

Report of Second Global Online Peer Learning Exchange

Case Management for Case Resolution:
Scaling Up Alternatives to Detention

Co-hosted by the UN Network on Migration Working Group on Alternatives to Detention and the Permanent Missions of Colombia, Ghana, Nigeria, Portugal and Thailand in Geneva

29 June 2021

Context, Participation and Overview of the Agenda

Following on from the [first global online peer learning exchange](#) on 17 November 2020 on sustaining and expanding the use of alternatives to immigration detention, this second global online workshop on 29 June 2021 brought together government peers and other key stakeholders from all regions to continue the exchange of knowledge and experience, and the work of building Communities of Practice on this topic.

The COVID-19 pandemic has created a situation in which many governments have had to adapt their policies and practices relating to migration governance and the use of immigration detention by turning to alternatives to immigration detention. The first global peer learning exchange had a specific focus on the health impacts of detention, allowing for peer exchange on the use of alternatives - as a response to the pandemic and beyond. In 2021 the UN Migration Network's Working Group on Alternatives to Detention (ATD) engaged in consultations with a number of States about their priority topics related to ATD, and this resulted in two focus themes for this second global peer learning exchange - case management for case resolution, and leveraging technology in an ethical way in order to scale up ATD.

The meeting started with a session focused on Case Management leading to Case Resolution – hearing perspectives from national and local government officials about a range of case management-based alternatives to detention, and from a civil society organisation in Malaysia providing community placement and case management for unaccompanied and separated migrant children. After watching a UN Migration Network short [video](#) on ending child immigration detention, there was a deep dive into the ethical use of technology for alternatives to detention – with presentations on the ethical use of technology in migration governance, on data protection when using new technologies, and on the role of emerging predictive IT tools in effective migration governance. Following this, several government officials from different regions presented on their work towards scaling up alternatives to detention/phasing out immigration detention, and the participants heard from the Special Representative of the Secretary-General on Violence against Children about the 2021 focus of the UN Task Force on Children Deprived of Liberty on ending child immigration detention.

This was a closed meeting, held under the Chatham House Rule, for representatives from relevant governmental departments at local, national, regional and global levels. 134 participants attended the peer learning exchange, including more than 70 officials from 37 governments and the European Union and the South American Conference on Migration. The other participants were UN agencies, representatives of academia, representatives of funding bodies and civil society organisations, all of them members of the UN Migration Network Working Group on Alternatives to Detention. The remote format for the exchange, as a result of the COVID-19 pandemic, allowed for the presence of government practitioners from capitals and across regions, as well as officials based in Geneva, and subject experts from different countries.

Case Management leading to Case Resolution

Anderson Selvasaram of the SUKA Society in Malaysia which provides community placement and case management for unaccompanied and separated migrant children¹ reflected that good case management programmes work because they are about seeking case resolution from the outset, and this keeps the client engaged throughout the process. The case manager works with them to develop a case plan that deals with their immediate needs, their intermediate needs, and their future. Since SUKA Society established their programme in 2015 not one child has absconded from their programme, due to the rapport and trust built between child and case manager, and the participatory nature of the case management process. All children are provided with material support for food, housing etc; 96% have had access to education in Malaysia and 89% have had their health interventions supported. The programme costs 90% less than immigration detention.

Government representatives reflected on the elements of case management-based ATD that have been successful in their different contexts. Some had commissioned independent evaluations of their ATD programmes and systems, with a view to learning from experience and looking to potential expansion. Government representatives highlighted some of the following factors that (among others) had contributed to success and the lessons they had learned:

Managing ATD pilots and projects:

- Providing support workers who took a case management approach and legal advisers did provide the personal stability and reliable information needed for participants' cases to be progressed towards conclusion.
- Holistic support and trusting relationships between caseworkers and ATD pilot participants fostered active engagement and compliance.
- Clear, consistent communications about compliance with conditions and community standards for child safety, school attendance, parenting.
- Return counselling/coaching can be done from family's own home, avoiding detention.
- It is important for tailor-made coaching/individual case management to start as soon as possible.
- Case management helps parents take care of children in the community, creates self-reliance, and leads to cultural exchange and better relationships between migrant and host communities.
- Working to align ATD programming with other social services provision.
- Providing a housing initiative for migrants – to provide short-term low-rent housing for migrants, offering more release from detention options for migrants without community supports, until they can arrange longer-term housing.

