Draft General Comment No. 5 on Migrants' Rights to Liberty and Freedom from Arbitrary Detention

idc submission

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ABOUT THE IDC

The International Detention Coalition (IDC) is a unique global network of over 300 non-governmental organisations, faith-based groups, academics and practitioners in more than 65 countries that advocate for and provide direct services to refugees, asylum-seekers and migrants in administrative detention. We are the only international organisation focused explicitly on immigration detention and alternatives to detention. With an international Secretariat based in Melbourne, Australia, the IDC works globally through Regional Coordinators in Africa, the Americas, Asia-Pacific, Europe, and the Middle East & North Africa (MENA).

1. introduction

*“In detention our son was bored, he didn’t play with the other kids, he cried, he just said, ‘I want to get out’. But here he is doing much better. It has made a big difference being in the community.”*

Stateless woman transferred from detention to a community placement, Australia[[1]](#footnote-1)

The International Detention Coalition (IDC) welcomes the opportunity to provide information to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) as part of its drafting of General Comment No. 5 on Migrants Workers’ Right to Liberty and Protection from Arbitrary Detention.

Governments around the world are increasingly using detention. However, there are humane and cost effective alternatives to detention that prevent unnecessary and damaging detention and that ensure detention is only ever used as a last resort. The IDC has identified good practices from around the world and compiled them in [*There are alternatives: A handbook for preventing unnecessary immigration detention*](https://idcoalition.org/publication/there-are-alternatives-revised-edition/)*.*[[2]](#footnote-2)The Handbook presents the Community Assessment and Placement model (the CAP model) as a way to consider the systemic factors that ensure governments are upholding their responsibilities in the context of immigration detention.

The CAP model work to instrumentalise the protections enshrined in international law so that:

* Detention is shown to be legal, necessary and proportionate in the individual case;
* Detention is only used as a last resort in exceptional cases and never in the case of migrants in vulnerable situations, particularly children;
* Community options are as effective as possible.

This submission draws the Committee’s attention to the way migration systems can facilitate compliance to the maximum extent possible, thereby ensuring detention is only contemplated as a last resort in exceptional cases and is never used in the case of migrants in vulnerable situations, particularly children. It shows that human-rights compliant alternatives are not fundamentally about control or coercion, but rather about constructively engaging with individuals so that they are empowered to comply with immigration laws and procedures.

In particular, the submission responds to the following sections of the questionnaire:

**Part B: Legal Treatment**

3. Does the immigration detention proceed *ex officio* or there is an individualized analysis of its pertinence and proportionality?

**Part D: Alternatives to Detention**

1. What alternatives to detention exist in your country? Please describe these alternatives to detention and how they are generally perceived and implemented in your country.
2. Have all detainees access to alternatives to detention? How many persons get an alternative to detention in comparison with the number of detainees?
3. Have there been any policies proposed in your country that could achieve the same objectives as detention? How have these proposals for alternatives to detention been received in your country? Are proposals for alternatives to detention generally met with favor or have they been rejected? Please describe the criticisms of the policies for alternatives to detention by the general public. If these proposals have been rejected, what was the rationale for rejecting them?

2. DEFINING ALTERNATIVES TO IMMIGRATION DETENTION

I. Obligation to implement “alternative measures”

The prohibition on arbitrary detention requires that detention be an exceptional measure of last resort; States have a legal obligation to first explore and implement all available “alternative measures” prior to detaining someone. This is not a stand-alone legal obligation, but rather derives from the principle of proportionality. The obligation to implement “alternative measures” is interchangeably referred to as “non-custodial measures”, “less restrictive measures”, “less invasive measures”, “less onerous measures”, and “less intrusive measures” in various contexts, but it is fundamentally the same legal concept.[[3]](#footnote-3) In 1999, the WGAD stated, “alternative and non-custodial measures . . . should always be considered before resorting to detention”[[4]](#footnote-4).

