

Using Alternatives to Detention (ATD) as a Systems Change Strategy

Towards Ending Immigration Detention

Executive Summary

While people have migrated throughout human history, immigration detention is a relatively recent global phenomenon that has spread across many regions of the world in the last thirty years. The increasing use of immigration detention as a migration governance tool is a key manifestation of a growing global trend to criminalise migrant communities.

The experience of immigration detention has many damaging and enduring effects on individuals. This includes debilitating physical and mental health impacts that are felt well-beyond the period of detention, and are often felt for an entire lifetime. Further, it is critical to view the impacts of immigration detention through an intersectional lens. This means understanding that people have diverse and intersecting identities, and are impacted in very specific ways.

After thirty years of growing immigration detention systems across the majority of the world, the results are clear: immigration detention creates severe harm at personal, community, and systemic levels, and its human and financial costs make it unsustainable for the future.

In terms of solutions, there is ample evidence that ATD leads to better outcomes for individuals, communities and governments.¹ Through different global frameworks, such as the Global Compact for Migration, the Committee on Migrant Workers General Comment No. 5 and many others, governments have committed to developing and supporting non-custodial ATD with the goal to reduce and end immigration detention. To IDC, this represents a political environment that is conducive to change.

¹ Sampson, R., Chew, V., Mitchell, G., and Bowring, L. *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention* (revised), International Detention Coalition, 2015, pp. 9 - 15.

UNDERSTANDING THE ATD LANDSCAPE

There is no universally recognised definition of ATD. Therefore, ATD is interpreted in different ways, including legal, conceptual, academic and practical interpretations. The lack of universal definition also leads to different actors using the term ATD to describe a broad spectrum of practices and approaches.

IDC envisions a world where immigration detention no longer exists and people who migrate live with rights and dignity. With this vision at its core, IDC recognises the relevance of ATD as an academic and legal concept, but first and foremost, IDC approaches ATD as a systems change strategy to reduce and end immigration detention, and build migration governance systems that ensure dignity and human rights.

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Further, IDC understands ATD as a range of laws, policies and practices by which people at risk of immigration detention are able to live in the community, without being detained for migration-related reasons. For IDC, ATD can involve a range of interventions in areas of migration governance that ensure liberty and rights, individual screening and assessment, placement options, and case management to facilitate fair and timely case resolution.

A SYSTEMS CHANGE STRATEGY

IDC believes that in order to ensure a healthy and vibrant ecosystem of change, diverse approaches from a range of actors are absolutely necessary in the movement to end immigration detention. For IDC, ATD advocacy is one of many strategies that civil society can utilise to achieve progress towards reducing detention, and help pave the way for future systems of migration governance that do not rely on detention.

It is the leadership of our members, partners and people with lived experience of immigration detention, particularly marginalised groups such as women, girls, transgender, gender diverse, and LGBTI+ communities, that inspires IDC to ground our approaches in vision. This means that while we work to end what we are against, we also advocate for the future we want to see, which is a world where immigration detention no longer exists.

Why Systems Change?

While immigration detention has devastating impacts on many individuals every day, it is operationalised through large, complex migration governance systems that impact people, families and whole communities in a systematic manner. To change the status quo on immigration detention, we must address immigration detention as a systemic issue, not

an individual one. Our work is to change systems - this requires intentional processes that chip away at underlying structures and alter supporting mechanisms to bring about lasting change.²

Key Elements

Provide a Vision & Roadmap

For IDC, using ATD as a systems change strategy means laying the groundwork for a vision and roadmap towards migration governance approaches that are based on values of human rights, agency and freedom. This includes developing systems that strengthen and protect migrant communities for the long-term, in order to build strong, equitable and sustainable societies overall.

Tailor to Context

In IDC's experience, change is always context specific. Across the world, immigration detention use varies greatly, and is dependent on specific drivers, as well as political, historical, and migratory contexts. IDC believes that for ATD as a strategy to be impactful, it must be grounded in pragmatic, nuanced and contextualised approaches that work towards realising core rights-based principles and values. There is no one-size fits all model, and the processes of change, as well as the ATD interventions used, will look different in each context.

Prioritise Transformative Incremental Change

The process of considering ATD possibilities encourages decision-makers to reassess current approaches, and can shift mindsets away from detention towards fundamentally different ways of managing migration. Stand alone ATD programmes provide governments with learning and evidence, and have a ripple effect as they are expanded and mainstreamed into the broader system, with the aim to eventually phase out immigration detention entirely. This is the systems change that can come from prioritising transformative incremental change.