Visas/Regularisation:

- Adapting visa regimes to the reality of migration in specific contexts and bringing in flexible visa measures, e.g. border passes, transit permits, temporary protection visas that provide regular status, access to services, and rights to work.
- Providing migrants with proof of their status

¹ Video link to external evaluation of SUKA Society's Case Management Program: https://youtu.be/PX_yfOXnfo8. SUKA Society's Community Placement and Case Management (CPCM) Manual: <http://www.sukasociety.org/community-placement-case-management-manual/>

- Establishing a system of bridging (temporary) visas for people to live in the community can avoid detention, and give time for migrants to regularise their status, or – if that is not possible – to consider a voluntary return.
- To the greatest extent possible, grant work rights for parents to support self-agency and empower the role of parents to determine family location/dynamics.
- Concluding visa agreements with other States and joining regional blocs which allow for cross-border movement.

Whole-of-government and whole-of-society approach:

- Government and civil society can work together to successfully deliver ATD pilots and programmes.
- Building strong partnerships with well-established community-focused NGOs with good track records, and state and territory government multicultural agencies / departments.
- Good management of these contracted service providers to ensure excellent service provision.
- When needed, provide accommodation or accommodation support, and living allowances, as well as healthcare, and education.
- Developing interagency cooperation, standards and procedures
- Work with international organisations, NGOs and CSOs to provide community-based case management with foster care programme and government shelters to meet individual children's needs while the government is promoting a multi-disciplinary team to support the implementation of the child's care plans, leading to case resolution.
- Developing a capacity-building curriculum to train the wide range of officials who may engage with migrants to avoid immigration detention, including border officials, immigration staff, police, labour inspectors, child protection staff etc.
- Engaging multi-disciplinary teams to provide support – medical, psychological, social, financial.
- Bringing different layers of government together. Need to overcome conflict of competences that can arise between national and local authorities and ensure that certain groups of migrants do not fall between competencies and end up lacking support.
- When children arrive at the border, border officials refer them to the Department of Social Welfare who ensure that they are safely accommodated and housed, with access to services and protection like national children.
- Setting up an Alternatives to Detention government department to coordinate.

Ethical use of technology for alternatives to detention

With the COVID-19 pandemic having accelerated the use of technology as an element of ATD, this session provided an opportunity to examine ethical and legal issues that should be considered, and precautions and safeguards needed, when new technologies are proposed in the context of migration and ATD. Summaries of the three expert presentations are produced below:

CONSIDERING THE ETHICAL USE OF TECHNOLOGY IN MIGRATION GOVERNANCE – POINTS OF ENTRY

Summary of the main points raised by Jessica Bither, Senior Expert for Migration at the Robert Bosch Stiftung (Reflections are those of the speaker alone and do not necessarily reflect the views of the Foundation)

1. What is unique about the migration and refugee space?

Background: different types of technology are already being employed in different areas of migration governance: from forecasting models to better predict human movement, to increased collection of personal and biometric data, digital ID solutions in humanitarian settings or for purposes of cross border mobility, to algorithmic decision-making in various areas to assist human decision making and risk assessment.

- each use and type of technology raises different ethical questions (e.g. privacy questions of digital IDs differ from those related to automated decision making).
- at the same time, there are overarching points that tie them together.

3 points relevant for thinking of ethical use of tech in migration space:

I. Decisions have a very immediate and direct impact on people's lives (for example regarding status determination, decisions about detention);

II. People are often in already vulnerable situations and/or with few alternatives or choices;

III. Key concepts that apply to ethical use of technology in other areas, may have different ethical (or legal) implications (i.e. informed consent, data collection and data sharing).

2. What is a useful general approach and mindset to this question?

Not inevitable, not neutral: using technology in certain areas is not inevitable; technology is never neutral (though it is often presented as such).

Part of techno-social ecosystem: The ethical questions we ask are thus never just technical questions, but part of bigger socio-political context, it involves human decision making and must be analyzed as such.

Example: a risk based algorithmic decision-making system concerns human choices as to:

- a.) what is the problem I want the model to address?
- b.) what is the output of the model (is it a risk score, a classification)?
- c.) which data am I using (where does data come from, does it contain bias etc.)?
- d.) what is the action that my model or system leads to? (e.g. a model giving a recommendation for further evaluation is arguably different than one that would lead to automatic detention).

3. What questions can guide policy stakeholders to make decisions about development and implementation? (some examples)

Cost and efficiency:

- AI-driven or complicated systems, may not be the most cost-efficient solution for given problem (*example- police force that decided against a new software and instead opted for a cheaper and simpler rules-based model*)
- Important to be clear about purpose about employing technology: where is it supposed to help and with what?