Subsequent guidance has clarified that this obligation goes beyond mere “consideration”. States cannot resort to the use of immigration detention simply because they do not perceive any alternative measures to be available.[[5]](#footnote-5) Instead, they must actively seek and implement alternative measures consistent with the principle of minimum intervention, and find those alternative measures to be lacking before resorting to the use of detention. In 2018, through its Revised Deliberation nº5, the WGAD has reinforced and provided further clarity on the obligation to implement alternative measures. The revised text includes a clear call on States to seek alternatives to detention such as community-based solutions to ensure immigration detention is only use as an exceptional measure of last resort and that detention of migrants in situations of vulnerability never takes place.[[6]](#footnote-6)

II. Defining alternatives to immigration detention

There is no internationally agreed-upon definition of alternatives to detention, however, there are ways of understanding the term. In this section, we share the IDC definition of alternatives to detention, and the reasons behind this approach.

The IDC definition

The IDC defines alternatives to immigration detention as:

Any law, policy or practice by which persons are able to reside in the community, without being detained for migration-related reasons.

This broad definition is meant to take into account all areas of law, policy and practice that can help to prevent unnecessary immigration detention. The underlying ethos is to promote a definition of alternatives to immigration detention that is inclusive of the many diverse policies, practices, strategies, and approaches that reduce State reliance on detention and other punitive or restrictive approaches to migration governance. Based on this definition, alternatives to detention can be understood in a number of helpful ways, including *conceptually*, *legally*, and *practically*.

Alternatives as a conceptual framework

As explored in the restorative justice movement, alternatives should be conceived as broadly as possible in order to be an “essential part of all levels and stages” of a proper migration management system.[[7]](#footnote-7) Researchers Costello and Kaytaz have explained the difference between a narrow and broad conceptual framing of alternatives in the following way:

In the narrow sense, it refers to a practice used where detention has a legitimate basis, in particular where a justified ground for detention is identified in the individual case, yet a less restrictive means of control is at the State’s disposal and should therefore be used. In the broader sense, ATD refers to any of a range of policies and practices that States use to manage the migration process . . .[[8]](#footnote-8)

The IDC purposefully adopts a broad conceptual framing of alternatives. This broad conceptual approach is practically beneficial in that it allows us to explore all areas of law, policy and practice that can help to prevent arbitrary detention in the first instance and to otherwise reduce or limit the use of other restrictive immigration practices.[[9]](#footnote-9) We believe this broad understanding is also more consistent with the historical and conceptual underpinnings of alternative measures. This broad approach helps to get beyond mere legal solutions, and to identify practical solutions. In doing so, a broad conceptual framing also seeks to avoid the “inadvertent tendency to normalize detention practices.”[[10]](#footnote-10)

At a conceptual level, then, rather than focus on defining what specific measures are an alternative to detention, we can consider how a range of measures can function together as an alternative to using detention. This approach also considers alternatives dynamically and in context. For example, a given practice may not be considered an alternative to detention in one country if detention is not usually applied in that situation. However, that same practice may be perceived as an alternative to detention by a different country if they regularly apply detention in that same situation.

Alternatives as a legal obligation

While the prohibition on arbitrary detention requires States to explore and implement non-custodial “alternative measures” prior to any decision to detain (see above, “Obligation to implement ‘alternative measures’”), the term “alternatives to detention” is not a legal term of art[[11]](#footnote-11) and alternatives to detention should not be understood as representing merely the legal obligations of the State in an individual case. Rather, the individual case is just one part of an overall State obligation to establish laws, policies and practices that are known to optimise individual case resolution outcomes without the need for detention or other coercive interventions.

This is for a number of reasons. First, alternatives are part of a broader conceptual framework, just discussed, that do not simply begin at the legal decision to detain. Second, a purely legal interpretation of alternatives is practically limiting in that it only considers the measures taken once an individual is already being considered for detention by authorities in a formal legal process. It thus fails to account for the many preventive, care, or support approaches available to the State, such as the provision of case management, legal aid, and social support that should be included as part of a holistic alternatives approach. Finally, an understanding of alternatives as a purely legal obligation tends to conflate alternatives to detention with the legal category of “restrictions on liberty” and therefore focus, unhelpfully, on restrictive sanctions or controls that can lead to net-widening.[[12]](#footnote-12)

That said, understanding the legal obligation to explore and implement “alternative measures” is an important way of ensuring that States are not resorting to detention unnecessarily or arbitrarily, for example, by drawing attention to the need to explore and exhaust less restrictive measures first, and by ensuring there is legal oversight of any decision to detain. Additionally, understanding the legal obligation to consider “alternative measures” prior to resorting to detention can help to clarify when individual practices or programmatic responses adopted by States are legally permissible or when they may themselves amount to impermissible restrictions on liberty of movement or even *de facto* detention.

