces without the co-operation, capacity and methods of the private sector, the involvement of which has given momentum to the growth of a detention regime which may otherwise have been more restrained.

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**APPENDIX: LIST OF PRIVATELY RUN IMMIGRATION DETENTION CENTRES IN THE UK**

<b><u>Establishment</u></b>	<b><u>Operator</u></b>	<b><u>Contractor</u></b>	<b><u>Owner(s)</u></b>
<b>Campsfield House</b> Capacity: 292	Global Solutions Ltd	Global Solutions Ltd	Falck/AS
<b>Colnbrook</b> Capacity: 326	Premier Detention Services Ltd	Premier Detention Services Ltd	Serco Group plc
<b>Dungavel</b> Capacity: 194	Premier Detention Services Ltd	Premier Detention Services Ltd	Serco Group plc
<b>Harmondsworth</b> Capacity: 554	UK Detention Services	Harmondsworth Detention Services Ltd	Sodexo UK
<b>Oakington</b> Capacity: 400	Global Solutions Ltd	Global Solutions Ltd	Falck/AS
<b>Tinsley House</b> Capacity: 150	Global Solutions Ltd	Global Solutions Ltd	Falck/AS
<b>Yarl's Wood</b> Capacity: 407	Global Solutions Ltd	Group 4 Amey Immigration Ltd	Amey Assets Services Ltd and Falck/AS

Source: Lords Hansard text for 17 May 2004, Column WA62 (subsequently amended by the author as a result of Group 4 Falck sale of GSL. Capacity of centres also added by the author; source NCDAC 2005)