Procedures and safeguards:

- Are there additional procedure or safeguards that I need to put in place from a legal, ethical perspective? *For example: is there access to recourse for individuals who are affected by results of an automated decision making system? Are there oversight and access controls in place?*

Many others (for example data related). It is important to begin asking these questions as the use of technology becomes more widespread and as technological solutions are employed at a time where many regulatory frameworks and questions are still in the process of being developed.

10-POINT DATA PROTECTION CHECKLIST WHEN USING NEW TECHNOLOGIES

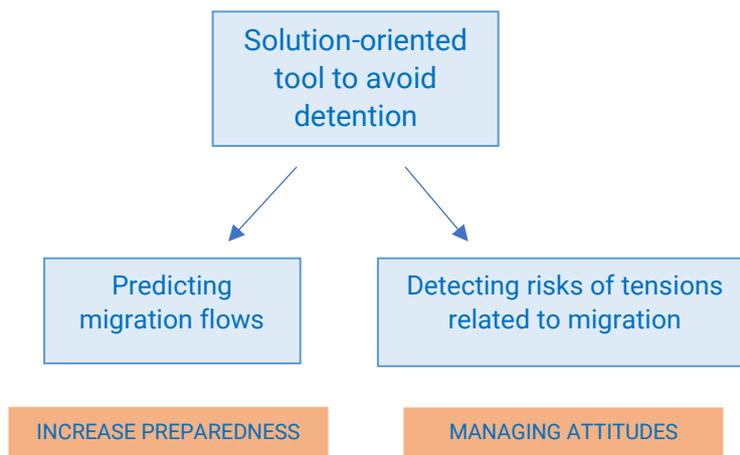
Summary of the talking points of Christina Vasala Kokkinaki, IOM Senior Legal Officer (Data Protection and Data Governance). It does not constitute legal advice on data protection matters.

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| 1. Be proactive and not reactive | Data protection issues should be taken into account prior, during and after deploying a new technology. Engage your data protection officer or a data protection expert. |
| 2. Necessity | Is the collection of personal data through the use of the new technology necessary? If yes, are all the personal data to achieve the specified purpose? For example, is full GPS tracking necessary (to know where an individual was at all times with precise location) or is tracking once a day (randomly) sufficient? |
| 3. Proportionality | Ensure there is proportionality between the limitation on rights and interests of data subjects and the benefits achieved by the new technology. |
| 4. Risk-benefit assessment and/or human rights impact assessment | Assess whether the benefits of using the specific new technology outweigh the risks and further assess the impact on human rights of individuals, especially their right to privacy. |
| 5. Establish the legal basis for collecting personal data | Consent is -most likely- not the legal basis to be used for collection of personal data through new technologies in the context of alternatives to detention. Thus, a different legal basis should be found in the applicable law. |
| 6. Purpose limitation | How can you ensure that the personal data collected is used only for the specified purpose that has been identified? Ensure you have measures in place to avoid function creep. |
| 7. Privacy/Data Protection statement | Draft a statement to clearly explain what personal data is being collected by the new technology, for which specified purpose, who has access to it, for how long etc. |
| 8. Transparency | Information on the technology, its exact use, the personal data it collects, the purpose of collection, any sharing of data etc. needs to be clearly explained to the individuals/data subjects as well as how they could make requests to access, correct or delete their data (if possible, otherwise it would need to be explained why it is not possible). |
| 9. Accountability and oversight | Ensure that there is an authority overseeing that data protection is respected and an authority where complaints can be raised by data subjects, if needed. |
| 10. Vulnerable individuals (data subjects) | Take into account vulnerable individuals, such as children, when deploying a new technology as the risks for them would be higher when using a new technology. |

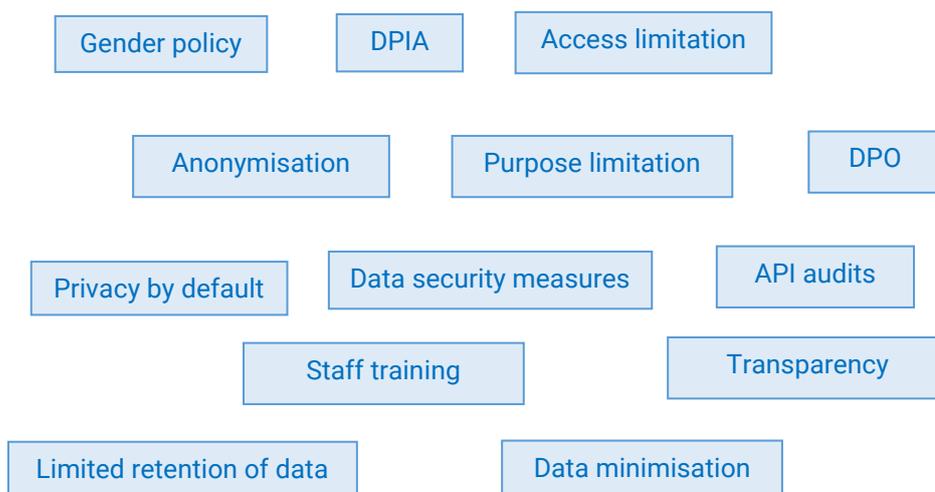
The Role of Emerging Predictive IT Tools in Effective Migration Governance:

Dr. Cristina Blasi Casagran of the Autonomous University of Barcelona presented the “[It Flows](#)” project which aims to provide accurate predictions of migration flows in the European Union. The project uses predictive analytics to anticipate migration movements and manage potential tensions between migrants and host communities. The project may contribute to preventing detention by facilitating better preparedness regarding reception, relocation and integration.

EUMigraTool



Compliance with ethical requirements



Aligning EU policies to the **drivers of migration** in origin and transit countries

Root causes and factors contributing to possible **tensions** within the native population in their attitudes towards immigrants/refugees across European countries

Effective **relocation** policies in light of social and economic realities with a particular focus on the desirability and the feasibility of EU wide initiatives for the relocation of asylum seekers and refugees

Effective policies for the **socio-economic integration** of immigrants to the EU

Good practices and asylum policy commitments according to **human rights**

Scaling up alternatives to detention/phasing out immigration detention

This panel heard from governments that do not use immigration detention, have fully phased out the practice, or are moving towards only using immigration detention in very rare exceptional cases as a last resort and never for children and families. It focused on the journey of switching from ATD pilot programmes towards scaling-up ATD to become the norm.

This requires creation of an enabling environment, a focus on reducing hostility towards migrants, and ensuring that migration management systems are independently monitored. ATD has proven to be very cost-effective, with socio-economic benefits, to protect migrants' human rights, and to improve migration governance.

The Special Representative of the Secretary-General on Violence against Children noted that travel and movement restrictions due to COVID-19 have not stopped children moving and facing high risk in many settings. Detaining these children for migration-related reasons is never in their best interests and is a form of violence against children. Therefore, she decided to focus the UN Task Force on Children Deprived of Liberty in 2021 on ending child immigration detention. This needs high-level leadership, to achieve national legislation prohibiting child immigration detention, child-sensitive and gender-responsive migration policies, children's access to services including child protection services, and adequate alternative care and reception for children and families in the community. In the 2030 Sustainable Development Goals (SDGs) States committed to end violence against children, including child immigration detention. Less than 8 years remain to keep this promise. Migrant children must not be left behind. Children's status must prevail over migrant status – they are children first.

Going forward

This meeting was part of the process towards **developing Communities of Practice at different levels** on alternatives to immigration detention. It will be important to continue State-to-State peer learning and support, to share experiences, and challenges and concerns, to identify promising practices to serve as an inspiration to others, and to explore collaboration opportunities and multi-stakeholder cooperation and work. Participants should explore co-convening and engaging in further conversations and peer learning exchanges about reducing the use of immigration detention and scaling up ATD – within and among governments and with all relevant stakeholders.

The International Migration Review Forum (IMRF) in May 2022 provides a key opportunity to mobilise States and stakeholders at national, regional and global levels to continue engagement in the widespread scaling-up of ATD and phasing-out of immigration detention, and to work towards full implementation of Objective 13 of the Global Compact for Migration (GCM).

The UN Migration Network is committed to implementation of GCM Objective 13 and stands ready to continue providing support to States towards this end. GCM Champion States are increasingly engaging in the issue of implementation of Objective 13. States are requested to contact the UN Migration Network (contact details in box below) with requests for technical or other support on alternatives to immigration detention or with organising further peer learning exchanges at various levels.

The United Nations Network on Migration was established to ensure effective, timely and coordinated system-wide support to States in their implementation, follow up and review of the Global Compact for Safe, Orderly and Regular Migration.

The Working Group on Alternatives to Immigration Detention is one of six thematic groups established under the Network, tasked with promoting the development and implementation of human rights-based alternatives to detention in the migration context. The Working Group is co-led by UNHCR, UNICEF and the International Detention Coalition (IDC) and its members comprised representatives of UN agencies, civil society organizations, young people, local governments and technical experts working on immigration detention and alternatives all over the world.

For further information/To contact the UN Network on Migration Working Group on Alternatives to Detention: gteff@unicef.org.