Alternatives as a range of policies, practices, strategies and approaches

Finally, we have discussed alternatives not simply as a conceptual framework or legal obligation, but perhaps most importantly as a practical set of policies, practices, strategies and approaches that States can use to avoid detention and lesser forms of control when responding to complex social phenomena such as migration. To date, the IDC has identified more than 250 such examples of alternatives to detention in more than 60 countries.

Beyond the ‘traditional’ alternatives to detention often found in criminal justice systems, such as supervision, designated residence, bail or bond programs, the IDC has identified a number of alternatives to detention that help to prevent unnecessary immigration detention from ever taking place, such as: laws prohibiting the detention of certain particularly vulnerable groups; preventive screening tools; individual support and engagement strategies such as case management; and policies which ensure timely legal advice, interpretation and information provision. These are explored in more detail below.

3. the community assessment and placement model (cap model)

The Community Assessment and Placement model (CAP model) is a tool for governments, civil society and other stakeholders to build systems that ensure detention is only used as a last resort and that community options result in optimal outcomes. As seen in Figure 1, the CAP model combines the overarching principles of liberty and minimum standards with the key processes of identification and decision- making, placement and case management.



Figure 1: The Community Assessment and Placement Model

I. Liberty: Presumption against detention

The first overarching principle of the CAP model is the right to liberty, including a presumption against detention. 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

II. Minimum standards

The second principle underpinning alternatives is minimum standards. There are a number of minimum standards which States must respect and uphold for all individuals, regardless of legal status. Without minimum standards in place, alternatives are less likely to achieve desired rates of compliance, case resolution and respect for human rights. Minimum standards include:

* Respect for fundamental rights
* Meeting basic needs
* Legal status and documentation
* Legal advice and interpretation
* Fair and timely case resolution
* Regular review of placement decisions

III. Identification and decision-making

Successful migration governance programs understand that refugees, asylum seekers, stateless persons, irregular migrants and other non-citizens without legal status are a highly diverse population with different needs and motivations. Differentiating between these different groups will ensure informed decisions about management and placement options. Through screening and ongoing assessment, authorities can identify and assess levels of risk and vulnerability as well as the strengths and needs of each person. Areas of assessment include:

* Legal obligations
* Identity, health and security checks
* Vulnerability
* Individual case factors
* Community context

IV. Case management, support and resolution

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.

V. Placement options

There are various placement options available to the State in managing an individual pending case resolution. These include placement in the community without conditions or placement in the community with such conditions as determined to be necessary and proportionate in the individual case. Immigration detention is included as the measure of last resort to be used in exceptional cases, provided the standards of necessity, reasonableness and proportionality have been met.

Community without conditions

Liberty – or unconditional placement in the community – is the preferred placement option and is appropriate for the majority of cases. This includes when there is no legal basis to detain and when such placement will meet a State’s legitimate aim, such as ensuring completion of a legal migration process. Satisfactory outcomes are often achieved when unconditional placement in the community is supported with minimum standards and case management. An individual placed in the community without conditions may nonetheless be responsible for ensuring their good status and active participation in the applicable migration procedure. This might include appearing at immigration appointments, hearings or interviews, undertaking acts to assist in achieving case resolution, and respecting standard visa or residency requirements. The requirement of normal participation in migration procedures differs from conditions or restrictions on freedom of movement, as the latter are more onerous and impact on a person’s right to liberty and freedom of movement.

