Let My People Go: The Case for Case Management

By “Coach Vance” Trefethen

***Resolved: Resolved: The European Union should substantially reform its immigration policy.***

Case Summary: This plan has the EU replace detention as the default policy for managing illegal immigrants with a policy of “case management.” When migrants wash up on the shore or get caught at the border of EU countries, they get taken into immigration custody. They may have a claim of asylum or some other valid claim to be accepted for immigration, or they may end up deported, but to find out, it takes time to investigate. In the meanwhile they are locked up in immigration detention. But there’s a better way: Sweden and Australia have systems of handling such cases called “Case Management,” and many experts advocate that the EU should use it as well. Case Management lets the migrant free from detention and assigns a social worker to work with them to find housing, get health care, file their paperwork, and understand the system, ensuring they get a fair hearing and fair treatment. The system works well, the migrants (even the ones who end up being denied and deported!) believe they are treated fairly, and it upholds human rights much better than locking up people who are not criminals.

Let My People Go: The Case for Case Management 3

OBSERVATION 1. DEFINITIONS 3

Substantial 3

Reform 3

Immigration policy 3

Case Management 4

OBSERVATION 2. INHERENCY. One simple FACT about Status Quo policies: 4

Detention –locking people up – is the normal practice for managing illegal immigrants in the European Union 4

OBSERVATION 3. We need the following PLAN implemented by any necessary agencies of the European Union 4

OBSERVATION 4. ADVANTAGES 5

ADVANTAGE 1. Better treatment of migrants. 5

Successful use of Case Management policies in Sweden and Australia proves that it works better than detention 5

ADVANTAGE 2. Upholding human rights 5

Presumption against detention better upholds human rights 5

ADVANTAGE 3. Improved mental health. We see this in 2 sub-points: 6

A. Human Impact. Detainment imposes debilitating mental health impacts on detainees 6

B. Social Impact. Detainees’ mental health problems create a burden on society 6

ADVANTAGE 4. Reduced social costs. 7

Australia tried our plan in 2006 and got substantial reduction in taxpayer costs compared to detention 7

2A Evidence: Case Management 8

INHERENCY 8

Detention is the normal and growing trend 8

Status Quo doesn’t have alternatives to detention in the EU 8

Detention was trending down before 2015, but now EU trend is toward increasing immigration detention 9

A/T “Detention conditions improving” – Turn: Feeling they improved makes EU think it’s OK to do more detentions 9

HARMS / SIGNIFICANCE 10

Advocates agree: Immigration detention violates human rights and we need alternatives. EU Court of Human Rights, EU’s Dublin III Regulation, UN Human Rights Committee, Committee of Ministers of the Council of Europe 10

UN Human Rights Council and UN High Commissioner for Refugees agree: EU needs to find alternatives to immigration detention to uphold human rights 10

SOLVENCY / ADVOCACY / ADVANTAGES 11

Case Management (social work approach) works better than immigration detention 11

Inherency: Detention is the growing EU trend. Solvency: Case Management is better and should be used instead 11

Case management is the most effective alternative to detention. Produces timely and fair results whether the end is immigration or deportation 12

Inherency: Case management isn’t used in Europe except for Sweden. Solvency: Experience in other countries proves it works 12

Australia and Sweden examples prove plan will work, if only Europe had the political will to do it 13

Case management is the most successful alternative because it achieves a comprehensive approach to immigration problems 13

Detention should be used only as a last resort 13

Funding: EU spends $65 billion/year on farm subsidies. Most of it goes to the connected and powerful few 14

Funding: EU spends $65 billion/year on farm subsidies, and it goes to corrupt politicians 14

A/T “Failed pilot projects” – Some didn’t replace detention, so they didn’t work. Some were too limited to specific migrants. Others did work but nobody followed-up to implement them on a wide scale 14

A/T “Alternatives already tried & failed” – They failed because they still focused on the “enforcement” mindset or were done too late in the process (after deportation was already ordered) 15

DISAD RESPONSES 15

A/T “Decreased deterrent to illegal immigration” – Detention doesn’t deter. 15

A/T “Loss of deterrence of illegal immigration” – Detention is not a factor in migrants’ decisions on where to go 15

