

Hosting transit migrants

Countries that host large numbers of migrants intending to transit within undocumented mixed migration experience particular pressures and challenges.²⁶² Governments of preferred destinations are increasingly working to thwart the journeys of migrants intending to reach their territory.²⁶³ However, migrants excluded from legal migration options and from full participation in local society are likely to accept greater risks to resolve their situation.²⁶⁴

Indeed, strict control measures do not resolve the factors motivating migration. Increased use of detention and other forms of enforcement increases the likelihood migrants will avoid authorities entirely, participate in unregulated or illegal activity or accept greater risks to continue the journey.²⁶⁵ One study in Libya concluded:

*The absence of a humane and orderly framework for handling migration flows in Libya is no doubt a contributing factor to the ever increasing numbers of migrants, asylum seekers and refugees willing to risk their lives in the Mediterranean to reach the safety of Europe.*²⁶⁶

While secondary movement cannot always be prevented, a range of strategies can be utilised by States to better understand, respond to and manage such mixed migration. In the first instance, screening and assessment assists in understanding factors driving migrant journeys. As shown in Section 6, all governments benefit from understanding these factors to ensure placement decisions are well informed and address identified concerns. For example, people who are migrating due to persecution, systemic violence or extreme poverty are seeking different outcomes to those who are seeking to reunite with family.

Understanding these motivating factors and identifying the likelihood that some migrants will remain in the system while awaiting an outcome assists in determining appropriate placement options, including shelters for children, victims of crime and trafficking and vulnerable groups and reception centres for asylum seekers.

There is evidence that migrants are 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, and remain hopeful regarding future prospects.

In most instances, these transit community models retain the right to freedom of movement in the community; in some contexts, migrants are required to reside in specific towns (Box 13 Turkey) or to not enter border areas (airport or seaport) without permission (Indonesia).²⁶⁷ Conditions, such as reporting, are only applied as needed. The principles of case management and information about available options remains central, as seen in reduced levels of absconding in Thailand and Indonesia (Section 2.4.1).

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- Are not at risk of detention or refoulement, and
- Remain hopeful regarding future prospects.²⁶⁸

Examples of alternatives in countries hosting large numbers of transit migrants include Box 2 Poland and Croatia, Box 6 Hungary, Box 7 Panama, Indonesia, Israel and Malta, Box 8 Spain, Box 9 Romania, Box 13 Turkey, Box 14 Hong Kong, Box 19 Hungary, Box 22 Greece, Box 23 Slovenia and Box 26 Philippines and Mexico.

Notwithstanding these strategies, complete control in all cases is unrealistic. Effective solutions include proactive, preventative mechanisms that address the root causes of migration and that build a stronger international system of burden sharing, including transnational cooperation and regional solutions. The government of the United States recently announced a major funding initiative to address the root causes of irregular migration by unaccompanied children. The program aims to support the security, good governance and economic prosperity of countries in the Northern Triangle. As the Vice President, Joe Biden, stated in his announcement of the plan, “the cost of investing now in a secure and prosperous Central America is modest compared with the costs of letting violence and poverty fester.”²⁶⁹ Such a response reframes issues of irregular migration as an issue of international development and security. Detention does not effectively reduce mixed migration. Ultimately, managing undocumented migrants in transit requires understanding motivating factors to determine fair, timely and humane national responses, and for broader regional dialogue on longer-term solutions.

CLOSING DETENTION CENTRES IN FAVOUR OF ALTERNATIVES

GREECE

The Greek government started releasing people from detention in February 2015 as part of a policy of more humane treatment of migrants.²⁷⁰ For over ten years, Greece had systematically detained refugees, asylum seekers and migrants who entered the country irregularly, garnering heavy criticism for falling short of international minimum standards.

