

ADVOCATING FOR ALTERNATIVES TO MIGRATION DETENTION

TOOLS SERIES N°2



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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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IOM ALTERNATIVES TO DETENTION (ATD) SERIES

The IOM ATD Series is a series of tools aimed at guiding IOM staff and other interested stakeholders in conceiving, developing, implementing and advocating for alternatives to detention.

To uphold the human rights principle that migration detention should be a measure of last resort, States need to move towards alternatives to detention (ATD). International organizations and civil society organizations have the responsibility to support States' efforts to do so.

This series of tools builds on IOM's operational experience with various ATD elements, and also draws on tools and materials developed by other key stakeholders.

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ADVOCATING FOR ALTERNATIVES TO MIGRATION DETENTION



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ACRONYMS

ATD	Alternatives to Detention
CCPR	Committee on Civil and Political Rights
CRC	Convention on the Rights of the Child
GFMD	Global Forum on Migration and Development
HRBA	Human Rights Based Approach
ICCPR	International Covenant on Civil and Political Rights
IDC	International Detention Coalition
IML	International Migration Law
IOM	International Organization for Migration
MiGOF	Migration Governance Framework
NGOs	Non-Governmental Organizations
NHRI	National Human Rights Institutions
RBA	Rights Based Approach
RCP	Regional Consultative Process on Migration
SDGs	Sustainable Development Goals
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UN WGAD	United Nations Working Group on Arbitrary Detention

INTRODUCTION

In recent years, States have shown increasing interest in exploring alternatives to migration detention (ATD). It is widely considered that effective alternatives to detention have better outcomes in terms of respecting, protecting and fulfilling human rights, contribute to the well-being of migrants, promote compliance with immigration procedures, as well as reduce costs, when compared to immigration detention.¹ However, the use of ATDs is still rather limited and the understanding of what can be considered as a good practice is still developing.

The International Organization for Migration (IOM) is committed to promoting ATDs under a rights based approach (RBA), as a more humane way of managing irregular migration, compared to detention, in full respect of international standards, with preference for the use of community based and non-custodial measures.

IOM recognizes that immigration detention is a prerogative of States due to its sovereignty, nevertheless, it is subject to the respect of international standards and applicable national legislation. However, ATDs is one of those areas that greatly benefits from, and indeed requires, collaborative efforts. Joint advocacy of UN entities, international organizations and Civil Society Organizations (CSOs), as well as States, has proven effective in shaping international jurisprudence and, to some extent, States' approaches. There is significant potential for scaling up the use of ATD, and this Alternatives to Detention Advocacy Guide is intended to help take this forward.

This Guide is part of the IOM ATD Series: a series of tools aimed at guiding IOM staff and other interested stakeholders in conceiving, developing, implementing and advocating for ATDs. The ATD Series so far includes: an *IOM Quick Guide to Alternatives to Detention*, which explains IOM's approach to ATDs and its various elements, as well as an *IOM ATD Road Map on Alternatives to Migration Detention: Tools Series N°1*. The ATD Road Map outlines non-prescriptive processes that can be followed by IOM in its work of supporting States and relevant stakeholders to progressively develop migration governance systems that prevent unnecessary detention in the migration context, focusing on the use of community-based alternatives. It also draws on the IOM internal mapping of ATD interventions: *Alternatives to*

Migration Detention – building on IOM's experience. This mapping compiles some IOM projects that have included ATD components, in order to further define IOM's approach, highlight good practices, and recommendations for strengthened actions.

This ATD Advocacy Guide is intended to provide user-friendly guidance on how to conduct advocacy in the context of ATDs. It emphasizes the importance of well-informed, well-planned and context-specific advocacy efforts. Section 1 begins with an overview of the concept of ATDs, the relevant legal and operational frameworks, and the main elements of successful alternatives. Section 2 focuses on advocacy for ATDs, including defining what advocacy is, to whom efforts are targeted at, including the actors, audience and partnerships that are central to effective advocacy, as well as entry points. It also presents some of the core arguments that can be leveraged when encouraging the use of ATDs by governments. The latter part of Section 2 provides "how to" guidance on developing, implementing and monitoring advocacy efforts. Case studies have been used throughout to highlight practical experiences and to share good practices that can be leveraged to inform interventions elsewhere.

The Advocacy Guide is primarily intended for use by IOM staff, but other stakeholders, including UN entities, NGOs, government officials, among others, may also find it useful for initiating and scaling up ATD advocacy, as well as strengthening partnerships, in support of ATDs.

1 IOM, IOM Road Map on Alternatives to Migration Detention, 2019. The Advocacy Guide is primarily intended for use by IOM staff, but other stakeholders, including UN entities, NGOs, government officials, among others, may also find it useful for initiating and scaling up ATD advocacy, as well as strengthening partnerships, in support of ATDs.

SECTION 1 - ALTERNATIVES TO MIGRATION DETENTION: CONCEPT AND LEGAL BASIS

1.1 Understanding Alternatives to Detention

The International Organization for Migration (IOM) defines Alternatives to Detention as:

Any legislation, policy or practice, formal or informal, aimed at preventing the unnecessary detention of persons for reasons relating to their migration status.²

.....
 Note: International human rights law provides that detention, including in the migration context, must only be used as a last resort, that is when alternatives cannot be applied. Examples of alternatives to detention include measures ranging from policy or legislative developments that have an impact on preventing unnecessary detention, to effective screening and identification procedures, community-based or casework-oriented models, bail, bond and surety options, open or semi-open centres, reporting requirements and case resolution options.

Source: IOM, 2019a.

The breadth of this definition is shaped by IOM's comprehensive approach, which takes into consideration the interconnectedness of all aspects of migration. To prevent unnecessary detention, the focus needs to be on all relevant policy areas surrounding migration and not only on immigration detention policy itself. Effective strategies may require changes in law, policy and practice in a variety of areas of migration governance and should focus on enhancing coherence among various aspects of ATDs, as well as effective cooperation among all relevant stakeholders.³

The below table (**figure 1**) is adapted from the *IOM Roadmap on Alternatives to Detention* (2019). It summarizes the main elements of ATDs, highlights the elements that are cross-cutting (focusing on minimum legal standards and safeguards), and emphasizes the value of approaching ATDs as a "system", ensuring an all-inclusive approach, bringing the various elements together.

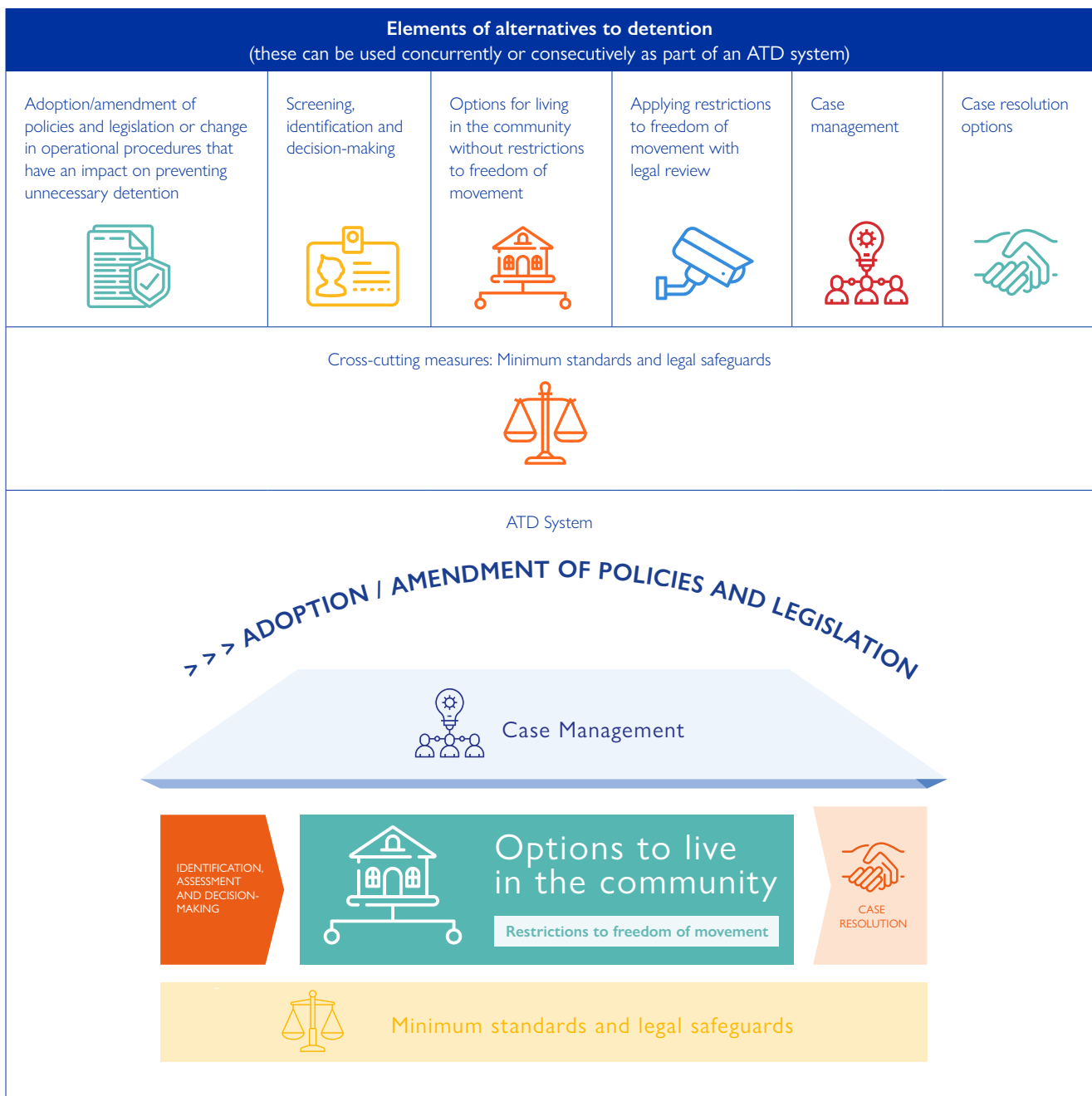
These elements include:

- i. Policy, legislation and procedures
- ii. Screening and identification
- iii. Community-based alternatives
- iv. Application of some restrictions to freedom of movement
- v. Case management
- vi. Case resolution

.....
 2 IOM, 2019a. Definition adapted from the International Detention Coalition (IDC), *There Are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention*, 2015.

3 IOM, 2019c.

Figure 1: Elements of Alternatives to Detention



Note: Figure 1 is adapted from the IOM Quick Guide on ATDs (2019); see Annex 1 for full table of ATD Elements.

1.2 Examples of ATDs

Some examples (non-exhaustive) of the types of ATD interventions applied by IOM, include:⁴

- ATD strategy planning;
- Training and capacity-building;
- Supporting policy development;
- Facilitating dialogue and information exchange;
- Providing direct protection and assistance;
- Setting up and managing community accommodations for various groups of migrants or shelters for vulnerable migrants.