A/T “Immigrants won’t comply with the process if they’re not detained” – Turn: Detention makes it worse 16

A/T “Harder to deport the unworthy if not detained” – Detention doesn’t help with deportations 16

A/T “Migrants will abscond if not detained” – Pilot programs found absconding wasn’t a problem 16

Works Cited 17

Let My People Go: The Case for Case Management

Migrants who arrive at the borders or shores of the European Union may or may not have a valid claim for asylum, refugee status, or some other legal avenue to immigrate. It usually takes a fair amount of time to investigate individual situations and claims. What should be done with them while awaiting the outcome of that process? The Status Quo treats them like criminals and locks them up. But there’s a better way known as “Case Management,” and we can gain its comparative advantages by affirming that: The European Union should substantially reform its immigration policy.

OBSERVATION 1. DEFINITIONS

Substantial

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considerable in quantity **:**significantly great

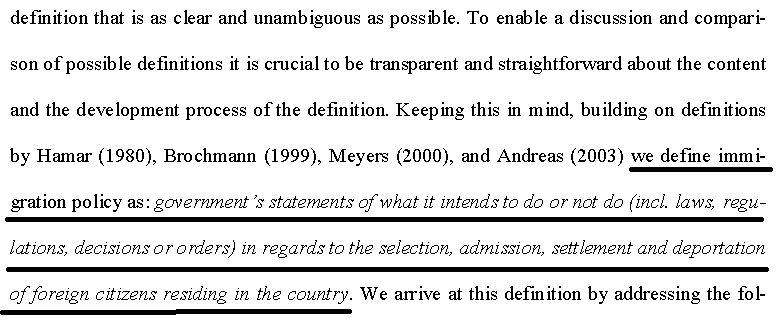
Reform

Merriam Webster Online Dictionary copyright 2020 <https://www.merriam-webster.com/dictionary/reform>

to put or change into an improved form or condition

Immigration policy

Prof. Marc Helbling, Liv Bjerre, Friederike Römer and Malisa Zobel 2014 (Helbling - professor in political sociology at the Department of Political Science at the University of Bamberg. Bjerre – PhD student, WZD Berlin Social Science Center. Romer - doctoral researcher at the Berlin Social Science Center. Zobel - research assistant at Berlin Social Science Center) April 2014 Conceptualizing and Measuring Immigration Policies. A Comparative Perspective <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2423075>



Case Management

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

Successful alternatives engage with and support individuals through the immigration process, often with case managers. Early engagement by case managers can reduce unnecessary detention by identifying risks, vulnerabilities and needs that may impact a person’s capacity to remain engaged with authorities. It also supports informed immigration decisions by ensuring all relevant information is available to authorities. It further assists in understanding and navigating the immigration process and the case resolution options available to them, promoting trust in the system. Case managers can also promote coping and wellbeing by making referrals to interpreters, legal advisors, health professionals and other services as required. This in turn helps to promote their compliance with their immigration obligations and/ or any conditions or restrictions while in the community. They can also assist the individual to achieve timely and fair case resolution and to prepare them for immigration decisions, including integration or departure from the country.

**END QUOTE. Judge, case management doesn’t mean all migrants get legalized nor that they all get deported. It means that while they are waiting for their applications to be processed, instead of locking them up, they are assigned a social worker – a Case Manager -- who guides them through the process of finding housing, health care, and filling out paperwork, until they come to the conclusion, which could be either acceptance for legal immigration or deportation.**

OBSERVATION 2. INHERENCY. One simple FACT about Status Quo policies:

Detention –locking people up – is the normal practice for managing illegal immigrants in the European Union

Platform for International Cooperation on Undocumented Migrants 2020. (non-profit advocacy group for better treatment of undocumented immigrants) “Advocating for Alternatives to Detention in the Context of Migration Toolkit for NGOs” Feb 2020 https://picum.org/wp-content/uploads/2020/02/Alternatives-To-Detention-Toolkit-for-NGOs-EN.pdf

Most European Union countries systemically detain undocumented people, often for repeated or prolonged periods. Current EU policies seek to further expand this practice, by creating new grounds for detention. This leads to violations of individuals’ fundamental rights, and has a severe impact on their lives, exacerbating their level of vulnerability and the incidence of mental health issues such as anxiety, depression and post-traumatic stress disorder.