Using the Term "ATD"

Currently, using the term "ATD" can be a strategic choice in many contexts, and not in some others. However, as we move along our theory of change,³ the aim is for the term ATD to become obsolete as non-detention approaches become the norm, and new, values-based mechanisms and processes are integrated into everyday social systems. In the meantime, it is also important to mitigate risk when using the term "ATD." As governments remain in enforcement mode, some have co-opted the term and use it to describe coercive measures that increase control and surveillance, rather than reduce detention and enhance rights.

² Abercrombie, Harries and Wharton, *Systems change: A guide to what it is and how to do it*, NPC, 2015, p.5.

³ For example, European ATD Network, *Theory of Change: Building evidence and momentum on engagement-based alternatives to detention, to reduce immigration detention at the national and regional levels in Europe*, 2019.

Build Trust & Collaboration

Using ATD as a strategy has the greatest potential to contribute to change when there is trust and collaboration among different actors in developing ATD, particularly including migrant communities, civil society and others. While this collaboration might not exist in all contexts, or in varying degrees, it can be built over time and supports what is often called a “whole of society” or “whole of government” approach. Further, IDC has seen that using ATD as a strategy is most effective when one of the core priorities is to engage with relevant government departments and officials to develop collaborative solutions.

Getting Involved

There are many different tactics and approaches that civil society groups can use to further ATD advocacy strategies. While some may prefer to focus on direct government engagement, others may prefer tactics such as community organising, media and communications, research and documentation, or technical training and support. Civil society organisations and groups can choose approaches that fit their context, strengths, expertise and resources.

IDC'S ATD PRINCIPLES

IDC believes adherence to the following principles will ensure that ATD contributes to reducing and ending immigration detention. Therefore, IDC aims to realise and

be guided by these principles when using ATD as a systems change strategy.

ATD Must Respect Human Rights⁴

ATD must support the empowerment and leadership of people to effectively and actively navigate the complex migration processes that directly impact their lives and futures. ATD must uphold the full humanity and dignity of each person, and recognise that people at risk of immigration detention experience multiple and intersectional violations of their human rights. ATD must not create new harms or further the violation of rights.

ATD Must Reduce Immigration Detention

Approaches that run parallel to existing immigration detention systems, without impacting use of detention or the size of the immigration detention estate, by nature do not reduce immigration detention.

ATD Must Be Based on Engagement Not Enforcement

Engagement-based ATD builds trust, supports empowerment, and promotes agency and wellbeing so people can actively participate in processes that affect their rights and futures.

ATD Must Involve Holistic Support

ATD must be centred around holistic community-based support to help people achieve stability, navigate

4 Sampson, R., Chew, V., Mitchell, G., and Bowring, L, *There are Alternatives*, 2015, pp. 18 - 33.

complex systems, as well as ensure basic needs, access to services and wellbeing.⁵

ATD Cannot Involve Deprivation of Liberty

Measures that amount to deprivation of liberty - either individually or cumulatively - are simply *de facto* detention, sometimes referred to as “alternative forms of detention,” regardless of whether they are labelled ATD by governments or not. For example:

- › *Closed shelters or reception facilities*
- › *Remote or physically isolated locations*
- › *Screening at international borders or transit zones*
- › *Electronic monitoring or tagging*
- › *Onerous conditions or restrictions*

BUILDING BLOCKS OF ATD

Based on global research conducted by IDC and published in *There are Alternatives*,⁶ IDC created a holistic framework for developing rights-based ATD called the Community Assessment and Placement (CAP) Model. This framework includes:

- › *Liberty: presumption against detention*
- › *Minimum standards*
- › *Identification and decision-making*
- › *Case management, support and resolution*
- › *Placement options*

Recognising that there is no one-size fits all model of ATD, the CAP Model does not seek to provide prescribed solutions for complex realities. Instead, it supports stakeholders to engage, develop, and take ownership of ATD solutions within their specific context.

JOIN US

IDC supports the leadership of its members and partners to develop tailored strategies, and strives to ensure people who have experienced or are at risk of experiencing immigration detention are provided with opportunities to conduct and lead national, regional, and global level advocacy to reduce and end immigration detention. Find out about how to join IDC here: <https://idcoalition.org/join-idc/>

For more resources on using ATD as strategy and to read the full paper, please visit: <https://idcoalition.org/atd-strategy/>

5 Sampson, R., Chew, V., Mitchell, G., and Bowring, L, *There are Alternatives*, 2015, p. 28.

6 Sampson, R., Chew, V., Mitchell, G., and Bowring, L. *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention* (revised), International Detention Coalition, 2015.