Keeping up to date with latest developments in ATDs helps ensure the provision of well-informed support to governments. Recent additional examples of ATDs in practice can be found in (among others):

- *Report of Global Online Peer Learning Exchange on Alternatives to Detention, UN Migration Network - Working Group on Alternatives to Immigration Detention* (2020)
- *COVID-19 and Immigration Detention: What Can Governments and Other Stakeholders Do?*, UN Migration Network - Working Group on Alternatives to Immigration Detention (2020)
- *Alternatives to detention: building a culture of cooperation Evaluation of two-year engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland*, EPIM (2020)
- *IASC Interim Guidance on COVID-19: Focus on Persons Deprived of Their Liberty*, OHCHR – WHO (2020)
- *Non-Detention of Migrants: Some Facts and Figures*, PICUM (2020)
- *Technical Note: COVID-19 and Children Deprived of their Liberty*, UNICEF - The Alliance for Child Protection in Humanitarian Action (2020)
- *IOM Alternatives to Migration Detention: building on IOM's experience, IOM (2019)* – internal document
- *Alternatives: Learning What Works, International Detention Coalition*, IDC (2019)

- *There Are Alternatives: Africa*, IDC, 2018
- *The United Nations Global Study on Children Deprived of Liberty, UN (2019)*
- *Beyond Detention, UNHCR (2018)*
- *Alternatives to detention for asylum seekers and people in return procedures*, European Union Agency for Fundamental Rights (2015)
- *There are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)*, IDC (2015)
- *ATD Toolkit Course*, IDC

Successful ATDs need to take into consideration context-specific realities, while ensuring compliance with States' international obligations stemming from international conventions and customary law or other international commitments. The next section elaborates further on the existing relevant international standards.

1.3 International Standards and State Commitments⁵

In advancing the use of ATDs, IOM aims to assist States in achieving their commitments in line with relevant international law standards and in adopting a RBA to policies, and programming and practices,⁶ including through supporting them in finding practical solutions to manage migration in a safe, orderly and regular manner, including under a human rights approach. When carrying out advocacy with governments (and other partners), it is important to understand and support governments' awareness and implementation of the various applicable international standards.

a. International law⁷

The right to liberty is set out in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which requires States to ensure that any deprivation of liberty, including in the context of immigration control, is "justified as reasonable, necessary and proportionate in light of the circumstances".⁸ All States that are party to the ICCPR are bound by this provision.

According to Article 9 of the ICCPR, detention should always have a legal basis. The ICCPR does not provide a list of permissible grounds for detention. However, the Committee on Civil and Political Rights (CCPR) recognizes that the law should clearly establish the

⁴ IOM, 2019b, and interviews with IOM offices.

⁵ IOM, 2019b.

⁶ Ibid.

⁷ The content of this section draws heavily on the IOM Quick Guide on ATDs, 2019.

⁸ CCPR, General Comment No. 35, para. 18.

permissible grounds for detention and “define them with sufficient precision to avoid overly broad or arbitrary interpretation or application”.⁹

The Committee has also clarified that “there may be factors particular to the individual, such as the risk of absconding and lack of cooperation... Without such factors, detention may be considered arbitrary, even if entry was illegal”.¹⁰ Furthermore, the Committee has indicated that individual circumstances should be considered and reassessed over time.¹¹ If these measures are not followed, detention risks being or becoming arbitrary, and therefore unlawful.

From the above principles, it follows that the detention of migrants in an irregular situation (as well as asylum seekers and refugees) should be used as a measure of last resort, only when necessary, and that alternatives should be explored.¹² Given that detention should be used only as a measure of last resort, States therefore have an obligation to establish ATDs in law and apply them in practice, wherever possible.

b. *The United Nations Working Group on Arbitrary Detention (UN WGAD)*

The United Nations Working Group on Arbitrary Detention has indicated that “criminalizing illegal entry into a country exceeds the legitimate interest of States to control and regulate irregular immigration and leads to unnecessary detention”.¹³ Thus, that “immigration detention should gradually be abolished”¹⁴ and that “alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention”.¹⁵ Moreover, in conformity with the international law principle of non-discrimination, the Working Group further clarified that “detaining someone solely on the basis of a distinction such as race, colour, sex, language, religion, political or other opinion,

national or social origin, economic position, birth, nationality or any other status will always be arbitrary.”¹⁶

c. *Special case of migrant children*

The situation of migrant children, including unaccompanied and separated migrant children, require special considerations and protection under international law. General child rights provisions are also applicable to migrant children and should be considered in all actions relating to the child, regardless of their migration status. These are, among others, the following guiding principles of the Convention on the Rights of the Child (CRC) that need to be considered in all decisions concerning migrant children, including in the context of ATDs:¹⁷

- Right to non-discrimination (Article 2)
- Principle of the Best Interests of the Child (Article 3 of the CRC)
- Right to life, survival and development (Article 6 of the CRC)
- Respect for the view of the child (Article 12)

In addition, international human rights mechanisms, including the Committee on the Rights of the Child, the Committee on the Rights of Migrants Workers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment have released statements and/or General Comments relating to the detention of children for reasons relating to their migration status:

- The Committee on the Rights of the Child (2017) and the Committee on the Rights of Migrant Workers and their Families, in a joint General Comment (2017) indicate that the: *measure of last resort principle does not apply in the case of children, as this would be in conflict with the best interest principle and the child’s right to development.* They add that: *children should not be detained as a result of their parents’ migration status.*¹⁸

9 Ibid.

10 CCPR, A. v. Australia, Communication No. 560/1993.

11 CCPR, General Comment No. 35, para. 18.

12 See the Opinions adopted by the Working Group on Arbitrary Detention, 2 March 2010, UN Doc. A/HRC/13/30/Add.1, and in particular, Opinion No. 5/2009 (Lebanon), p. 280, para. 12.

13 UN WGAD, Annual Report (January 2008), UN Doc A/HRC/7/4, para. 53.

14 UN WGAD, Report of the Working Group on Arbitrary Detention (January 2010) UN Doc. A/HRC/13/30, para. 58.

15 UN WGAD, 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 (December 1998) UN Doc. E/CN.4/1999/63/Add.3, para. 33.

16 UN WGAD, Revised Deliberation No. 5 on deprivation of liberty of migrants (2918), para. 21.

17 Convention on the Rights of the Child, UNGA, Res 44/25 (1989).

18 Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment indicates that detention of children resulting from their (or their parents') migration status can be regarded as cruel, inhuman or degrading,¹⁹ and thus unlawful.

d. *The New York Declaration and Global Compact for Safe, Orderly and Regular Migration*

Paragraph 33 of the New York Declaration recognizes the need to decriminalize irregular entry, with a view to ensuring that the status of individuals who cross international borders is assessed in accordance with due process and that ATDs are pursued when this assessment takes place.²⁰

Stemming from the New York Declaration, the Global Compact for Safe, Orderly and Regular Migration, a non-binding internationally negotiated framework, anchored in international law and human rights, sets out a collective international commitment to improve cooperation on international migration. It was adopted in December 2018.²¹

Objective 13 of the Global Compact for Migration reads as follows:

Objective 13: Use immigration detention only as a measure of last resort and work towards alternatives

Under Objective 13 of the Global Compact for Migration, States renewed their commitment to “*prioritize non-custodial alternatives to detention that are in line with international law, and to take a human rights-based approach*”, drawing on the following actions that relate to alternatives:²²

- “...promote, implement, and expand alternatives to detention, favouring non-custodial measures and community-based care arrangements, especially in the case of families and children” - Obj 13 (a)
- “Consolidate a comprehensive repository to disseminate best practices of human rights-based alternatives to detention in the context of international migration, including by facilitating regular exchanges and the development of initiatives based on successful practices among States, between States and relevant stakeholders” - Obj 13 (b)

- “Review and revise relevant legislation, policies and practices related to immigration detention to ensure that migrants are not detained arbitrarily...and that immigration detention is not promoted as a deterrent or used as form of cruel, inhumane or degrading treatment of migrants, in accordance with international human rights law” - Obj 13 (c)
- “Protect and respect the rights and best interests of the child at all times, regardless of migratory status, by ensuring availability and accessibility of a viable range of alternatives to detention in non-custodial contexts, favouring community based care arrangements that ensure access to education and health care, and respect the right to family life and family unity, and by working to end the practice of children detention in the context of migration.” - Obj 13 (d)

Case study: IOM Portugal has highlighted how the Global Compact for Migration, where appropriate, can be leveraged in support of ATDs. Portugal was one of the first countries to establish a Global Compact for Migration action plan, including incorporation of actions in response to Objective 13. This provided a good opportunity for IOM and other actors to support efforts around regularization of migrants' stay and advocate for the exploration of broader ATDs (interview with IOM Portugal).

While **Objective 13** of the Global Compact for Migration makes direct reference to ATDs, various other provisions across the Global Compact for Migration are relevant to alternatives, including those that aim to: improve options for regular migration (Objective 5), address and reduce vulnerabilities in migration (Objective 7), ensure provisions of basic services to migration (Objective 15), among others.

It follows that all advocacy efforts should be undertaken in line with the applicable international law instruments, and with a human rights-based approach (HRBA) at the core.

Additional references include: *IML Information Note on International Standards on Immigration Detention and Non-Custodial Measures* (IOM, 2016), as well as in *IOM's Internal Guidance Note on Immigration Detention and Alternatives to Detention* (IOM, 2015a).

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19 Ibid.

20 General Assembly, New York Declaration for Refugees and Migration, Resolution No.71/1 (19 September 2016), UN Doc A/RES/71/1, para. 33.

21 Not all UN Member States voted in favour or the Global Compact for Migration (among those who voted: 152 voted in favour; 5 voted against; 12 abstained). Consideration should be given to States' position on the Global Compact for Migration when referencing it in advocacy.

22 Summarized from the Global Compact for Migration text.

Section 1 Recap (see below a summary of the main points from Section 1):

- According to IOM's definition, Alternatives to Detention include **“any legislation policy, practice, formal or informal, aimed at preventing the unnecessary detention of persons for reasons relating to their migration status”**.
- There are several international standards and State commitments that relate to ATDs, including **Article 9 of the ICCPR, the right to liberty, and prohibition of arbitrary detention**. It follows that detention of migrants resulting from their migration status should be used as a measure of last resort.
- The **United Nations Working Group on Arbitrary Detention** has indicated that immigration detention should gradually be abolished and that alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention. Detaining someone solely on the basis of a distinction such as race, colour, sex, language, religion, political or other opinion, national or social origin, economic position, birth, nationality or any other status will always be arbitrary.
- The **“best interests of the child”** principle, as set out in the Convention on the Rights of the Child (Article 3), should always be the primary consideration, including for migrant children, and should be considered in all actions relating to the child, regardless of their migration status.
- International human rights mechanisms, including the Committee on the Rights of the Child, the Committee on the Rights of Migrant Workers and Members of their Families, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment, indicate that:
 - **the measure of last resort principle does not apply in the case of children**, as this would always conflict with the best interests of the child principle.
 - **detention of children** resulting from their (or their parents') migration status **can be regarded as cruel, inhuman or degrading**, and is therefore unlawful.
- The New York Declaration and the Global Compact for Safe, Orderly and Regular Migration, recognize the need to work towards the pursuit of ATDs, which is explicitly set out in Objective 13 of the Global Compact for Migration: *Use immigration detention only as a measure of last resort and work towards alternatives.*

SECTION 2 - ADVOCACY FOR ALTERNATIVES TO MIGRATION DETENTION

2.1 The WHAT and the WHY of ATD Advocacy

Having reflected on what ATDs are and on the relevant international legal framework, it is important to turn attention to the conditions for, and steps needed, to expand the use of ATDs, in particular on the role of advocacy to promote and implement ATDs. This requires an understanding of what advocacy is and why it is important in the context of ATDs.

a. Defining advocacy²³

Advocacy can take on different meanings, depending on the context and intended purpose. However, for the purpose of this guide, advocacy is considered to mean:

A set of targeted efforts or actions to support, encourage or influence the use alternatives to migration detention, following a rights-based approach.