OBSERVATION 3. We need the following PLAN implemented by any necessary agencies of the European Union

1. Establish a policy of immigration detention only as a last resort.  
2. Replace routine detention policy with Case Management starting at the beginning of the process of first contact with immigration authorities.

3. Funding from cutting EU farm subsidies and money saved by reduced detention costs.  
4. Timeline: Plan phased in over 5 years starting 30 days after an affirmative ballot.   
5. Enforcement through existing immigration agencies.  
6. All Affirmative speeches may clarify

OBSERVATION 4. ADVANTAGES

ADVANTAGE 1. Better treatment of migrants.

Successful use of Case Management policies in Sweden and Australia proves that it works better than detention

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf> (brackets added)

Case management is a social work approach which is ‘designed to ensure support for, and a coordinated response to, the health and wellbeing of people with complex needs.’ Many countries use this approach in their alternatives to detention programmes, including Sweden and Australia. Case management models involve a case manager, who is not a decision-maker, working with the migrant to provide a link between the individual, the authorities and the community. The case manager ensures that the individual has access to information about the immigration process and can engage fully, and that the government has up-to-date and relevant information about the person. The unique advantage of the CAP [Community Assessment and Placement] model is that it draws attention to elements other than detention laws, practice and conditions and facilitates a more holistic approach to detention reform. This will include, for example, ensuring minimum standards and conditions such as basic living needs and access to legal advice are met and scrutinising screening and assessment processes that should determine placement options for individuals.

ADVANTAGE 2. Upholding human rights

Presumption against detention better upholds human rights

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

The first overarching principle of alternatives is the right to liberty including a presumption against detention. The right to liberty of person is a fundamental human right, enshrined in all major international and regional human rights instruments. It is guaranteed to all persons irrespective of legal status including refugees, asylum seekers, undocumented migrants and stateless persons. The right to liberty of person imposes a number of specific limitations on States’ ability to detain, including that detention is justified by a legitimate State objective, is in accordance with the law, and is not arbitrary. In many countries, a migrant’s right to liberty is preserved throughout the migration process. In these countries, immigration officials are prevented from using confinement when other options suffice. The right to liberty and a clear presumption against detention are established by adopting laws, policies and practices that:   
🡪Establish a presumption of liberty  
🡪 Provide a mandate to apply alternatives in the first instance  
🡪 Only permit detention when alternatives cannot be applied  
🡪 Prohibit the detention of vulnerable individuals

ADVANTAGE 3. Improved mental health. We see this in 2 sub-points:

A. Human Impact. Detainment imposes debilitating mental health impacts on detainees

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

Another major concern is that the potential impact of detention on the health of those detained is so severe that its use as a message of deterrence and control cannot be justified. This is similarly the case with the use of detention as a blanket response to groups of migrants in particular circumstances. Research has demonstrated that being in detention is associated with poor mental health including high levels of depression, anxiety and Post-Traumatic Stress Disorder (PTSD) and poor quality of life. One study found clinically significant symptoms of depression were present in 86% of detainees, anxiety in 77%, and PTSD in 50%, with approximately one quarter reporting suicidal thoughts. Further, mental health deteriorates the longer someone is detained. The impact on children is particularly disturbing, especially as the consequences for their cognitive and emotional development may be lifelong. For adults, it has been found that the debilitating impacts of detention extend well beyond the period of confinement, especially for those detained for prolonged periods. Options that do not rely on confinement are all the more important in light of this evidence.

B. Social Impact. Detainees’ mental health problems create a burden on society

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf> (brackets added; the Australian dollar is worth 70 cents in US currency as of 18 July 2020)

Impacts such as these not only affect the life experiences of former detainees; they also create a greater burden on the receiving society. For example, mental health impairment increases reliance on health care and, potentially, social welfare systems. The lifetime health costs of long term detention have been estimated at an additional AUD [Australian Dollars] $25,000 per person.

ADVANTAGE 4. Reduced social costs.