Conditions or limited restrictions in the community

If, following screening and assessment, serious concerns arise about unconditional placement in the community, there are a range of additional mechanisms that can be introduced to promote ongoing engagement and compliance with authorities. As conditions invariably involve some restrictions on an individual’s right to liberty, these must always be shown to be necessary, reason- able and proportional in the individual case. Conditions may include the following mechanisms:

* Monitoring
* Supervision
* Surety and other consequences for non-compliance

4. COMMON CHARACTERISTICS OF SUCCESSFUL ALTERNATIVES

The IDC has identified common characteristics of successful alternatives and, where able, established the reasons why these factors contributed to positive compliance, case resolution, cost, and health and wellbeing outcomes. At the individual level, research shows asylum seekers, refugees and migrants:

* Rarely abscond while awaiting the outcome of a visa application, status determination or other immigration process, if in their intended destination.
* Are better able to comply with requirements if they can meet their basic needs while in the community.
* Are more likely to accept and comply with a negative decision on their visa application, status determination or other immigration process if they trust:
	+ - They have been through a fair and efficient process
		- They have been informed and supported through that process
		- They have explored all options to remain in the country legally
* Appear less likely to abscond in a country they intend to transit if they:
	+ - Can meet their basic needs through legal avenues
		- Are not at risk of detention or *refoulement*
		- Remain hopeful regarding future prospects

Migration systems that are fair, effective and humane are often able to avoid detention in a majority of cases. Such systems use various strategies to keep individuals engaged in immigration procedures while living with freedom of movement in the community. Although such programs may make use of residential facilities, the location of the individual is not of primary concern. Instead, the focus is on:

* Screening and assessing each individual case
* Providing case management, legal advice and other mechanisms that support the individual to work towards case resolution
* Ensuring basic needs can be met
* Applying conditions or limited restrictions only where necessary

5. BENEFITS OF ALTERNATIVES

Alternatives are more affordable than detention

Alternatives have been shown to be up to 80% cheaper than detention. In the majority of cases, detention is significantly more expensive than alternatives. Alternatives have much lower operation costs than detention, increase independent departures (compared to deportations) and avoid litigation and compensation claims resulting from wrongful detention or harmful impacts.

Alternatives are more humane

Alternatives are better placed to uphold the rights of asylum seekers, refugees, stateless persons, irregular migrants and other migrants. They can avoid the harms of detention, reduce exposure to overcrowding and long-term detention, and enable greater access to programs that support health and welfare. Effective management in the community is also more likely to uphold fundamental civil, political, economic, social and cultural rights, thereby contributing to improved individual wellbeing and self-sufficiency. This ensures asylum seekers, refugees and migrants are better able to contribute to society if residency is secured, or better equipped for facing the challenges of departure from the country.

Alternatives are highly effective

Alternatives can achieve high compliance rates, achieving up to 95% appearance rates and up to 69% independent departure rates for refused cases. Alternatives, particularly those incorporating case management and legal advice, also assist in achieving efficient and sustainable outcomes by building confidence in the immigration process and reducing unmeritorious appeals. This can improve final immigration outcomes, be that integration for individuals granted status or departure for refused cases.

6. CASE STUDIES: GOVERNMENT PROGRAMS

Hong Kong holistic support and case management program
A government-funded project run by a non-government organisation arranges housing in the community as well as direct provision of food, clothing and medicine to these clients. Using a case management approach, workers assess each case on intake and develop an appropriate program of response in line with the resources available. Vulnerable clients, such as unaccompanied minors, are given priority and extra support as able. Persons must report regularly to the NGO, though the NGO is not responsible for compliance matters, although known breaches must be reported to authorities.

US Family Case Management Program

The Family Case Management Program operated in the United States between January 2016 and June 2017.[[13]](#footnote-13) It supported a total of 2,163 participants, made up of 952 heads of household and 1,211 dependents. This government-funded alternative to detention used qualified case managers to promote compliance with immigration obligations under enforcement and removal operations, while providing access to holistic community-based services tailored to individual families’ medical, emotional and social needs in the community, without the use of immigration detention.[[14]](#footnote-14) It was designed on the premise that, by meeting these needs, exploring all options in the individual case and building trust, the participants will be more ready, willing and able to comply with all aspects of the immigration process.[[15]](#footnote-15) The interest in model developed from the growing successful use of case management in migration governance globally. It was the first government-funded case management program of its type in the United States.