Such efforts can include information exchange, dialogue, direct support and strengthening partnerships that engender an “environment for action”.

b. Why is advocacy important?

Advocacy can help unpack challenges, concepts, values, attitudes and beliefs on migration in general, as well as on the use of migration detention as last resort and ATDs. Effective advocacy can lead to strategic and targeted dialogue, and the shaping of fresh, informed perspectives in pursuit of the expanded use of ATDs. This Guide is therefore intended to support IOM staff and partners in establishing appropriately targeted, rights-based and context-driven advocacy. Section 2.2 goes into detail on the actors, targets (audience) and partners in advocacy efforts, noting that governments are responsible for defining their ATD policies, but may benefit from the support of other actors, such as IOM, and other UN and civil society entities, among others. As elaborated below, this requires building on and/or working from a foundation of mutual understanding and trust.

As detailed in the *IOM Roadmap on Alternatives to Detention*, it has been frequently observed that most States are not yet fully equipped to move away from an enforcement-model of detention towards community-based alternatives, or other forms of ATD. In these contexts, governments could benefit from solutions-focused support from IOM and other partners to explore a range of non-custodial options and related interventions that can strengthen the whole migration management system, contribute to progressively reducing the use of immigration detention and comply with States' obligations under international law. Well-planned, well-informed and well-targeted advocacy is therefore essential to benefit from such opportunities. Doing so can help demonstrate how ATDs can serve as a tool to address States' challenges and meet their goals.

It is important to start with manageable first steps, placing ATDs in the broader context of migration governance and managing irregular migration, as well as exploring possibilities for expanding regular migration pathways. Advocacy on ATD can be linked to ongoing initiatives, such as building ATD advocacy into immigration and border management, migrant protection and assistance, migration governance programmes, for example.

Case study: In Turkey, for example, IOM supported the Government to develop a strategy and action plan (NAP) on irregular migration. The strategy included actions around: “using detention as a measure of last resort”, as well as a general provision on “evaluation of conducting feasibility study on ATD measures”. This led to the allocation of resources for a feasibility study on ATDs. The updated NAP also includes a provision on research on ATD measures.

²³ This derives from a broader UN definition of advocacy found in the UN Guide for UN Advocacy to Promote the Implementation of the 2030 Agenda (2017).

Case study: In Portugal, in response to rising levels of irregular migration, IOM highlighted to the Government that ATDs are part of a continuum of activities to address irregular migration. Contextualizing ATDs in the bigger picture (rather than as a standalone issue) helped gain momentum in taking discussions forward. IOM started its advocacy efforts by holding information sessions with legal professionals on the rights of migrants, as well as sharing information sheets on ATDs. Following this approach to advocacy helped to ensure that (where possible) cases where detention was unnecessary were diverted to alternatives. (Interview with IOM Portugal)

c. Getting started – the entry points

There are a range of contextual factors that can set the scene for ATDs, including through the identification of possible entry points for advocacy efforts. It is important to recognize that contexts can vary greatly, and that factors and approaches that are used in one country may not be appropriate or serve as effective entry points in another. Figure 3 below sets out some scenarios that can provide a basis for ATD advocacy.

Figure 3: Entry points for advocacy for ATD in practice

Factors	Examples in practice
<p>Recommendations from treaty body reporting or national human rights institutions</p>	<p>Case study (Thailand): In Thailand, the Committee on the Rights of the Child raised concerns about the large numbers of migrant children in detention and recommended the use of alternatives as a priority. This proved to be an important entry point for advocacy, and ultimately resulted in the Thai Prime Minister calling for an end to child detention (UN Study, 2019).</p>
<p>International or Regional Forums or Events</p> <p>(including commemorative days)</p>	<p>Case study (Southern Africa - MIDSA): The Migration Dialogue for Southern Africa (MIDSA), a Regional Consultative Process on Migration, provided a platform for the sharing of experiences in implementing ATD among the 16 member States. This resulted in the Government of Zambia sharing its ATD model through hosting exchange visits from other countries in the region.</p> <p>The GFMD: UN partners and the International Detention Coalition held a side-event on ATD and ending the detention of children at the Global Forum on Migration and Development in Quito in 2020, in support of the Global Campaign to End the Detention of Children, which IOM is part of. The GFMD brings together actors from across the globe, and therefore provided an excellent platform for advocacy to new audience.</p> <p>Case study (CRC Anniversary): The 30th anniversary of the Convention on the Rights of the Child in 2019 was marked by the launch of a special study by the United Nations on Children Deprived of their Liberty (UN, 2019). This study includes a detailed examination of the situation of children deprived of liberty for migration-related reasons. The information therein, as well as commemorations to mark international day of the child, international migrants' day, among others can provide a platform for advancing ATD advocacy, rooted in the findings of such studies.</p> <p>Council of Europe: Regional forums, such as meetings of the Council of Europe, are valuable for sharing of experiences and for governments to demonstrate positive advances in addressing irregular migration and the use of alternatives, working towards "collective decisions" and potentially the scale up of the use of ATDs.</p>
<p>A rise in irregular migration and/or overcrowding in immigration detention facilities</p>	<p>Case study (Indonesia): In Indonesia, overcrowded detention centres and rising numbers of new arrivals led to a pressing need for solutions. This provided a conducive environment for initiating discussion around alternatives with the Government of Indonesia. In this context, IOM advocated for the "release to alternatives" for vulnerable cases in detention, stemming from the "huge pressure placed on the existing detention infrastructure". This was used as a springboard to later extend the approach.</p> <p>IOM's presence in the detention centres meant that good relationships were already established. Being in touch with the day-to-day realities allowed IOM to be well positioned to advocate for alternatives, and advocacy efforts were appropriately targeted in response to rights and needs of migrants and other relevant populations, as well as challenges of Government.</p>
<p>Elections or change of government and/or policy</p>	<p>Case study (Portugal): In Portugal, following a change in government, and the approval of the national plan on the Global Compact for Migration, approaches to advocacy needed to be adjusted in line with the new priorities of the Government.</p>

Factors	Examples in practice
<p>Protection concerns for groups with vulnerabilities</p> <p>(such as victims of human trafficking, unaccompanied and separated children, among others)</p>	<p>Case study (Zambia): In Zambia, concern was raised about victims of trafficking and migrant children being detained for immigration related reasons. Interactions with Government revealed that this was due to limited shelter options and cooperation among government departments. Identifying challenges faced by the Government led to the development of a referral mechanisms and establishment of safe shelters as a starting point for ATDs, with potential to scale up to broader categories of migrants.</p> <p>Case study (Indonesia): In Indonesia, concern was raised about the particular needs of women, children, families and the elderly in the context of irregular migration. This led to the provision of alternatives for those considered to be in vulnerable situations. This entry point allowed for advocacy to focus on broadening the scope of ATDs thereafter.</p>

d. Making the case – lines of reasoning in support of ATDs

While every context differs, there are some common concerns raised by governments that pose a barrier to the use of ATDs. These include issues about compliance, costs, feasibility and evaluation, among others. Figure 4 below provides some key lines of reasoning in support of ATDs to provide solutions for these concerns. This list is not intended to be exhaustive, or responsive to all settings, but

rather as a starting point to consider which could help move ATD discussions forward. When engaging in advocacy with governments and other partners it is important to **emphasize the benefits of alternatives rather than simply focusing on the reasons not to detain**. This can help ensure that advocacy efforts are “solutions based”, taking into consideration the challenges and realities faced in a specific context.

Figure 4: Advocacy Messaging – Making the case for ATDs

Making the case for ATDs – 3 Key Points		
<p>Point 1</p>	<p>Effective alternatives (ATD) exist and are being used</p>	<p>There are several examples of ATDs in theory and in practice, as demonstrated throughout this document, and many States may already be applying alternatives without necessarily defining them as such, especially since after all ATDs aim to <i>prevent</i> detention. Therefore, a core part of advocacy efforts is sharing with governments (and other actors) the various forms of ATDs that can be considered.</p> <p>To effectively consider and use ATDs, it is important to recognize that “it is not enough to look only at detention-related policies... [but] also necessary to consider all the other policies, practices, and regulations that can impact the need to resort to deprivation of liberty in managing irregular migration”,²⁴ i.e. that contribute to the <i>prevention</i> of and <i>avoid</i> detention. For example, work relating to ATDs has been featured in IOM’s work on immigration and border management, migration law, counter trafficking and migrant assistance, assisted voluntary return programmes, migration policy, as well as in emergency and humanitarian responses. Moreover, as established in the Global Compact for Migration, ATDs should be considered as a component of migration governance based on the human rights standards that constitute one of the guiding principles of the Global Compact for Migration. When working with governments and other partners, it is therefore important to advocate for broader “good migration governance” efforts and comprehensive migration policy under a HRBA, with ATDs having an important place in such approaches.</p> <p>Opening up legitimate pathways for regular migration is a core strategy for the prevention of irregular migration. Moreover, considering options for migrants’ right to work and access to other human rights (health, education, housing, etc.), can also be effective.</p> <p>Example: Migrants Resource and Response Centres (MRRC) have, in some cases, been conceived as part of out-of-detention solutions, where migrants reside in the community and are provided with a number of services in the centres (e.g. vocational training, cash assistance, non-food items, support with access to services such as access to hospitals and schools, etc). In some cases, those centres may also be used as a temporary accommodation for migrants. (IOM internal mapping)</p>

24 IOM, 2019b.

Making the case for ATDs – 3 Key Points

Point 2 **ATD
compliance
rates are often
good**

The risk of absconding is often considered as the primary rationale against the use of ATDs by States and can lead therefore to unnecessary immigration detention. Advocacy efforts should acknowledge the potential risk of absconding in some specific cases where this risk is proven (so, on a case by case basis), but also highlight that compliance rates for the use of ATDs until case resolution are often high. Therefore, while the risk of absconding does exist, the exception should not necessarily define the rule.

The following factors can help contribute to good rates of compliance:²⁵ respecting the rights and basic needs of individual migrants; provision of documentation and formal status; legal advice and interpretation; fair and timely case resolution; ongoing case management and regular review of decisions. Dialogue and advocacy efforts can be supported by sharing of examples and case studies can help to demonstrate this, for example:

The IDC (2015), through a comparative study in Canada and Switzerland, highlights four motivational factors that contribute to compliance rates: (1) fear of removal; (2) law-abidingness and commitment to obey the law; (3) trust in the refugee determination process and perceptions of fairness in the host country; and (4) a desire to avoid irregular residence.