Australia tried our plan in 2006 and got substantial reduction in taxpayer costs compared to detention

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf> (brackets added; as of 18 July 2020 the Australian dollar = 70 cents in US currency)

One country that has developed case management-based alternatives on a large scale is Australia. Australian law foresees a much wider use of detention than would be lawful in Europe, as the detention of irregular migrants is mandatory until they obtain a visa or are removed. Indeed, Australia continues to operate one of the world’s most draconian detention regimes for migrants arriving by boat, using off-shore facilities. However, Australia implemented alternatives widely for in-country asylum applicants and visa overstayers from 2006, dramatically reducing the use of detention in the process. Most such migrants with barriers to removal are released on short-term Bridging Visas, which allow migrants to live in the community pending the resolution of their cases. Many migrants are released onto a range of alternative to detention projects. The Status Resolution Support Services (SRSS) assist vulnerable people with complex needs to live in the community, engage with the immigration system, and seek to resolve their cases. Migrants are supported throughout the asylum and immigration processes. Case managers, employed by NGOs, help migrants to access welfare assistance, housing, healthcare, legal advice, English classes and information on voluntary return. The service is based on a pilot with a group of migrants with high welfare needs and long residence in Australia. The pilot had a compliance rate of 93%, with 60% of those not granted a visa returning voluntarily. Only 7% absconded. The programme cost around AUD38 [Australian dollars] per day, compared to around AUD125 [Australian dollars] per day for detention.

2A Evidence: Case Management

INHERENCY

Detention is the normal and growing trend

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

The use of immigration detention has been growing over the last twenty years as governments strive to control borders. In some countries, concerns about national security and terrorist attacks have justified the expansion of detention. Whatever the cause, many countries have intensified efforts to reduce the number of asylum seekers, refugees and irregular migrants on their territory. Detention has become a core element of this trend. Previously, detention was restricted to short periods during deportation. Now, it is used by several countries on-arrival or for the duration of claims processing. Increasingly, destination countries are investing in the capacity of neighbouring transit countries to intercept and detain foreigners on the move. This ‘externalization’ of border control is evident in the European Union, which has been investing significantly in the capacity of its neighbours including Ukraine, Libya and Turkey to detect, detain and deter asylum seekers, refugees and migrants who are planning irregular onward travel to Europe.

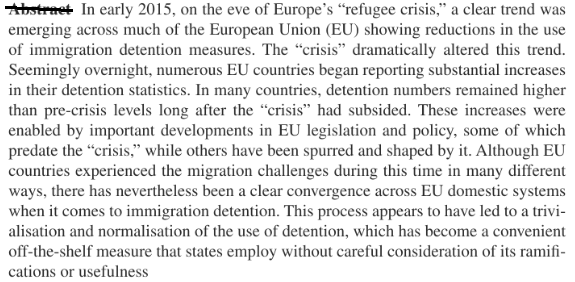
Status Quo doesn’t have alternatives to detention in the EU

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

It is clear that the requirement to consider alternatives is absolutely central to the lawfulness of detention in international law. Yet for this safeguard to be meaningful, a range of effective alternatives must be available in practice for each individual at risk of detention. This is simply not the case in the UK, or the vast majority of European countries. The small scale and limited range of alternatives mean that they cannot address the numbers of potentially eligible migrants, or the range of needs. This failure to develop alternatives can arguably render detention arbitrary, if individuals are detained because suitable alternatives have not been implemented on the necessary scale.

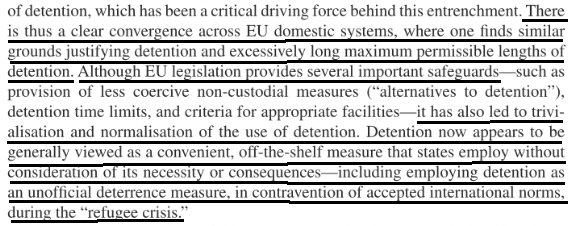
Detention was trending down before 2015, but now EU trend is toward increasing immigration detention