The program was contracted by the government to GEO Care. This company then partnered with community-based social service and faith-based organizations to provide holistic case-management services on an estimated 20:1 family unit to case manager ratio. In addition, GEO Care partnered with legal assistance programs to ensure clients access Know Your Rights presentations and other forms of basic legal information exchange. Each head of household was required to attend a legal orientation program providing information on their legal obligations, immigration proceedings and basic US laws. For this orientation program, an attendance rate of 93% was achieved.[[16]](#footnote-16)

Case managers worked with each family to develop a family service plan and to facilitate access to community services. This included support for participation in immigration processes, such as departure planning and preparation support, as well as referrals for legal, medical, food, education and other basic needs. Participants utilized 69.4% of the total referrals made by case managers (4,663 over the duration of the program).[[17]](#footnote-17)

**Outcomes**

As at April 2017, the program had worked with more than 630 families. This holistic case management approach produced strong results, with 99.3% of participants successfully attending their court appearances and 97.3% making themselves available for check-in appointments with the Immigration and Customs Enforcement agency. In real terms, out of 570 scheduled court hearings, only four hearings were missed throughout the entire program. The program also produced independent departures, and better coping and wellbeing outcomes for children and families. The program cost US$36 per day per family,[[18]](#footnote-18) compared with US$164 per day per person in detention.[[19]](#footnote-19)

Participant termination results were highly encouraging, with 86.8% of cases achieving outcomes that the Enforcement and Removal Operations department and the provider, GEO, deemed positive. The vast majority of these – 84.2% – left the program when ICE determined them to be stable and in compliance, and were subsequently transferred to a lower level of supervision. Another 2.6% consisted of results which were also considered positive, such as those who departed the US voluntarily or by Removal Order. Another 8.9% exited the program for reasons deemed neither favourable nor unfavourable, for example due to change of venue. Only 4.3% of cases resulted in a negative outcome, such as absconding (3.3%).[[20]](#footnote-20)

The West Africa Network

Thousands of children migrate every year in West Africa seeking opportunities for work and a safer life. The West African Network for the Protection of Children (the Network) has worked to protect and reintegrate children migrating within and outside the region since 2002. It integrates authorities and NGOs in 17 countries, in partnership with the International Social Service. As of 2018, it cares for approximately 1000 children per year.[[21]](#footnote-21)

The Network uses a coordinated and standardised process to each child’s case, valuing the child in all decision-making. It integrates responses to children in each of the following 8 steps:

1. Arrival, detention and identification

2. Immediate support and care

3. Assessment of the situation of the child

4. Temporary integration and quality care arrangements in the host country

5. Evaluation of the situation in the country of origin

6. Determination of a sustainable solution in the best interests of the child

7. Implementation of the solution

8. Monitoring and follow-up[[22]](#footnote-22)

The Network forms a needs-based program for each child’s reintegration, including schooling, vocational training or income-generating activities. It can also support the socio-economic status of the child’s family or destination community, in order to promote sustainable returns and uphold the best interest of the child.

7. CASE STUDIES: NGO PROGRAMS

NGOs are taking the lead in providing alternative to detention programs in some countries, or with some populations.

European Alternatives to Detention Network

The [European Alternatives to Detention Network](http://www.idcoalition.org/) is building evidence and momentum on engagement-based alternatives to detention. An [independent evaluation](https://idcoalition.org/wp-content/uploads/2018/04/There-are-alternatives-Africa-2018.pdf) of three alternative pilots in Bulgaria, Cyprus and Poland found:

* The vast majority (97%) of individual migrants who entered the pilots remained engaged with immigration procedures through engagement-based alternatives to detention in the community: only 3% disengaged or absconded
* Quality case management can increase individuals’ ability to work towards case resolution.[[23]](#footnote-23)

Kenyan alternative for victims of trafficking

Victims of trafficking identified by Police in Kenya are referred to HAART, an NGO who receives several referrals per day. Caseworkers devise a case plan and arrange accommodation in local shelters or in group living arrangements – sometimes financed through the client’s collective savings, acquired through employment. The government legalises the client’s temporary stay in the country, while HAART, IOM and NGOs in the client’s country of citizenship work collaboratively to trace the individual’s family. When medical, psychosocial and psychiatric support is required, HAART refers the client to a partner NGO. HAART has a partnership with a local hotel so that clients may access employment if desired.[[24]](#footnote-24)