Advocacy can focus on provision of support for States to consider a range of ATDs and to highlight that individual case assessment, including security and risk assessment when necessary, support high levels of compliance. As indicated in the *IOM Quick Guide on ATD*, objective criteria used by States to establish this risk include: lack of documentation, lack of cooperation in determining the persons' identity, use of false identity and repeated failure to report to the authorities. Risk of absconding should be considered on an individual basis and using objective criteria. According to the CCPR,²⁶ detention can be considered arbitrary if the risk of absconding is not demonstrated.

The UN Study on Children Deprived of their Liberty (2019) cites various examples of non-custodial measures and concludes that the "results show high levels of compliance" (p. 486). In its concluding recommendations, the study states that: "the practices of States that have implemented such child rights compliant non-custodial measures should be internationally promoted and fostered". Such measures, in combination with information about the process, legal and other appropriate assistance, access to education, and regular check-ins by social workers, are very effective in ensuring attendance at immigration hearings and compliance with rights-respecting orders for return to countries of origin or last residence (p. 493).

Case study (Greece): In Greece, IOM AVRR ATD programme uses Open Centres for Migrants Registered for Assisted Voluntary Return (OCAVRR). Approximately 93 per cent of the individuals who have been accommodated in the centre have successfully completed AVR(R) processes and returned voluntarily to the respective countries of origin²⁷ (IOM internal Mapping).

Case study (United Kingdom): An evaluation of the United Kingdom family returns programmes that was tailored to considering child and family welfare needs, better preparation for return, as well as improved access to judicial reviews. The findings of the evaluation indicate 97 per cent successful "family departures" under this programme (ATD What Works Study, 2019).

Case study (United States of America): A family case management programme in the United States of America, focusing on supporting the holistic needs to the family resulted in 99.3 per cent attendance in court proceedings and 97.3 per cent compliance with programme check-in requirements.

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25 Adapted from IDC, 2015a.

26 CCPR, General Comment No. 35, para. 18.

27 IOM, 2019b.

Making the case for ATDs – 3 Key Points

Point 3
Immigration detention is often costly (alternatives can be more cost effective)

The financial burden of detention is often high, stemming from infrastructure, personnel, recurrent daily costs (such as food), security, etc. Detention has several hidden costs, including longer-term health-care costs resulting from poor detention conditions, as well as claims for compensation following rights violations, including from unlawful detention.²⁸ Moreover, if conditions in detention are poor and needs are not well provided for, this will result in a lower cost estimate that in reality should be reflected. Alternatives are often more effective than detention in reaching an efficient case resolution.

Community-based alternatives, with limited need for day-to-day cost, for example, when migrants live in community with extended family or in vacant buildings that were not otherwise being used. Moreover, independent departures (including returns to country of origin), relieves the cost burden from the host state (IDC, 2019). The International Detention Coalition Publication “Learning What Works and Why” (2019) details the various reasons that alternatives are often cheaper than detention and provides examples in practice. The UN Study on Children Deprived of their Liberty (2019) cites various examples of non-custodial measures and concludes that the financial costs of such initiatives are generally low.

Case study (Indonesia): In Indonesia, cost of detention per person per month is approximately 3.3 million IDR and the cost of community-accommodation (ATD currently in use) is approximately 2.6 million IDR (less for children) (from IOM Mapping).

Case study (Libya): In Libya, through its advocacy efforts, IOM in close cooperation with the Ministry of Labour has explored opportunities for securing the release of detained migrants where there are viable arrangements with employers, which also means that migrants are able to support themselves and fill gaps in labour supply. Such measures are far more cost-effective than detention, particularly for the State, and further enables migrants to contribute to the economy of the country where they are. (IOM internal Mapping)

Case study (Zimbabwe): In Zimbabwe, IOM provided support for the Government to hold a multi-stakeholder workshop on ATDs in 2018. This workshop led to the development of a country-position paper on ATDs. Official statistics presented at the workshop, including on the scale of irregular migration, the cost of detention, highlighted the “enormous financial implications of detaining migrants and made a case for an alternative approach”. (IOM internal mapping)

Case study (Malaysia): A programme in Malaysia focusing on alternative care for unaccompanied children, was estimated to cost approximately 90 per cent less than detention (IDC, 2019).

Case study (United States of America): In the United States of America, a family case management approach to ATDs also resulted in a cost saving of approximately 75 per cent compared to detention (IDC, 2019).

28 IDC, 2019.

2.2 The WHO: advocates, audience, partners and beneficiaries²⁹

As emphasized above, advocacy is focused around interactions, dialogue and exchange of ideas, and therefore it is important to unpack the actors who participate in advocacy, and the respective roles they play. This Guide focuses on the roles of: (i) advocates – those who conduct advocacy; (ii) audience – those to whom advocacy efforts are targeted; (iii) partners – with whom advocacy is carried out; (iv) beneficiaries – ultimately, those who the expected “change” resulting from advocacy is intended to benefit.

a. The Advocates

For the purpose of this Guide, the advocates are those who initiate, coordinate and/or carry out advocacy. It is important to critically assess the role, comparative advantage, and sphere of influence of the various advocates. This helps when determining the most appropriate approaches to advocacy.

IOM recognizes that immigration detention is the prerogative of States due to their sovereignty, subject to the respect of international standards and applicable national legislation. However, through advocacy, IOM encourages States that have not yet done so to include alternatives to migration detention in national legislation and practice, with preference for community-based options following a human rights-based approach. This is carried out at various levels: from high-level political engagement, to field level advocacy with border officials, community works, among others.

There are a range of UN entities, international NGOs and other partners, including government actors, who are (and can be) engaged in ATD advocacy. Approaches should be tailored according to the comparative advantage of each (also reference partnerships section below).

b. The Audience

Even if migration governance and decisions surrounding detention are principally matters of State sovereignty, governments, nevertheless, have primary responsibility for implementing alternatives to migration detention; they are the duty bearers and are bound by the international law obligations set out in Section 1.3 above.

Therefore, governments are the primary, though not the only, audience for ATD advocacy. Though different entities may be

involved, the ministry in charge of detention has a vital role to play. However, effective advocacy can also target other government entities that can indirectly influence ATD, such as parliamentarians, judiciary, policy makers, law enforcement or protection ministries, local government, among others. The specificities of this should be based on the context analysis (see Section 2.3 below).

Building trust is essential to the success of advocacy – this can take time, but it is a crucial foundation. In difficult contexts where collaboration with the government is challenging, partnering with other reliable stakeholders in proposing ATD options can also help increase the credibility of the proposed intervention.³⁰

While ATDs in the migration context are not necessarily new, levels of understanding of the concept of ATD and application thereof remains varied. It is often the case that those who are in influential or decision-making positions in government, including those who are defining migration and/or detention policy, or who have significant influence over public or political opinion, do not have a comprehensive understanding of ATDs. Therefore, it is important to ensure that advocacy messages and the information shared is adapted to target a specific audience or context, reflecting the level of understanding and influence (Section 2.3 below provides additional guidance). Also, there will likely be the need for continuous engagement in order to reinforce messaging, and to address gaps resulting from high staff turnover.

It is important to involve all relevant government entities and other stakeholders in dialogues and consultations on ATDs as early as possible. This provides an opportunity to draw on a breadth of realities, knowledge and experience and supports sustainability of actions and ownership. Taking a whole-of-government approach to advocacy is essential, including engagement with government all levels (vertically and horizontally). A range of sectors of government may have a role to play in migration governance, often including ministries or departments responsible for immigration and/or interior affairs, foreign affairs, justice or security, as well as social affairs and labour, for example. Effective engagement with these actors is a central factor in the success of advocacy and may involve a combination of formal and informal approaches³¹ (explored further in Section 2.3 below).

Bottom-up approaches (from technical level to decision makers) are often very effective, perhaps at times even more effective than starting the advocacy directly from the decision maker who

²⁹ Terminology adopted for use in this Guide.

³⁰ IOM, 2019f.

³¹ UNSDG Advocacy Guide, 2017.

may not have the same level of day-to-day engagement with the challenges faced and potential positive impacts of increasing the use of alternatives. Experience and information exchange from technical level engagements (which sometimes can be characterized by less resistance) can help feed into well-informed higher-level dialogue. In such instances, the technical-level officials, who are often directly affected by the identified challenges on a day-to-day basis, can become the advocates. They are also well placed to identify the needs and possible solutions, with the appropriate guidance. Engaging closely with and providing support to these officials is of great importance.

Case study (Turkey): In Turkey, IOM supported capacity-building sessions for staff working for the Directorate General for Migration Management. This helped to build up relationships and identify those who were well informed and could contribute to policy change.

Case study (Indonesia): In Indonesia, a multi-stakeholder forum for representatives from the local government, local immigration office, health department, religious leaders and others, was formed to monitor the community-accommodation scheme. This helped to facilitate regular coordination with relevant ministries in the government, building on IOM's already existing partnerships. This has now been extended to a Task Force, coordinated by the Government, to support the delivery of messages to local governments with a standardized approach, ensuring access to public education and health facilities, for example.

Similarly, intergovernmental forums, such as Regional Consultative Processes on Migration, can provide an opportunity for advocacy and information sharing, including among States, with States that are receptive to ATDs having the potential to be effective advocates. Once again, providing support and ensuring adequate preparation for such forums is essential.

Case study (Southern Africa): MIDSA is a Regional Consultative Process on Migration that meets annually (biannual meetings of ministers) and provides a platform for discussion on a range of migration-related topics. MIDSA meetings between 2014 to 2018 focused largely on progressively addressing irregular migration and led to the adoption of a multi-year regional action plan on addressing irregular migration, which included a pillar on ATDs.

c. Partnerships:

Aside from identifying the target audience, the establishment and/or strengthening of collaborative partnerships is critical to the success of ATD advocacy, based on a comparative advantage and identifying existing relationships. Partners may include actors who are already engaged in the implementation of ATDs and have established experiences, practices and networks and/or specific knowledge of the national context. In some cases, civil society actors have had local presences far longer than international organizations and other partners, and are also likely to remain longer. This should be factored in to ensure the sustainability of efforts. However, partnerships should be approached sensitively, focusing on where value and complementarity can be added, but also taking into consideration where relationships could be antagonistic.

Among other things, thought-out engagement with partners helps ensure that the often-limited resources are effectively and efficiently used and that it builds on progress made in advocating for change.

Beyond a whole-of-government approach, a whole-of-society approach is also valuable – this is in line with the SDGs (in particular, SDG 17) as well as the Global Compact for Migration (underscored in Sections 13 (i) and (j), for example). Below is an indicative (non-exhaustive) list of potential partners and stakeholders, beyond national governments in host countries:

- Local civil society organizations
- Service providers (non-governmental and privately owned)
- Local communities, traditional and religious leaders
- Migrant and diaspora communities and/ or associations (including those with experience of detention)
- Consular representation
- National Human Rights Institutions
- Media
- Academia
- Private sector
- United Nations entities

The importance of partnership cannot be overestimated, including the value of a “One UN” approach to advocacy.³² This approach is also in line with the One UN vision of “Communicating as One”: *when all UN agencies at the country level speak in one clear voice, with a coherent and unified message, it amplifies the power of every agency and makes a strong case for SDG implementation... Joint UN advocacy allows agencies to pool their strengths in common cause. Those strengths include relationships (one agency may have strong connections to the finance minister, another to a key daily newspaper), credibility with*

³² UN, Fulfilling the Promises: A practical guide for UN advocacy to promote implementation of the 2030 agenda, 2017.

different audience (the public, the government, religious communities, etc.), as well as their expertise.³³

Case study (Libya): In Libya, IOM initiated stakeholder coordination to advocate for and implement alternatives to detention through its co-chairmanship with UNHCR of a Working Group on Mixed Migration, later replaced by the Migrant and Refugee Platform (MRP). The MRP developed advocacy messaging, which helped in ensuring consistency in approach to ATD (from IOM mapping).