Dr. Izabella Majcher, Dr. Michael Flynn and Mariette Grange 2020. (Majcher, Researcher at the Global Detention Project. PhD in International Law from the Graduate Institute of International and Development Studies in Geneva. Flynn, Executive Director of the Global Detention Project, PhD in International Studies from the Graduate Institute of International and Development Studies. Grange- Senior Researcher at the Global Detention Project; co-established the Amnesty International office to the United Nations in Geneva) Immigration Detention in the European Union <https://www.springer.com/gp/book/9783030338688> (month not provided in the published material)



A/T “Detention conditions improving” – Turn: Feeling they improved makes EU think it’s OK to do more detentions

Dr. Izabella Majcher, Dr. Michael Flynn and Mariette Grange 2020. (Majcher, Researcher at the Global Detention Project. PhD in International Law from the Graduate Institute of International and Development Studies in Geneva. Flynn, Executive Director of the Global Detention Project, PhD in International Studies from the Graduate Institute of International and Development Studies. Grange- Senior Researcher at the Global Detention Project; co-established the Amnesty International office to the United Nations in Geneva) Immigration Detention in the European Union <https://www.springer.com/gp/book/9783030338688> (month not provided in the published material)



HARMS / SIGNIFICANCE

Advocates agree: Immigration detention violates human rights and we need alternatives. EU Court of Human Rights, EU’s Dublin III Regulation, UN Human Rights Committee, Committee of Ministers of the Council of Europe

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

The importance of alternatives to immigration detention is well established in international legal standards. The European Court of Human Rights has found that immigration detention can only be justified as a last resort after other less severe measures have been considered and found to be insufficient. It has been found that for immigration detention to be lawful, it must be proportionate and avoid arbitrariness. The EU’s recast Reception Conditions Directive, which is not applied in the UK, goes even further, requiring that detention be not only proportionate but necessary, on the basis of individual assessment of each individual case. The Reception Conditions Directive, the Returns Directive and Dublin III Regulation all stress the need for the use of less coercive measures than detention whenever they can be applied effectively. The United Nations Human Rights Committee has similarly interpreted the International Covenant on Civil and Political Rights as requiring that detention be used only when there are not less invasive means of achieving the same ends in the light of the particular circumstances of the case. The Committee of Ministers of the Council of Europe has urged that ‘alternative and non-custodial measures, feasible in the individual case, should be considered before resorting to measures of detention.’ Detention should only be resorted to after careful individual consideration, ‘where other measures have failed or if there are reasons to believe that they will not suffice.’

UN Human Rights Council and UN High Commissioner for Refugees agree: EU needs to find alternatives to immigration detention to uphold human rights

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

The Special Rapporteur on the Human Rights of Migrants of the UN Human Rights Council has emphasised that ‘fully sustaining the implementation of a human rights-based framework for regular migration across the European Union therefore involves… developing alternatives to detention.’ The Detention Guidelines of the UN High Commissioner for Refugees (UNHCR) also stress the importance of alternatives, stating that alternatives should be accessible in practice, and their design should be based on the principle of minimum intervention. The availability, effectiveness and appropriateness of less coercive measures than detention should be considered in every case.

SOLVENCY / ADVOCACY / ADVANTAGES

Case Management (social work approach) works better than immigration detention

Platform for International Cooperation on Undocumented Migrants 2020. (non-profit advocacy group for better treatment of undocumented immigrants) “Advocating for Alternatives to Detention in the Context of Migration Toolkit for NGOs” Feb 2020 https://picum.org/wp-content/uploads/2020/02/Alternatives-To-Detention-Toolkit-for-NGOs-EN.pdf

Case management is a structured social work approach to migration management centred on individuals’ engagement with migration procedures. By building trust in the system, providing stability and facilitating people’s sense of agency, case management increases engagement and participation in migration procedures, providing an effective approach to reducing irregularity while avoiding immigration detention.

