

Immigration detention: looking at the alternatives

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Endangering the health and well-being of people by detaining them is unnecessary; governments can instead use community-based alternatives that are more dignified for migrants and more cost-effective for states.

Detention seriously harms virtually anyone who experiences it. Scientific studies of detained asylum seekers show that detention leads to the build-up of clinically significant symptoms of severe depression, anxiety, post-traumatic stress disorder and even self-harm. For nearly a decade JRS staff and volunteers have authenticated these findings by regularly visiting detention centres throughout Europe, coming face-to-face with the despair, uncertainty, fear and anger that detainees typically experience.¹ Detention is damaging and is also unnecessary because governments can resolve people's immigration cases in the community instead of exposing them to harm in a detention centre.

What governments and NGOs typically call 'alternatives to detention' is rather simple in its premise. Instead of migrants being placed in detention centres, they are accommodated in the community with little to no restriction on their movement. Putting this into practice, however, is more difficult. Governments worry that migrants will abscond if not placed in detention while NGOs may struggle to decide which particular alternative to detention to advocate for, and how to assess their suitability for migrants. This is why in 2011 the Jesuit Refugee Service undertook research examining alternatives to detention in Belgium, Germany and the United Kingdom.² We set out to understand what factors are needed – at a minimum – to ensure that alternatives to detention work and we did this primarily by interviewing the migrants themselves.

Twenty-five migrants were interviewed in three EU countries, each with its own type of alternative to detention:

Belgium: undocumented and asylum-seeking families placed in community housing and attached to case managers.

Germany: unaccompanied minors living in a home run by a Protestant church charity, which provides them with comprehensive services and access to legal support.

United Kingdom: people whose asylum applications had been refused and who were regularly reporting to the UK Border Agency; two of these persons had recently worn electronic surveillance tags on their ankles.

None of the measures we examined are inherently harmful to migrants. They pose few restrictions to physical movement and allow migrants to live in the community with a much greater degree of liberty than they would have in a detention centre. And although each country we investigated continues to detain on a large scale, it is a positive step that there are at least some measures that remove people from the detention centre into the open environment of a community.

The biggest problems that we observed are related to the wider systems of asylum and immigration. These are systems based on assumptions about expected migrant behaviour rather than on empirical evidence. Such systems assume the worst of people, rather than the best. This confrontational approach is underpinned by the stresses and burdens of the entire system. Many asylum seekers and migrants have led difficult lives and experienced events that have caused deep physical and mental trauma; as a consequence they are keen to protect themselves against further adversity. Alternatives to detention that do not take

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these factors into account are likely to falter or fail, either because migrants will be reluctant to participate for lack of trust, or because states give too short shrift to the issues that are of the deepest concern to migrants.

Yet from our research we could infer six specific characteristics that do seem to be important for the well-functioning of the alternatives to detention that we investigated. Each of these aspects is based on the understanding that it is not enough merely to release someone from detention. Though this is a good first step, migrants still need support from the state to ensure that their immigration cases are resolved in a timely, fair and efficient manner.

Firstly, it is important for migrants to have access to decent housing. If a person does not have an appropriate place to live, they will have difficulty focusing on and addressing the requirements of their immigration procedures and they will be at risk of destitution.

Secondly, alternatives that work well offer comprehensive support to migrants. Often this kind of support takes the form of

case management that provides a range of services – social support, legal assistance, medical support, child care if necessary – that focus on one-to-one care. If migrants can stop worrying about basic needs such as food, clothing, public transport and medical care, they are better able to focus on taking decisions on their immigration cases.

Thirdly, migrants must have regular up-to-date information that is presented as clearly as possible. A lack of information, or even misinformation, can lead to feelings of distrust and discourage migrants from cooperating with state authorities. The provision of regular information can enable more efficient procedures, fairer and quicker outcomes and higher rates of migrant compliance.

Fourthly, governments must ensure that migrants have access to qualified legal assistance. This is a crucial element that is missing in detention centres, making it very important to provide it in a community-based alternative.

Fifthly, there should be an emphasis on all possible outcomes. Alternatives to



Building used to accommodate families in private apartments, plus office for a case worker. Tubize, Belgium.

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detention that only have a focus on return tend to perform poorly compared to those that explore all the ways in which a person's immigration case could be resolved.³ Even if in reality certain options are closed off, such as legal residence, it is still important for migrants to have every option thoroughly explained and explored so they can be assured that every step has been taken. This is how trust can be built between migrants and governments.

Finally, all the above factors would work well if they were provided at the onset of a person's asylum or immigration case. There should be as little delay as possible. Governments that are frank and transparent with migrants, inform them of all conditions, procedures and opportunities, and offer comprehensive support may find that rates of compliance increase as migrants develop trust towards the authorities. Frontloading support does not mean accelerating immigration procedures but rather making sure that migrants are well-equipped from the start.

Empirical research continues to show rather convincingly that people are harmed by being put into detention. Virtually anyone who is detained experiences high levels of stress and symptoms related to severe

anxiety and depression. Despite this, states continue to use detention as they remain convinced that it is the best way to manage asylum and migration flows. Research done by ourselves and others, however, shows that government fears that migrants will abscond if not detained are largely unfounded. Furthermore, community-based alternatives are far more cost-effective than detention; the alternative in Belgium not only achieves high compliance rates⁴ but is also half the cost of detaining one person per day. In addition to cost savings, resolving people's immigration cases in the community is much less stressful for migrants and states alike than doing the same in a detention centre. Above all, alternatives preserve people's human dignity, which is what immigration procedures ought to do in the first place.

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1. See JRS Europe, *Becoming Vulnerable in Detention*, 2010
<http://tinyurl.com/JRS-Vulnerable-in-Detention>

2. JRS Europe, *From Deprivation to Liberty*, 2011
<http://tinyurl.com/JRS-Deprivation-of-Liberty>

3. See evaluations of pilot projects in Glasgow and Millbank in the UK: <http://tinyurl.com/JRS-UKpilots-evaluation>

4. 75-80% compliance: i.e. 20-25% rate of absconding.