Case management with migrants in Tunisia

in Tunisia, migrants visit the Tunis-based Terre d’Asile Tunisie to request legal, medical or social assistance. The caseworker classifies the client’s case as “Green” or “Red”. Green flags a form of less-intensive case management such as administrative support for self-sufficient migrants. “Red” flags intensive support in which the complex case is assigned to one of the 20 specialised NGO partners who provide support such as legal aid, housing, healthcare as well as Family Planning in Clinics run by the Ministry of Foreign Affairs with whom the Terre d’Asile drop-in centre has an operational partnership.[[25]](#footnote-25)

UK Community Support Project for Complex Cases

Since 2014, Detention Action has been running the Community Support Project (CSP).[[26]](#footnote-26) an alternative to detention pilot scheme that works with young men who have experienced or are at risk of long-term detention. The participants in the project are all aged 18-30 and have significant barriers to removal. They have each been detained for periods ranging from three months to four years, following the completion of prison sentences.

The project coordinator addresses the particular needs of each participant and creates a transition plan setting out the goals and actions that need to take place. This involves addressing the issues raised by participants and advocating on their behalf with a range of statutory and non-statutory bodies.

The CSP has shown that, when case management principles are followed, alternatives can work for even the most complex situations: people with previous convictions and barriers to removal.

* 93% of CSP participants have not re-offended since joining the project.[[27]](#footnote-27)
* 83% of CSP participants have successfully completed their time on the project.

8. CONCLUSION

Globally, millions of refugees, asylum seekers, stateless persons and migrants are at risk of immigration detention each year. The use of immigration detention is a widespread and expanding feature of migration policies worldwide, and represents a growing human rights challenge. In response, a number of countries have undertaken detention reform, including legislative and policy change to limit the use of immigration detention and to explore, develop and implement alternatives. This includes efforts to avoid the use of detention for particularly vulnerable groups, such as children, families, women, victims of trafficking, and survivors of torture or trauma. It also includes a number of innovative strategies to effectively support and manage individuals in the community without the use of detention: strategies such as the use of individual screening and assessment, community reception models, temporary visas, regularization and integration supports, and the provision of legal aid, counselling services or case management.

**Liberty is the preferred alternative**

Alternatives to immigration detention must always fully respect the rights to personal liberty and freedom of movement. Restrictions on personal liberty or free movement may only ever be resorted to consistent with the principle of minimum intervention and when legal, necessary, and proportionate to a legitimate State objective. There are a number of available alternatives to immigration detention that don’t require any restrictions on liberty such as open reception and community-based unconditional release. These must always be the starting point and are the preferred alternative to detention.

**Engagement, not enforcement**

The most successful alternatives to detention are those that use constructive, community-based engagement, rather than enforcement, to ensure individuals are able to comply with migration procedures. Successful alternatives focus on assessing each case and ensuring that the community setting contains the necessary structures and supports that will best enable the individual to work towards a resolution of their asylum or migration status together with authorities.

These alternatives effectively screen and assess the diverse migrant population so that they can better make informed decisions about management options. They use early intervention to support individuals throughout the bureaucratic administrative process via the provision of interpreters, legal assistance, and case managers who provide quality advice and assist the individual to explore all the legal options available to them, including both options to remain in the country and, if needed, avenues to depart the country safely. Finally, these programs treat individuals with respect and dignity, ensuring that basic needs are met and working with individuals in a collaborative, rather than adversarial, process.

International Detention Coalition

1st April 2019

APPENDIX – ADDITIONAL IDC RESOURCES

Resources

The [**Alternatives to Detention Database**](https://idcoalition.org/wp-content/uploads/2018/10/Keeping-Children-Safe-IDC-Briefing-Paper-Oct-2018.pdf) is an online searchable database with over 250 case studies of alternatives to detention. Advanced search functions enable alternatives to detention to be identified by a set of fields such as demographic and migration status.