Inherency: Detention is the growing EU trend. Solvency: Case Management is better and should be used instead

Eiri Ohtani 2018. (Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development) July 2018 Alternatives to detention from theory to practice Evaluation of three engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland. <https://www.epim.info/wp-content/uploads/2018/10/ATD-Evaluation-Report_FINAL.pdf>

In recent years, detention has become an increasingly prominent EU tool to “manage migration flows”. Whilst often portrayed as a necessary step to prevent absconding and enforce returns, the negative impact of detention on migrant wellbeing, rights-protection and the costs of detention raise clear concerns. Under this Fund, EPIM supports civil society organisations who work to ensure that, in policy and practice, the use of detention is reduced to when it is legitimate, proportionate and necessary and, based on individual assessment, as an exceptional measure of last resort. Among other work, this Fund addresses the lack of alternative measures to detention and the marginalisation of undocumented migrants or migrants without protection status. In spite of the growing reliance on detention of migrants, alternatives based on quality one-to-one case management can provide a viable route to “managing migration flows” without relying on confinement.

Case management is the most effective alternative to detention. Produces timely and fair results whether the end is immigration or deportation

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf> (brackets added)

Research by IDC [International Detention Coalition] has concluded that the most effective alternatives to detention are based on case management to keep individuals engaged in immigration procedures. As noted earlier, case management is a social work approach which is ‘designed to ensure support for, and a coordinated response to, the health and wellbeing of people with complex needs.’ Many countries use this approach in their alternatives to detention programmes, including Australia and Sweden. It involves a case manager, who is not a decision-maker, working with the migrant to provide a link between the individual, the authorities and the community. The case manager ensures that the individual has access to information about the immigration process and can engage fully, and that the government has up-to-date and relevant information about the person. The case manager also facilitates access to support and services in the community, enabling the migrant to meet their basic needs and addressing any particular vulnerabilities. Migrants are screened and assessed as early as possible in the process, and the level of case management support is adjusted according to the level of vulnerability and needs through regular assessment. The case manager uses information gathered in the assessment process to work with the migrant on case planning, setting goals and developing agreed action plans. The case manager supports the migrant to explore all immigration outcomes, including the possibility of return. As a result, migrants are better informed about their options and are in a better position to integrate into the community if they are granted status, or to return to their country of origin if refused. IDC has found that case management can promote informed decision making, timely and fair case resolution and improved coping and wellbeing of individuals.

Inherency: Case management isn’t used in Europe except for Sweden. Solvency: Experience in other countries proves it works

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016“WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

There is ample international evidence that this approach can work. The International Detention Coalition’s Community Assessment and Placement (CAP) model is based on extensive good practice by States around the world. The model involves a holistic approach, using screening and assessment, a range of placement options and intensive case management to support migrants to resolve their immigration cases in the community. Without detention. As yet, little of this holistic approach has been implemented in Europe, with the exception of Sweden.

Australia and Sweden examples prove plan will work, if only Europe had the political will to do it

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

The closest comparison in Europe to such a systemic use of alternatives is to be found in Sweden, where asylum-seekers also receive case management throughout the process, this time from caseworkers employed by the Swedish Migration Board. However, in Sweden this support is simply part of the normal asylum system, and is not a formal alternative to detention as such, although reporting conditions can be applied in addition where considered necessary. Nevertheless, case management was developed as part of a shift away from detention around 2000, and Sweden makes exceptionally little use of detention, given the numbers of asylum-seekers received: only 2,900 people were detained in 2013, although 21,000 people were refused asylum during the year. In 2012, 68% of people ordered to leave the country departed voluntarily. The Australian and Swedish examples demonstrate that the systemic implementation of alternatives based on engagement is possible, and can bring dramatic reductions in the use of detention. Despite the rhetoric around alternatives, political will has not yet developed elsewhere in Europe to go down the same path.

Case management is the most successful alternative because it achieves a comprehensive approach to immigration problems

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

The most successful alternatives use case management across all stages to ensure a coordinated and comprehensive approach to each case. Case management centres on understanding and responding to the unique needs and challenges of the individual and their context. Case management builds on an individual’s strengths, identifies vulnerability or protection concerns, and addresses needs as able. The approach promotes coping and wellbeing by facilitating access to support services and networks. By ensuring timely access to all relevant information and meeting other serious needs as able, case management also builds confidence in the immigration process and promotes informed decision-making by both the individual and government decision maker. Case management can range in intensity from limited engagement with self-sufficient migrants through to intensive support for complex cases and/or for return preparation.