Case study (North-Eastern Africa): Through the NOAH programme, partners supported regional dialogues contributing towards political commitments through platforms, such as the Khartoum Process (a Regional Consultative Process on Migration – RCP) and the Horn of Africa Initiative on Human Trafficking and Migrant Smuggling. Advocacy efforts to complement these political commitments were undertaken by the North African Mixed Migration Task Force, which consists for IOM, UNHCR, UNODC, UNICEF, Save the Children, among others, and by other thematic cross-border forum among practitioners established under the programme – (from IOM mapping).

UN Network on Migration: The UN Network on Migration was established following the adoption of the Global Compact for Migration to ensure effective, timely and coordinated system-wide support to States in its implementation, follow up and review. The Network Secretariat in Geneva is hosted at IOM Headquarters. The Working Group on Alternatives to Immigration Detention is one of the six thematic working groups of the UN Network and it is tasked with promoting the development and implementation of human rights-based ATDs in the context of migration. The Working Group is co-chaired by UNHCR, UNICEF and IDC, with IOM as an active member.

Section 2.3 below provides additional guidance on partner mapping.

d. Beneficiaries

Under a human-rights based approach, advocacy efforts should keep migrants and migration affected communities and their rights at the centre, in the spirit of “leaving no one behind”. Advocacy efforts are particularly important in contexts where a population of concern has a limited voice, opportunity or platform for engagement and to effect change on issues that affect their rights and well-being. This is

relevant in the context of alternatives to migration detention, since migrants (especially migrants with an irregular immigration status) often do not have the means or opportunities to raise matters affecting their rights and well-being in general and directly with those in a position to affect change.

Case study (Portugal): In Portugal, IOM highlighted the importance of migrants’ voices and the need for migrants to be aware of their rights, specifically the right to appeal court decisions and to understand the appeals process. This information has helped them advocate for their own rights, and a partnership with the office of the Ombudsperson has helped ensure that this right is upheld.

Case study (Indonesia): IOM Indonesia noted that without local community approval or buy in, the local government would have had challenges in moving forward with community-based ATDs.

Migrants, particularly those who have experienced the harmful effects of detention, have invaluable perspectives to share. Many migrants are detained in overcrowded conditions and experience a range of human rights violations,³⁴ including the right to health, the right to liberty and security of the person and their inherent dignity, among others (Article 9 and 10 ICCPR). States have a duty of care for the rights and well-being of migrants under their jurisdiction, and ATDs can help spare migrants the harmful effects, particularly when detention conditions are – or risk becoming – inhumane. In cases of lawful, necessary and proportionate detention, minimum standards of detention conditions should also take into consideration cultural, religious, linguistic specificities of the detained population.

.....
“All persons deprived of their liberty shall be treated with the humanity and with respect for the inherent dignity of the human person.” (ICCPR Article 10)

Case study (Zambia): In Zambia, for example, migrants that had been detained were provided with a briefing on their rights and safe migration options prior to their return. Many set up ad hoc information sessions with potential migrants upon return to encourage them not to follow the “risky pathways” that they had used. Similar approaches have also been applied elsewhere.

³³ Ibid.

³⁴ CCPR/C/76/D/900/1999, *C. v. Australia*, para. 8.4 (1999); UN Study on Children Deprived of Liberty (2019); The Nelson Mandela Rules (2015).

While ATD measures should be considered as a first resort for all, there may be migrants with particular needs or vulnerabilities requiring special considerations. For example, those who have suffered abuse, violence, exploitation often have associated protection needs, such as children, women, families, persons with disabilities, victims of human trafficking, older persons, individuals with diverse sexual orientations, gender expressions and sex characteristics (SOGIESC) among others. Advocacy should ensure that there is scope for alternatives to be accessible for all eligible migrants and should not be restricted based on age, disability, race or religion, nationality or any other grounds for discrimination. Specific

advocacy efforts may be required to ensure that these needs are provided for, in line with States' duty of care.

Case study (Greece): In Greece, Open Centres provide for the needs of single-parent families, pregnant women, unaccompanied or separated migrant children (UASCs), migrants with medical needs and the elderly. The centres provide access for wheelchair users and other considerations, based on the migrants' specific needs.

Special focus on children and families:

The UN Study on Children Deprived of Liberty emphasizes the special protection needs of children in the context of migration, which may relate to reasons for their migration, conditions upon arrival, as well as those related to their age UN (2019): *such bases for protection are often poorly understood and may not be adequately reflected in law or implemented in practice.*

As referenced in Section 1.3 above – international law provides for the special needs of children in situations of migration and relevant international law standards require States to not detain children based on their migration status. Aside from following the principle of the best interests of the child, consideration should also be given to the right life, survival and development, as well as to adequate education, recreation and play, health care, and the right to family life, among others.

In some settings, children are deprived of liberty purportedly for “protection reasons”, or to preserve family unity. Preservation of family unity should focus on non-custodial alternatives, with preference to community-based options. States also experience challenge with age determination, and children are often detained while age assessments are undertaken (UN, 2019). The detention of children based on their migration status or that of their parents is never in their best interest and amounts to a child rights violation. The Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has therefore clarified that “any child and family immigration detention should be prohibited by law and its abolishment ensured in policy and practice.”(Joint General Comments No. 4 and 23, para. 5)

Regrettably, in some instances, children are detained with adults, and at times in criminal detention facilities (UN, 2019). The consequences for children deprived of liberty are analysed in the UN study (2019) and often constitute “serious harm” (p. 467). These include, for example, poor physical and mental health outcomes, including trauma, anxiety and depression, negative impacts on child development, experiences of violence and abuse, and the limited provision of special care and protection needs of children (such as access to play, recreation, education, among others, the right to family life). Other than being in violation of the Convention on the Rights of the Child (CRC), all of these have consequences, often lasting well beyond the time in detention.

Advocacy should focus on working towards the suspension of, and ultimately ending, the detention of children for migration-related reasons all together.

In support of this, advocacy should call for the special needs of children to be reflected in policy and law, and for the establishment of child-friendly programmes, to prevent the detention of children based on their migration status (or that of their parents). Such care arrangements should be provided in line with the individual child's needs, following adequate individualized assessments. In line with Article 12 of the CRC, Children should be engaged in decisions affecting their lives and have the right to participate, in line with their evolving capacities.

Case study (Ending Child Immigration Detention Campaign): The Inter-Agency Working Group to End Child Immigration Detention is an international alliance to support States to end child immigration detention, consistent with existing international human rights obligations to protect the best interests of the child. The Global Campaign was launched at the 19th Session of the UN Human Rights Council in 2012, and coordinates international, regional and national activities with the goal of raising awareness on the issue of child immigration detention and encouraging States to cease immigration detention of children. [Click here](#) for more information.

Case study (Malaysia): In Malaysia, a Community Placement and Case Management Programme was established for unaccompanied and separated children, responding to holistic needs of the child and case management. An evaluation of the programme indicated that it contributed to improved well-being of children (IDC, 2019).

Case study (United States of America): The United States operated a Family Case Management Programme between 2016 and 2017, focusing on families in vulnerable situations awaiting immigration decisions. A programme evaluation demonstrated that families engaged in the programme experiences improved their quality of life through the support services provided (IDC, 2019).

Additional References: Convention on the Rights of the Child; General Comment No. Committee on the Rights of the Child; UNICEF Working Paper on Family Unity in the Context of Migration, 2018; Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child.

Gender considerations: Due consideration should be given to the gender dimensions of immigration detention, the application of alternatives and the different effects that it has on men and women, boys and girls. As referenced in the IOM IML Information Note on International Standards on Immigration Detention and Non-Custodial Measures (2016), women in detention facilities are particularly vulnerable to violence, exploitation and abuse. This can have “*immediate and long-term consequences that affect the physical health, psychological well-being and social lives of women and girls*”.³⁵ The UN Study on Children Deprived of Liberty³⁶ highlights that “*the conditions and consequences of detention may also vary according to the gender of the child detained... As with adults, females [girls] are more susceptible to sexual violence, abuse and exploitation, and have health needs that are frequently not provided for. However, men and boys also face negative health consequences, and can be subjected to various forms of abuse. Moreover, boys are more likely than girls to be detained, as unaccompanied children*”. UNHCR indicates that: “*As a general rule, pregnant women and nursing mothers, who both have special needs, should not be detained. Alternatives to detention would need to be pursued in particular when separate facilities for women and/or families are not available*”.^{37, 38}

Victims of Human Trafficking: Victims of Human Trafficking should be treated as victims of a crime, and often have specific protection needs relating to their trafficking experience. As established in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (the 2000 Palermo Protocol), measures should be put in place to provide for the needs of victims, including for their physical, psychological and social recovery, as well as appropriate housing, counselling and information, medical, psychological and material assistance, among others (Article 3). Alternatives to detention should be provided for victims of human trafficking.³⁹

People with diverse sexual orientations, gender expressions and sex characteristics (SOGIESC): Detention may increase the risk of human rights violations and can place an individual in a situation of vulnerability, particularly if the migrant is LGBTIQ+. People with diverse SOGIESC face a heightened risk of abuse during detention, especially “*increased vulnerability to violence and sexual abuse, subjection to solitary confinement, and lack of appropriate medical treatment and mental health services*”.⁴⁰ People with diverse SOGIESC in detention also often experience physical and sexual violence by facility staff or other detainees because of their sex characteristics, sexual orientation or gender identity. Particularly,

35 IOM, 2019e.

36 UN, 2019.

37 UNHCR, 2012.

38 UN, 2015; UN, 1979.

39 UN, 2000.

40 Tabak and Levitan, 2014, p. 16.

transgender persons are 15 times more likely to be sexually assaulted than the general detention population.⁴¹

Persons with medical needs: Health considerations, including mental health, are of great importance in the context of migration detention and consideration of alternatives. As indicated above, detention can introduce new, or exacerbate existing, health conditions. As highlighted in the UN Study on Children Deprived of Liberty, conditions of detention are often poor, with limited access to food, sanitary and other basic needs (UN, 2019). The same study indicated that children in detention often experienced: “severe anxiety and mental harm after having witnesses sexual abuse and violence against other detainees” (UN, 2019, p. 440). Health screening and access to health care should be available for all, with referrals made as needed. ATDs should ensure that health needs are adequately provided for.