After visiting the notorious Amygdaleza detention centre, the Deputy Interior Minister stated “Detention centres – we’re fin-

ished with them ... I’m here to express my shame, not as a minister but as a human being ... I couldn’t believe what I saw. I really could not believe it. This must change and it must change immediately.”²⁷¹

The announced policy changes include:

- The immediate revocation of the Ministerial Decision allowing for the prolongation of detention beyond 18 months

- The immediate release and referral to accommodation facilities of vulnerable groups, including unaccompanied minors
- The release of registered asylum seekers whose detention exceeds six months
- The immediate implementation of measures to substantially improve detention conditions
- The use of alternative measures to detention²⁷²

In Spain, asylum seekers who enter the refugee determination process can be housed in an open reception centre if they cannot afford private accommodation.¹⁵⁰ These centres are operated by the government or by non-government organisations. The total reception capacity in Spain is about 850 places, with priority given to vulnerable individuals. Asylum seekers cannot choose which area within Spain they will be located. The centres are responsible for the reception, promotion and integration of asylum seekers and refugees.¹⁵¹ Residents are free to come and go from the centres as they like. As an example, one centre provides bedrooms shared by 3-4 single adults, while families have their own room with a small bathroom attached. There are catered

meals in a dining hall, public lounge areas, library, shared computer and Internet access and a shared laundry. Residents receive 50 per month cash allowance for their own use including public transport. Twice a year residents are given money for clothes.

Residents are assigned a social worker who provides information and advice on their situation, works to develop an individual pathway and assists them in accessing education, health care and other social systems of Spain. All residents are expected to attend Spanish language classes, cultural orientation, and employment preparation programs. Recreational activities such as sports, visits to the local library, exhibitions and movies are supported by an activities officer. Psycho-

logical services and specialised services including legal aid are available for eligible residents. The centres also undertake advocacy activities in the local Spanish community.¹⁵² Residents are issued a card that identifies them as asylum seekers and facilitates their access to medical care.

Asylum seekers can be housed in reception centres for six months. If they are still awaiting a decision on their refugee application at that time, they are supported to find independent housing and employment. At this point, they are given the right to work. Vulnerable individuals and families may apply to extend their stay in the centre for an extra six months if needed. The program has been praised by UNHCR for its high standards.¹⁵³

FORMAL STATUS AND DOCUMENTATION

In Chile asylum seekers are issued with a renewable temporary stay permit, valid for eight months, which provides the holder with an entitlement to work. A comprehensive social assistance scheme ensures asylum seekers and their families are able to meet their basic needs, with access to food, housing, furniture and transportation. An asylum seeker is entitled to full support for three months; this then decreases to 75% after three months, 50% after six months, and ends after 12 months. However, this may be extended in special circumstances.¹⁵⁵

Afghan refugees in Iran are issued with "Amayesh cards" that provide them with legal status in the country. These cards

serve as valid identity cards and permit the holder to access health care and education. Amayesh cards are currently issued for a year and must be renewed annually, at a cost of approximately USD \$3 per card.

In Romania, tolerated status, and an accompanying 'tolerated document' are issued by the Romanian General Inspectorate to persons who cannot leave the Romanian territory but who would not otherwise have a legal basis to remain.¹⁵⁶ Tolerated status is granted for an initial period of six months, renewable for further six-month periods until the reasons for toleration cease to exist. At that time, the individual is required to depart the

country. Individuals holding a tolerated document have the right to work, are required to report regularly to a territorial unit of the General Inspectorate, and must notify authorities of any changes to their place of residence. They are also required to reside in a particular geographical area and obtain approval to travel outside of this area.¹⁵⁷

In Turkey, stateless persons who have been identified are to be issued a Stateless Person Identification Document. This grants the right to legal residence and access to health, education and legal services.

VARIOUS COUNTRIES

PROHIBITING THE DETENTION OF VULNERABLE INDIVIDUALS

TURKEY

For the first time, Turkey has introduced a comprehensive framework for the governance of migration. The *Law on Foreigners and International Protection* (LFIP) was ratified by the Turkish Parliament on 4 April 2014. It introduces important protections and procedural safeguards in administrative decision-making for persons seeking international protection. It also excludes certain vulnerable individuals from detention and introduces alternatives into law for the first time.