Detention should be used only as a last resort

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

International human rights law and standards make clear that immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case. The use of confinement with people in an administrative procedure is highly controversial due to its negative impact on health, wellbeing and human rights. Detention should be avoided entirely for vulnerable individuals and be in accordance with international, regional and national law and standards. This includes the requirement that the standards of necessity, reasonableness and proportionality have been met in the individual case. Notwithstanding these serious concerns, detention is included here to be used only as a last resort for exceptional cases after a comprehensive process has determined before an independent judicial authority that all other options will not address the identified concerns.

Funding: EU spends $65 billion/year on farm subsidies. Most of it goes to the connected and powerful few

NEW YORK TIMES 2019. (journalists Selam Gebrekidan, Matt Apuzzo and Benjamin Novak) “The Money Farmers: How Oligarchs and Populists Milk the E.U. for Millions” 3 Nov 2019 <https://www.nytimes.com/2019/11/03/world/europe/eu-farm-subsidy-hungary.html>

Every year, the 28-country bloc pays out $65 billion in farm subsidies intended to support farmers around the Continent and keep rural communities alive. But across Hungary and much of Central and Eastern Europe, the bulk goes to a connected and powerful few. The prime minister of the Czech Republic collected tens of millions of dollars in subsidies just last year. Subsidies have underwritten Mafia-style land grabs in Slovakia and Bulgaria. Europe’s farm program, a system that was instrumental in forming the European Union, is now being exploited by the same antidemocratic forces that threaten the bloc from within. This is because governments in Central and Eastern Europe, several led by populists, have wide latitude in how the subsidies, funded by taxpayers across Europe, are distributed — even as the entire system is shrouded in secrecy.

Funding: EU spends $65 billion/year on farm subsidies, and it goes to corrupt politicians

NEW YORK TIMES 2019. (journalists Selam Gebrekidan, Matt Apuzzo and Benjamin Novak) “The Money Farmers: How Oligarchs and Populists Milk the E.U. for Millions” 3 Nov 2019 <https://www.nytimes.com/2019/11/03/world/europe/eu-farm-subsidy-hungary.html>

The European Union spends $65 billion a year subsidizing agriculture. But a chunk of that money emboldens strongmen, enriches politicians and finances corrupt dealing.

A/T “Failed pilot projects” – Some didn’t replace detention, so they didn’t work. Some were too limited to specific migrants. Others did work but nobody followed-up to implement them on a wide scale

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

There are a number of reasons for the limitations to alternatives in the UK and across Europe. Some of the shortcomings lie in the nature of implementation to date, which has largely consisted of ‘traditional’ alternatives and small-scale projects for specific groups of migrants. ‘Traditional’ enforcement-based alternatives such as reporting are not associated with reductions in the use of detention, more often operating alongside continuing or expanding detention. Most small-scale projects, like the UK alternatives for families, have their origins in pilots addressing specific political crises. Pilots allow governments to experiment with new approaches on a small scale, mitigating some of the political risks. They demonstrate that alternatives can work, and generate important good practice. However, across Europe, they have remained limited in scale and reach; none has led to wider implementation for the full range of migrants who could benefit. The resultant lack of established good practice acts as a disincentive for other states to explore alternatives.

A/T “Alternatives already tried & failed” – They failed because they still focused on the “enforcement” mindset or were done too late in the process (after deportation was already ordered)

Eiri Ohtani and Jerome Phelps 2016. (Ohtani - Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development. Phelps - Director of Detention Action, an NGO advocacy group for immigrant detention reform. He has been the regional advisor for Western Europe of the International Detention Coalition (IDC) for ten years.) Sept 2016 “WITHOUT DETENTION - Opportunities for alternatives” <https://detentionaction.org.uk/wp-content/uploads/2018/08/Without-Detention.pdf>

Further, across Europe, the limitations of the alternatives implemented are qualitative as well as quantitative. None involve all of the elements of good practice that have been formulated by the IDC. Many operate only at the end of the asylum or immigration process, for migrants who have already been refused, and focus on returns. As a result, they find it more difficult to develop trust, compared to projects that work with migrants throughout the process and explore all potential outcomes and options.