Persons with disabilities: The needs of persons with disabilities should be given due consideration when advocating for and designing alternatives to migration detention. The Convention on the Rights of Persons with Disabilities highlights that persons with disabilities of all types should equally be afforded with all human rights, protection and fundamental freedoms. UNHCR (2012) notes that: “A *swift and systematic identification and registration of such persons is needed to avoid arbitrary detention; and any alternative arrangements may need to be tailored to their specific needs, such as telephone reporting for persons with physical constraints. As a general rule, {those with} long-term physical, mental, intellectual and sensory impairments should not be detained. In addition, immigration proceedings need to be accessible to persons with disabilities, including where this is needed facilitate their rights to freedom of movement.*”⁴²

e. *Special contexts, special considerations*

Humanitarian or crisis settings:⁴³ Special considerations may be needed for advocacy around ATDs in times of conflict, natural disaster or other crisis,⁴⁴ or where there may be large-scale migration. As outlined in the UN Report Children Deprived of Liberty, in the context of a mass arrival of migrants or in times of humanitarian crisis, protection and rights considerations are often side-lined.⁴⁵ At such moments, it is important (perhaps even more

so) to continue to advocate for the application of the relevant international legal standards, rights and types of protection (including international humanitarian law, human rights law and refugee law, where applicable). The IOM International Migration Law Information Note on International Standards on Immigration Detention and Non-Custodial Measures (2016), for example, references that: “the established time-limit for judicial review must also apply in emergency situations when an exceptional number of irregular migrants enter a territory”.⁴⁶ Furthermore, arbitrary detention is prohibited under international law also in times of conflict. Advocacy efforts are likely to be most effective when coupled with support for operational and practical solutions and delivered in a timely matter. In such situations, it is important to revisit the context analysis and build in special measures.

In the context of emergencies, governments may have limited capacities or be absent and other forces may control some parts of the country.⁴⁷ In such contexts, a first step towards achieving ATDs is to advocate for their inclusion in Humanitarian Response Plans.⁴⁸

COVID-19: COVID-19 presents new and heightened health challenges in detention facilities, especially in over-crowded and/or inhumane detention conditions. This can greatly exacerbate individual and public health risks for all. In this context, well managed, and specifically targeted ATDs can help support the prevention and curbing of COVID-19.

Case study: In Indonesia, for example, as part of its outreach activities, IOM is providing washing stations and masks for the beneficiary populations in and around shelters in close cooperation the local health departments.

41 IDC, 2016.

42 Convention on the Rights of Persons with Disabilities.

43 IOM, 2019e; IOM, 2012; IOM, 2015b; IOM, 2016a; IOM, 2017.

44 IOM, 2019e.

45 UN, 2019.

46 IOM, 2016b.

47 IOM, 2019b.

48 UN, 2011.

2.3 The HOW: how to do advocacy in the context of ATDs

The above sections have presented an overview of what advocacy is and why it is important in the context of alternatives to migration detention. Next, it is necessary to consider the practical steps in advocacy: how to effectively advocate for alternatives to migration detention.

This section is a step-by-step guide to support ATDs in practice and should be undertaken in line with the steps outlined in the *IOM Roadmap on ATD*.⁴⁹ Specifically, it includes guidance on:

Analysing the context in which the alternatives are to be applied and how to use the analysis to set goals and objectives for advocacy.

This section outlines approaches to mapping the audience and partners, as well as developing audience and context-specific messaging and modalities for advocacy efforts. The section concludes with an overview of how to monitor the effectiveness of advocacy and adjust approaches for maximum impact. Emphasis is placed on the importance of continuous reflection and the value of sharing experiences and learning from what has worked elsewhere. The steps below are intended to be general enough for adaption to the context in which they will be applied. They are not prescriptive or exhaustive, but instead, they are intended to provide a place to start.

As emphasized above, advocacy efforts are an important part of the overall establishment of alternatives to migration detention. Good planning is essential in the success of advocacy, as is taking a progressive approach. Where possible, developing a detailed advocacy strategy can be valuable to ensure that efforts are well targeted, focused on meeting specific objectives. Successful advocacy strategies should consider the following elements, which are further analysed below:

- a. Contextual analysis
- b. Setting goals and objectives
- c. Identify target audience and strategic partnerships
- d. Messaging and modalities (collaboratively)
- e. Implementation
- f. Monitoring and evaluation
- g. Sharing experiences

Case study: In Libya, IOM and the International Detention Coalition assisted the Government of Libya and partners to come up with an advocacy strategy on alternatives to migration detention. This helps to guide efforts and ensure that they are undertaken in a coordinated and deliberate manner, building on experience, and responding to the context-specific realities (interview with IDC, 2019).

The following core principles should be followed when carrying out advocacy:

- **Be flexible:** Be ready to adapt to changing contexts and needs, which are inevitable.
- **Be realistic:** ATDs can be complex and sensitive to apply – it is important to take a step-by-step approach and be realistic about what is achievable, focusing on a rights-based approach.
- **Be informed:** Being well informed and up-to-date on ATD developments helps to strengthen partnership, build trust and demonstrate a comparative advantage, provide convincing counter-arguments and alternative or expanded approaches.
- **Be open:** While advocacy certainly involves the sharing of information with target audience, it is equally important to actively listen to those that your advocacy targets. This will help ensure that you understand and respond directly to their concerns and needs.
- **Be reflective:** Ensure continuous reflection on what is working and what is not. Try to avoid assumptions or follow approaches that have worked elsewhere but may not be a good fit.
- **Be patient:** Effecting change takes time and often requires continuous engagement to succeed.

Advocacy and engagement with governments need to be based on a clear strategic vision, rooted in broader regional and/or country strategies. This helps ensure that efforts are strategic, but also realistic and progressive, with predetermined timelines, and tied to broader migration governance efforts. The strategy should allow for “piloting” or “pre-testing” and making adjustments as necessary (see section below on monitoring). These steps should be followed in conjunction with the steps outlined in the *IOM Roadmap on ATD* (see figure 4):

⁴⁹ IOM, 2019d.

Figure 4: IOM's ATD Road Map⁵²**IOM's ATD Road map**

Step 1 – Conduct baseline research by gathering and analysing information and data on immigration detention in the country/region to develop a shared understanding of how and why immigration detention is used in the migration governance system.

Step 2 – Conduct context analysis for each element of ATD to identify formal and informal gaps, strengths and challenges and draft a list of possible interventions.

Step 3 – Decide on priorities and objectives and develop a national or regional action plan based on the intelligence gathered in Step 1 and Step 2. This could include one or more ATD pilots.

Step 4 – Undertake regular monitoring and evaluation to improve and learn from the change process and identify next steps.

Step 5 – Scale-up successful ATD.

a. Context analysis

The IOM ATD Road Map provides guidance for mapping the context, which focuses on Step 1: Conducting a baseline research on immigration detention in the country of region and mapping existing ATDs. This should help to provide a solid understanding of the following points:

- General migratory context
- Scale of detention
- Reasons for detention in law and in practice
- Screening/assessment procedures
- Process surrounding detention in law and in practice (including procedural safeguards)
- Registration/lack of registration in detention centres
- Maximum detention period set in law/respected in practice (i.e. automatic release)
- Disaggregated data of detained population (which can potentially also provide an indication of population at risk of detention)
- Costs of detention
- Motivations for using detention
- Migration governance strategies and priorities
- Such a contextual analysis helps with the identification of barriers to implementing ATDs and can help ensure that advocacy efforts are appropriately targeted and contextualized. Based on the above section on migrants with special needs and consideration, these should be reflected in the mapping.

The mapping should include an overview of existing alternatives, establishing the conditions under which the alternatives were introduced, as well as the entities that have been engaged in its implementation.

IOM experience (from interviews with COs):

- In Portugal, IOM highlighted the importance of understanding the workings of the legal system, as well as hearing from migrants who had “gone through the system”. Understanding the prospective legal entry points and barriers experienced by migrants helped ensure that later engagement with governments was undertaken from an informed perspective and, thus, was more persuasive.
- IOM Turkey echoed this sentiment, noting that “context specific responses requires a good understanding of the local dynamics”.
- In Indonesia, IOM highlighted that messages that worked in one place did not work in other places. Therefore, they had to customize the approach to adjust to the specific context.

Whilst the mapping should be carried out in-depth at the beginning of strategy development, it is not a one-time exercise. It will be important to continuously update the information and to stay aware of the evolving context. Moreover, mapping should not solely focus on detention, but should consider broader aspects of migration governance and the human rights of migrants, as well as the structural factors that may be contributing to the challenges faced.

.....
50 Ibid.

b. *Setting goals and objectives*

The context analysis helps with the identification of the core problem(s), barrier(s), challenge(s) and potential opportunities for extending the use of ATDs, such as limited options for shelter, poor understanding among officials of ATDs, large numbers of migrants requiring ATDs, among others. This provides a foundation for setting the goals and objectives for advocacy. Establishing clear goals will help avoid putting in place a set of unrelated advocacy activities that do not result in any change in the situation for migrants and host communities.⁵¹ The goals and objectives of advocacy should relate to the overall ATD strategy (IOM ATD Road Map), as well as broader migration governance strategies/ policies in a given context. Goals should be realistic and timebound and may be either short- or longer-term. All planned advocacy efforts should contribute towards the overall goal.

(reference **Step 3 of the IOM Roadmap on ATD**)

c. *Target audience and strategic partnerships*

The “WHO” section (Section 2.2) above emphasized the need for clarity on who advocacy efforts are to be directed towards, and who is actively advocating for ATDs. Identifying the target audience and the identification, establishment and/or strengthening of collaborative partnerships is critical to the success of ATD advocacy. Section 2.2 sets out the value of effective partnerships and emphasizes the importance of capitalizing on partners’ respective areas of comparative advantage. Well targeted advocacy therefore requires mapping (potential) audience and partners and analysing relevant interests and roles in relation to ATD (reference **Step 2 of the IOM Roadmap on ATD** which highlights the importance of working collaboratively to ensure that stakeholders’ advocacy efforts are coordinated and there is a consistent message used for speaking to the target audience, which supports advocacy objectives).

Mapping the actors and target audience should be closely linked to the above referenced contextual analysis. The mapping should clarify the role, power, influence and interest of a specific target audience. For example:

- **Parliamentarians:** Parliamentarians have the role of deciding whether or not a specific law is passed through parliament.

- **Politicians:** Some politicians may have expressed negative rhetoric towards migrants. Efforts may therefore need to focus on addressing these negative assertions before directly advocating for ATDs.
- **Border officials:** Border officials often have first line contact with migrants in irregular situations and can determine the next course of action, therefore advocacy approaches to each would vary.
- **Protection entities:** Ministries responsible for protection have an understanding of alternative care arrangements and options for the protection of vulnerable sectors of society. They may be well placed to advise on the feasibility of various protection/ shelter options, including through the expansion of existing schemes.
- **National Human Rights Institutions (NHRIs):** NHRIs often have specific knowledge and understanding of human rights challenges and legal frameworks in a given national context. They are mandated to engage on these issues specifically from a rights-based perspective

Similarly, prospective advocacy partners have varying interests, influence, and power.

The below steps and set of questions can help with the identification of advocacy audience and partners:⁵²

- Identify who has authority or influence to lead to change;
- Establish the existing level of engagement, understanding and position of the identified entities/ individuals;
- Carry out a mapping of stakeholders – this may include potential audience and partners and will help with the identification of strategic priorities for advocacy (see Figure 4 below).