The IDC’s [**Online Training Toolkit**](https://toolkit.idcoalition.org/) is a free learning platform on alternatives to detention. The Toolkit brings to life the experiences of IDC members working on alternatives to detention. It contains practical case studies, tools and resources in an easy-to-navigate platform. Each module takes only 15 minutes, and builds towards a comprehensive course.

Publications

Coria Màrquez, Elba, Giselle Bonnici, and Vanessa Martínez. 2017. [*¿Qué esperamos del futuro? Detención migratoria y alternativas a la detención en las Américas*](https://idcoalition.org/wp-content/uploads/2015/04/Briefing-Paper_Does-Detention-Deter_April-2015-A4_web.pdf). Melbourne: International Detention Coalition.

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1. Australian Human Rights Commission. 2012. [*Community arrangements for asylum seekers, refugees and stateless persons*](http://humanrights.gov.au/human_rights/immigration/2012community-arrangements/index.html). Sydney: AHRC. [↑](#footnote-ref-1)
2. Sampson, Robyn, Vivienne Chew, Grant Mitchell, and Lucy Bowring. 2015. *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne: International Detention Coalition. Available at: <https://idcoalition.org/publication/there-are-alternatives-revised-edition/> [↑](#footnote-ref-2)
3. Compare, e.g. UN Human Rights Committee (HRC): *General Comment No. 35 on Article 9, Liberty and security of person*, (CCPR/C/GC/35), para. 19 (“States parties should make available adequate community-based or alternative social care services for persons with psychosocial disabilities, in order to provide less restrictive alternatives to confinement”); with *C. v. Australia*, Communication no. 900/1999, CCPR/C/76/D/900/1999, para. 8.2 (“In particular, the State party has not demonstrated that, in the light of the author's particular circumstances, there were not less invasive means of achieving the same ends”); with Bakhtiyari v. Australia, Communication No 1069/2002, CCPR/C/79/D/1069/2002, para. 9.3 (“the State party has not demonstrated that other, less intrusive, measures could not have achieved the same end of compliance with the State party's immigration policies”). [↑](#footnote-ref-3)
4. UN Commission on Human Rights, [*Report of the Working Group on Arbitrary Detention: addendum : report on the visit of the Working Group to the United Kingdom on the issue of immigrants and asylum seekers*](http://www.refworld.org/docid/45377b810.html), 18 December 1998, E/CN.4/1999/63/Add.3 [↑](#footnote-ref-4)
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8. Cathryn Costello and Esra Kaytaz. 2013. [*Building Empirical Research into Alternatives to Detention: Perceptions of Asylum-Seekers and Refugees in Toronto and Geneva*](http://www.refworld.org/docid/51a6fec84.html), Geneva: UNHCR, p. 10. [↑](#footnote-ref-8)
9. Sampson, Chew, Mitchell and Bowring, 2015 *There are Alternatives*. [↑](#footnote-ref-9)
10. Costello and Kaytaz, 2013. *Building Empirical Research into Alternatives to Detention,* p. 10. [↑](#footnote-ref-10)
11. See, e.g. UNHCR. 2012. *Detention guidelines: Guidelines on the applicable criteria and standards relating to the detention of asylum-seekers and alternatives to detention*. Geneva: UNHCR. *Terminology*: **“‘Alternatives to detention’** is not a legal term…”   [↑](#footnote-ref-11)
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13. This description draws primarily from: GEO Care. 2017. [*Family Case Management Program: Summary report*](http://www.geogroup.com/userfiles/1de79aa6-2ff2-4615-a997-7869142237bd.pdf). GEO Care; Loiselle, Mary F. 2016. "Geo Care's new family case management program." *GEO World*, 2-3; Women's Refugee Commission. 2018. [*Family Case Management Program: Backgrounder*](https://www.womensrefugeecommission.org/rights/resources/1653-family-case-management-program). Washington DC: WRC. [↑](#footnote-ref-13)
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27. This figure compares to the fact that [around half of all people leaving prison reoffend within 12 months](https://fullfact.org/crime/state-prisons-England-Wales/). [↑](#footnote-ref-27)