DISAD RESPONSES

A/T “Decreased deterrent to illegal immigration” – Detention doesn’t deter.

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

There is no empirical evidence to suggest that the threat of being detained deters irregular migration. Rather, existing evidence, and government and judicial statements suggest a policy of detention is neither effective nor reasonable in deterring refugees and irregular migrants. Despite increasingly tough detention policies being introduced over the past 20 years, the number of irregular arrivals has not reduced.

A/T “Loss of deterrence of illegal immigration” – Detention is not a factor in migrants’ decisions on where to go

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

Those who are aware of the prospect of detention before arrival believe it is an unavoidable part of the journey, that they will still be treated humanely despite being detained, and that it is a legitimate right of States if undertaken for identity and health checks. Rather than being influenced primarily by immigration policies such as detention, most refugees choose destinations where they will be reunited with family or friends; where they believe they will be in a safe, tolerant and democratic society; where there are historical links between their country and the destination country; where they can already speak the language of the destination country; or where they believe they will be able to find secure work quickly due to general levels of prosperity. One study also found that the majority of refugees who had experienced detention did not pass on a message of deterrence to people overseas as the relief of escaping persecution and reaching a place of safety overrode the trauma and sense of rejection they had experienced as a result of detention. This evidence shows detention has little impact on destination choices.

A/T “Immigrants won’t comply with the process if they’re not detained” – Turn: Detention makes it worse

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

Immigration detention can be ineffective and counterproductive at ensuring compliance with immigration processes. Immigration detention can negatively impact case resolution because the risk of detention and deportation will often deter people from engaging with authorities in the first place. Further, the mental and physical harms caused by detention impact an individual’s ability to comply with immigration processes. Immigration detention is usually experienced as an extreme injustice, as detainees feel they are treated like criminals despite believing they are innocent of any crime. This feeling of injustice can saturate their experience of the assessment process and lead them to believe that their case has not been fairly heard. This can make it difficult to work towards return for those who have been found not to have protection needs. Deportation can be extremely difficult to achieve if the person does not want to comply, even with detained populations.

A/T “Harder to deport the unworthy if not detained” – Detention doesn’t help with deportations

Dr. Robyn Sampson, Vivienne Chew, Grant Mitchell and Lucy Bowring 2015. (Sampson - Swinburne Institute for Social Research at Swinburne University of Technology, Australia. Chew, Mitchell and Bowring are with the International Detention Coalition) “There are alternatives” (month not provided in the published article) <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>

In relation to departure, detention also fails to guarantee departure outcomes for persons with no right to remain in the country. Many factors influence a person’s willingness to return to their country of origin, most of which fall outside the influence of domestic policies. Detention does not easily overcome these broader issues to result in return decisions. In terms of deportation, there is a gap between the number of migrants detained for deportation purposes, and the number of those who are actually deported. This is because deportation is a complex process involving multiple countries, agencies, and companies. People who are stateless are most likely to stagnate in detention for long periods with little to no control over the blockades preventing their deportation. Research in the United Kingdom has shown indefinite detention does not usually lead to deportation; instead, if deportation has not been achieved within one year, it is unlikely to occur. Further, migrants who are facing punitive restrictions such as detention are more likely to feel they have nothing to lose and seek unlawful avenues to stay in the country.

A/T “Migrants will abscond if not detained” – Pilot programs found absconding wasn’t a problem

Eiri Ohtani 2018. (Program Evaluator & Strategy Consultant for grantees, with the European Programme for Integration & Migration. Master’s degree in Ethnicity, Migration & Policy. Master’s degree in Social Anthropology & Development) July 2018 Alternatives to detention from theory to practice Evaluation of three engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland. <https://www.epim.info/wp-content/uploads/2018/10/ATD-Evaluation-Report_FINAL.pdf>

The vast majority (97%) of individual migrants who entered the pilots remained engaged with immigration procedures through engagement-based ATD in the community: only 3% disengaged or absconded . Amongst people at risk of disengagement, absconding or detention, these ATD pilots have been able to successfully identify individuals who are able to work towards the resolution of their cases in the community.

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