Some guiding questions:

- Where does the official authority on ATDs reside?
- What are the political and power dynamics that contribute to determining ATD policy and practice?
- Who are the other relevant stakeholders - what are their positions on ATDs?
- Which new partnerships need to be formed - what is the possible contribution of each partner?

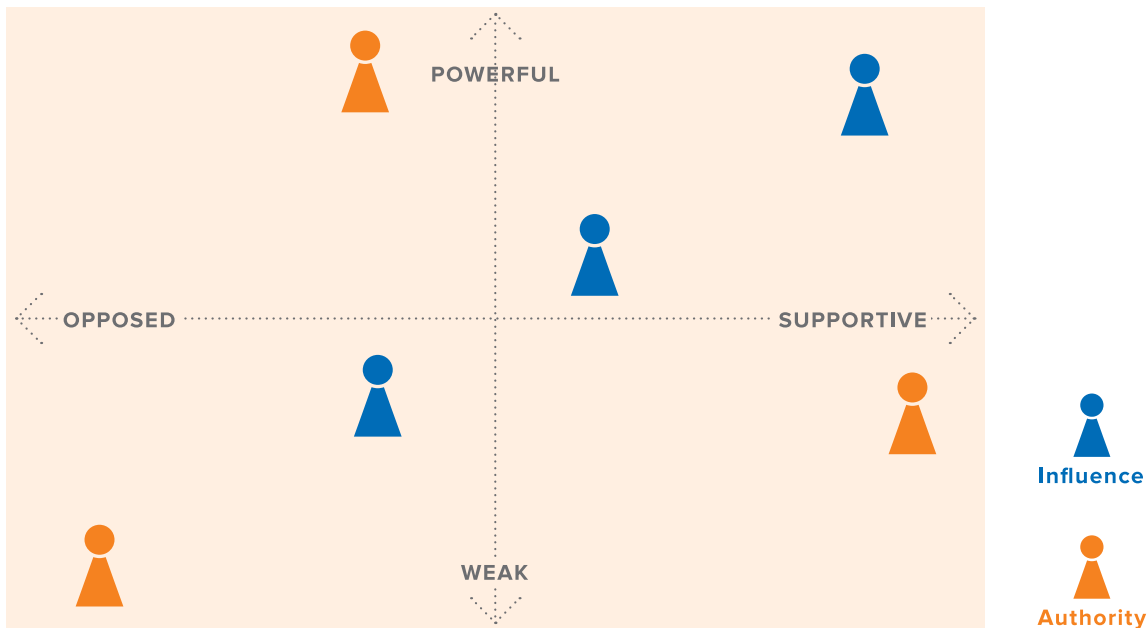
51 UN Development Group, 2017.

52 Ibid.

Figure 5: Mapping “position and power”

THE ART OF ADVOCACY STRATEGY

Where do these actors stand in terms of both their position and their power?



Source: Fulfilling to Promises: A practical guide for UN advocacy to promote implementation of the 2030 agenda.

Case study (Indonesia): In Indonesia, a multi-stakeholder forum for representatives from the local government, local immigration office, health department, religious leaders and others was formed to monitor the community-accommodation scheme. This helped to facilitate regular coordination with relevant ministries in the government, building on IOM’s already existing partnerships. (Interview with IOM Indonesia)

The IDC has established such coalitions in a number of countries and highlights that this working arrangement recognizes the different roles that the various actors have to play, from normative to technical. Resultantly, roles in advocacy will also be varied and this needs to be taken into consideration in planning. (Interview with IDC)

d. Messaging

As highlighted in the UN SDG Advocacy Guide,⁵³ effective communication is at the centre of advocacy. Among other things, this includes messaging. Messages should be formulated in a clear, interesting, forward looking manner, relevant to the intended

audience and with a specific purpose in mind. Joint messaging helps with clarity and ensures consistency. This is important for ensuring that advocacy efforts towards government are not contradictory but are mutually reinforcing. Before commencing with efforts, it is important to develop “clear and compelling messages”⁵⁴ for each of the intended audience or purposes.

It is also important to remember that advocacy requires the ability to adapt the approach and messaging to the various audience, and to avoid jargon or overly technical terminology (unless the target audience is technical in nature). Messages can be pre-tested in advance to check for clarity. Language and mode of delivery is as important as the message being delivered. Effective advocacy often entails “painting a picture” or “telling a story”⁵⁵ that sets out the problem and proposes solutions, and the logic in between. In this context, advocacy should be approached in a reciprocal way; to ensure success, listening is often as imperative as speaking.

As with the other steps outlined above, the development of messaging should not be considered as a one-time effort, but rather as a process, in which messages will be progressively shaped by

53 Ibid.

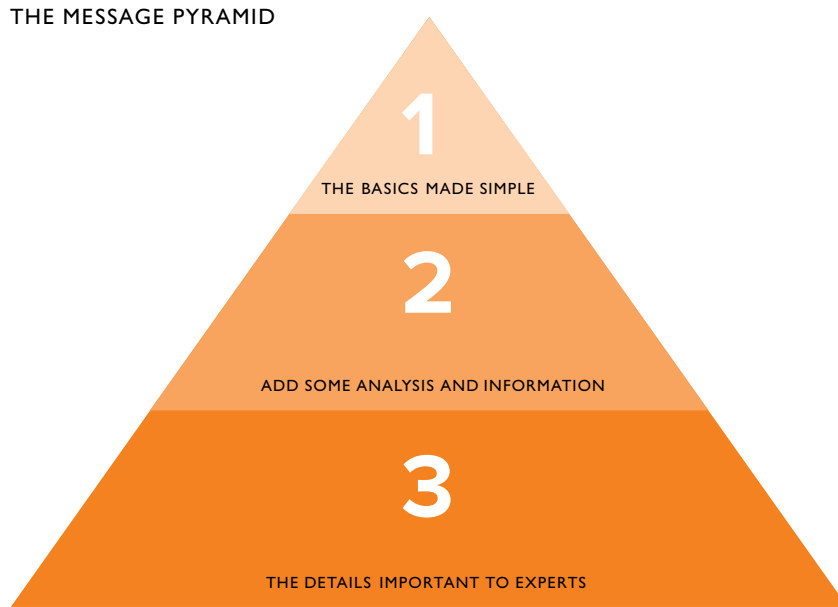
54 Ibid.

55 Ibid.

evidence gathered during the implementation of alternatives and related successful outcomes and lessons learned. Where possible, use data to strengthen arguments.

The following graphic is intended to help guide you in shaping your advocacy messages.

Figure 6: The Message Pyramid for Advocacy



Source: Fulfilling to Promises: A practical guide for UN advocacy to promote implementation of the 2030 agenda, UN 2017.

e. Modalities

There are a range of approaches, methodologies and modalities to advocacy. These can include one-on-one meetings (such as between the IOM Chief of Mission, or the representative of another organization and a Minister), roundtables or symposia, parliamentary sessions or briefings, among many others. As set out in the UN Advocacy Guide on the Promotion of the 2030 agenda (2017), interactions with government may be formal or informal; advocacy can be top down as well as bottom up. Advocacy is most likely to be successful when a range of concurrent and mutually reinforcing approaches are employed. Some approaches⁵⁶ include the creation of an ATD alliance or coalition to help shape prioritization and advocacy messaging; build the capacities of partners on ATDs, giving them the tools to conduct effective advocacy; encourage civil society allies to work with communities or migrant associations to better understand their realities and build their capacity to directly contribute to ATD advocacy.

f. Plan of Action for Implementation

Implementation of advocacy efforts will be undertaken in an informed and targeted manner, once contextual analysis has been undertaken, partners and audience identified, and messaging developed. The Action Plan should include the following:⁵⁷

- A plan for engaging government (audience) - who, how, when and associated messages.
- A plan for engaging partners - who, how, when and associated messages.

Case study (Portugal): In Portugal, IOM has identified the value of having presence at key locations where migrants in irregular situations are first in contact with authorities, particularly while ATD capacities are being established. This allows IOM to draw authorities' attention to specific individual cases where detention is not appropriate and to advocate for referral to alternatives – advocacy on a one-to-one basis. Initial advocacy through an on-the-ground presence is very valuable. (Interview with IOM Portugal)

⁵⁶ UN Development Group, 2017.

⁵⁷ Ibid.

The early stages of implementation may take the form of pilot approaches, including pre-testing messages in a non-critical setting (where possible). This helps to take an initial proactive step forward, strengthen partnerships and ensure that the ATD advocacy measure(s) work well in the given context. Successful pilots can provide a solid basis for further advocacy and scale-up.

g. *Monitoring and Evaluation*

Advocacy efforts can, and should, be subject to periodic review. Monitoring and adjusting the strategy provides an opportunity to reflect on progress, identify challenges and adjust approaches. Undertaking regular monitoring and evaluation on ATD efforts not only has the benefit of helping to shape advocacy messaging and approaches, but can also help improve ATD measures in general. Monitoring should be factored in from the start to ensure continuous reflection, based on expected outcomes, and assessment of contributing factors. As highlighted in IDC's publication, *What Works and Why* (2019), monitoring and evaluation enables a structured approach to assess the effectiveness of programmes. When establishing approaches to monitoring, it is important to consider the data (quantitative and qualitative) to collect in order to fit the intended purpose. This may include data on the number of migrants referred to alternatives, migrants' experiences, governments' perceptions and understanding of ATDs, for example. Where possible, the collection of comparable data and information on interventions can be helpful for shared learning.

Case study (Indonesia): In Indonesia, "the current holistic support package has been developed over time, responding with flexibility to migrants' and IOM's experiences and advocacy efforts on the ground. IOM's guiding principle in that context was to advocate for ATDs, but it was not expected that the community-accommodation programme would grow to the current scale with such speed. Therefore, the need for associated capacity-building is important to ensure that ATDs are successfully implemented. (IOM internal mapping)

Monitoring and evaluation should be undertaken in close collaboration with all relevant partners, including government counterparts and migrant beneficiaries. This is an essential step in ensuring that advocacy efforts remain on track and responds to the evolving needs in what can be dynamic contexts. Monitoring should be ongoing, and evaluation conducted periodically. However, as referenced above, reviews may be prompted by a sudden change

in the political environment (change in government), the onset of a crisis or the sudden change in migration dynamics, for example.

In line with the Action Plan, it will be helpful to develop a Monitoring and Evaluation Plan to monitor success of advocacy and suggest adjustments. The action plan should set out: What are the indicators of success? How will these be measured and used? Who is responsible?

Example indicators (should be disaggregated by variables, including age, sex, nationality, among others, where relevant):⁵⁸

- State ratified the International Covenant on Civil and Political Rights (yes/no)
- State adhered to the Global Compact on Safe, Regular and Orderly Migration (yes/no)
- Policy or legislation in place that incorporates ATDs (yes/no)
- Type(s) of ATDs
- Number of migrants provided with ATDs
- Number of formalized commitments made by government to pursue ATDs
- Increased budgetary allocation for ATDs
- Increased public attention to ATDs in media reports
- Number of public events or meetings that have addressed ATDs
- Number of new (formalized) partnerships/allies on ATDs

Questions to ask during monitoring⁵⁹ (non-exhaustive):

- Having followed the Action Plan, are there any unforeseen barriers or resistance? What form did this take? How can approaches or messaging be adjusted to get back on track?
- Have some new opportunities presented themselves requiring adjustments to approaches, audience, partners and/or messaging? What are these and how can they best be utilized?
- Does the rationale for the initial Action Plan still hold? Are there changes in the context that means that a new analysis needs to be undertaken (or specific parts of the context analysis revisited)?
- What corrections, amendments and new strategies can be adopted?
- Are there any new lessons learnt from elsewhere that can help strengthen advocacy efforts?