Under the LFIP, detention is prohibited for unaccompanied minors seeking international protection,²⁰² victims of human trafficking, international protection status holders, international protection appli-

cants (except in set circumstances) and stateless individuals.

The LFIP also exempts a number of vulnerable individuals from deportation orders and, therefore, detention. This includes individuals who are at risk of torture/ill-treatment if expelled; are unable to travel due to poor health, age or pregnancy; require medical treatment that cannot be obtained in the country of origin or return; or are victims of serious psychological, physical or sexual violence, until treatment is completed.

For such vulnerable individuals, humanitarian residence permits are issued (with specific permits for victims of human trafficking). These permits can also be issued

to individuals for whom a deportation order has been issued but who cannot be deported (e.g. because their country of origin refuses to accept their return). Permit holders may be required to reside at designated reception and accommodation centres and to report to authorities at specified periods. The permit includes a foreigner identification number, which is used to access health care, education and legal services. Asylum seekers may live with freedom of movement if they reside in their allocated 'satellite city.'²⁰³

OPTIONS FOR THOSE WHO CANNOT BE DEPORTED

VARIOUS COUNTRIES

See also Box 26.

Hungary – Under Act II of 2007, a residence permit can be issued on humanitarian grounds to persons who have been granted “exile” status, or tolerated stay.²⁵² Residence permits are issued for one year and may be renewed for further one-year periods. Those with ‘exile’ status are entitled to social assistance including accommodation or rental support, medical services, education assistance, and financial support to depart the country when possible.²⁵³

Germany - Unreturnable migrants in Germany are granted tolerated status, and

issued with a document called a *Duldung*. This certifies that the individual is obliged to leave the territory, but cannot do so at present. A *Duldung* can be granted for a variety of reasons, including administrative obstacles preventing travel, such as a lack of passport, or conflict in the country of origin. After a year, *Duldung* holders have limited work rights and receive basic social assistance, at 40% below unemployment benefits for German nationals. They are required to live in designated areas (to distribute the social welfare load across the Länder), and require permission to travel.

In the **United States**, individuals from certain countries that have experienced devastating natural disasters, civil war or other conditions that temporarily prevent their citizens from returning safely, may be able to obtain Temporary Protected Status (TPS). A TPS provides the holder with temporary permission to remain in the US, and also provides temporary work authorisation. Once granted TPS, an individual cannot be detained and is not removable during the designated period. In order to qualify for TPS, an individual must prove that s/he is a national of a current TPS designated country and has been in the US since a specified date.

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REPORTING AS A MONITORING MECHANISM

VARIOUS COUNTRIES

Slovenia – Third country nationals subject to a deportation order may be required to report to the nearest police station instead of being placed in detention.²⁸⁵ Individuals are usually required to report once per month.

United States – The United States uses both telephone and in-person reporting. The telephonic reporting voice verification program makes automated calls to participants at periodic intervals, requiring them to call back within a certain timeframe. When the call is returned, the computer compares the caller’s voice against the registered biometric

voiceprint and registers them as having reported.²⁸⁶

Sweden – Individuals subject to a supervision order (a combination of reporting and a surrender of documents) are obliged to report to the nearest police station or the Swedish Migration Board on a regular basis. There is no standardised procedure regarding its application; instead, the frequency of reporting is determined on a case-by-case basis. Reporting frequencies usually range from once a week to once every two weeks. However, they can be every day if an individual is determined to pose a high risk of absconding. Failure

to report leads to a follow up assessment; it does not automatically lead to detention. If the assessment identifies a high risk of absconding, a decision to detain may be taken.

United Kingdom - Asylum seekers and irregular migrants are regularly required to report either to local Home Office offices or, more rarely, to police stations. Reporting requirements and conditions are regulated in the UK Home Office Guidance “Reporting – Standards of Operational Practice”. The frequency of reporting varies considerably, usually from every day to once a month.