58 Ibid.

59 Ibid.

Questions to ask during evaluation⁶⁰ (non-exhaustive):

As highlighted in the UN Advocacy Guide for the Promotion of the 2030 Agenda, evaluating the impact of advocacy can be tricky since it is often difficult to attribute change to advocacy efforts alone. However, the following guiding questions can help with the evaluation of advocacy, as well as lessons learnt for future interventions:

- Were the overall aims and objectives of the advocacy met?
 - If so, what contributed to the success?
 - If not, what were the barriers?
 - What adjustments were identified during monitoring? Did these help with the achievement of the overall goal(s)?
- What lessons were learnt from the process that can inform future efforts? Would these be useful lessons for other contexts?

Success will ultimately follow the achievement of the set objectives (for example, an increase number of migrants benefiting from effective ATDs and reaching case resolution). However, there may be initial or interim indicators of the success of advocacy efforts. These may include:⁶¹

- Statements, resolutions, official recommendations in support of ATDs
- Proposals for policy or legislative development or reform, incorporating ATDs
- Agreements to undertake pilot ATD initiatives, or scale-up existing ATDs
- Well informed media coverage and increased public attention and support of ATDs
- New and/or strengthened partnerships

The following publications reference some monitoring and evaluation efforts undertaken by partners and can help to guide on approaches to monitoring:

- EPIM, Alternatives to detention: building a culture of cooperation Evaluation of two-year engagement-based alternative to immigration detention pilot projects in Bulgaria, Cyprus and Poland, 2020
- International Organization for Migration, Alternatives to Migration Detention: building on IOM's experience, 2019 (internal)

- International Detention Coalition, Alternatives: learning what works and why, 2019
- UNHCR, Beyond Detention Toolkit, 2018

Case study (Libya): In Libya, pilot initiatives and cooperative working partnerships allowed for the establishment of baselines and data collection and analysis particularly on labour migration, along with suggested approaches to future data collection to allow for future provision of evidence on ATDs in the Libyan context (from IOM mapping).

Case study (North-Eastern Africa): The NOAH programme included a significant component of data collection, monitoring and analysis, to allow the programme to respond to emerging issues and dynamic migration. Such data and information have contributed to “evidence-based advocacy” and informed decisions and policies (from IOM mapping).

Case study (Indonesia): IOM's experience with the Community Accommodation programme in Indonesia, for example, evolved overtime in response to reflection on what was working, and what adjustments needed to be made (from IOM mapping).

Case study (Mexico): Good example of multi-stakeholder evaluation, following a pilot intervention focusing on alternatives care for unaccompanied children (IDC, What Works, 2019).

(reference **step 4** of the **IOM ATD Road Map**)

h. *Sharing experiences*

Institutional knowledge management and sharing of experiences, both positive and negative, is a useful way to ensure overall progress in the application of ATDs internationally. This can be done through establishing institutional, global, regional and national forums and workshops on ATDs and can also be a good mechanism to advocate for donor and other support for ATDs. It is also important to engage migrants and communities in experience sharing.

In line with Objective 13 of the Global Compact for Migration: “... disseminate best practices of human rights-based alternatives to detention in the context of international migration, including by facilitating regular exchanges and the development of initiatives based on successful practices among States, and between States and relevant stakeholders”.

⁶⁰ Ibid.

⁶¹ Ibid.

Recap - see below a summary of the main points from Section 2:

- For the purpose of this guide, advocacy refers to: **A set of targeted efforts or actions to support, encourage or influence the use of ATDs, following a human rights-based approach.**
- Advocacy can be an important tool to help unpack challenges, concepts, values, attitudes and beliefs on migration, migration detention and use of alternatives.
- Advocacy efforts should focus on the benefits of alternatives rather than simply on the reasons not to detain.
- Context specific advocacy is of great importance. What works in one setting may not be appropriate in another.
- Advocacy messaging should focus on the core concerns of, or challenges faced by governments. For example, cost of detention, concerns surrounding compliance, and difficulty in upholding human rights obligations. Sharing practical examples and solutions can help in paving a way forward.
- “WHO”: Advocacy efforts should take into consideration who is best placed to conduct advocacy, whom advocacy efforts should be targeted towards, which partners can be helpful in taking advocacy forward, and ultimately who is the advocacy intended to benefit (i.e. migrants in detention or at risk of being detained). Partner mapping is important to help define this.
- Developing a detailed advocacy strategy can be valuable to ensure that efforts are well targeted, focused on meeting specific objectives. Successful advocacy strategies should consider the following elements:
 - a. Contextual analysis
 - b. Setting goals and objectives
 - c. Identify target audience and strategic partnerships
 - d. Messaging and modalities (collaboratively)
 - e. Implementation
 - f. Monitoring and evaluation

CONCLUSION

This document, part of the International Organization for Migration's Alternatives to Detention Series, has provided guidance on how to conduct advocacy on alternatives to migration detention. It explained the concept of ATDs, including the relevant legal and operational frameworks, and the main elements of successful alternatives. It also focused on the importance of ATD advocacy, including defining what advocacy is, who efforts are targeted at, including the actors, audience and partnerships that are central to effective advocacy, as well as entry points, and presents some of the core arguments that can be leveraged when encouraging the use of ATDs by governments. The final section of the document (HOW TO) provided a step-by-step guide on developing, implementing and monitoring advocacy efforts.

The ATD Advocacy Guide recognizes the value of experience sharing, and also of ensuring that a context-specific lens is applied

to all efforts. Case studies have been used throughout to highlight practical experiences and to share good practices that can be leveraged to inform interventions elsewhere.

The resources referenced throughout the document, as well as in the reference list, can offer additional information, including examples of ATDs and technical details about their implementation. IOM recommends that this Guide be referred to in conjunction with the other documents in this series, including the IOM Quick Guide to ATD, which explains IOM's understanding of alternatives to migration detention and of the various elements of ATDs, and the IOM ATD Road Map, which outlines non-prescriptive processes to progressively develop migration governance systems that prevent unnecessary detention in the migration context, focusing on the use of community-based alternatives.

ANNEXES

Annex 1 - Elements of Alternatives to Detention – from IOM Quick Guide on ATDs

Elements of alternatives to detention	Interventions that support alternatives to detention
<p>Adoption/amendment of policies and legislation or change in operational procedures that have an impact on preventing unnecessary detention</p> 	<ul style="list-style-type: none"> • Conducting, consolidating, and sharing research on migration detention and alternatives to detention for a solid empirical foundation on which policy development and practical interventions can be based. • Promoting policy, legal developments, or operational procedures that ensure detention is used only as a last resort and that alternatives to detention are always considered first for all migrants, particularly for children and other vulnerable migrants. • Ensuring that a presumption against the detention of certain groups, notably of children, is enshrined in law and practice, and that alternatives are always considered when decision to detain is made. • Developing a mechanism for securing the release of those currently in detention for whom detention is no longer justified, or for whom alternative arrangements are available, including vulnerable migrants. • Ensuring effective asylum procedures are in place.
<p>Screening, identification, decision-making</p> 	<ul style="list-style-type: none"> • Developing or improving screening, identification procedures and assessment of the situation of individual migrants that enable authorities to make informed decisions about referrals for asylum seekers or other migrants in vulnerable situations, options for admission (temporary or longer term) and for living in the community, application of restrictions to liberty when justified, and return decisions.* Results of assessment may also have implications for access to services going beyond the scope of status and stay.
<p>Options for living in the community without restrictions to freedom of movement</p> 	<ul style="list-style-type: none"> • Creating or strengthening reception or longer-term accommodation and support arrangements in the community, including for vulnerable migrants.
<p>Applying restrictions to freedom of movement with legal review</p> 	<ul style="list-style-type: none"> • Developing non-custodial alternative measures to be applied when necessary. • These measures could include semi-open centres, registration of residence requirement, reporting mechanism, designated residence system, bail, bond and surety options, supervision system. • The list is not exhaustive and could be applied in combination with case management support. • Developing non-custodial alternatives adapted to families with children as well as to unaccompanied or separated children.
<p>Case management</p> 	<ul style="list-style-type: none"> • Providing case management aimed at supporting migrants through the process of their status determination. • Ensuring access to services, reliable information, and legal advice on all options including AVRR programmes. • Ensuring effective access/referral mechanisms to asylum procedures. • Helping migrants explore all options to remain in the country legally or to leave with dignity, informing them of consequences of non-compliance.

Annex 2 – The “HOW” of ATD Advocacy: a step-by-step approach

Steps for ATD Advocacy	Measures that support ATD advocacy (can be adjusted according to resources available)
<p>a. Context analysis</p>	<p>Contextual analysis is an ongoing process.</p> <p>Compile information on (non-exhaustive):</p> <ul style="list-style-type: none"> - Migratory context - Scale of and reasons for detention - Screening, assessment and registration procedures - Cost of detention - Reasons for detention - Migration governance legal and policy frameworks - Any ATD in place - Human rights concerns
<p>b. Setting goals and objectives</p>	<p>All advocacy efforts should be based on clear and well-thought out goals and objectives. In order to formulate these:</p> <ul style="list-style-type: none"> - Identify the core problem(s), barrier(s), challenge(s), opportunities - Use the above to establish clear goals and objectives for advocacy - All advocacy efforts should contribute towards these goals
<p>c. Mapping target audience and strategic partnerships</p>	<p>Identification of appropriate target audience and (potential) partnerships is an essential foundation for advocacy.</p> <p>Consider (non-exhaustive):</p> <ul style="list-style-type: none"> - Roles - Capacity to enact change (decision-making/ power dynamics) - Interest(s) of various actors, audience, partners - Influence of various actors, audience, partners
<p>d. Messaging</p>	<p>Effective communication is at the centre of advocacy.</p> <p>Messaging should be:</p> <ul style="list-style-type: none"> - Clear - Compelling - Relevant - Targeted (to intended audience) - Forward-looking <p>It is advisable to pre-test messaging.</p> <p>Messaging should be adaptable to changing contexts.</p> <p>Remember: In communication, listening is as important (if not more) than speaking.</p>
<p>e. Modalities</p>	<p>There are a range of possible approaches to ATD advocacy. Advocacy is likely to be most successful when multiple approaches and mutually-reinforced messaging is applied.</p> <p>Modalities can include:</p> <ul style="list-style-type: none"> - One-on-one meetings - Roundtable discussions - Parliamentary briefings - Among others

f. Plan of action for implementation

Advocacy efforts are likely to be most effective when articulated in a Plan of Action, devised by all relevant partners. This can ensure focus, avoid gaps or duplication of efforts and also support monitoring of approaches.

The Plan should include the goals and objectives, and the planned actions to achieve these, including:

- Who advocacy is directed towards, carried out by, and in partnerships with
- How advocacy will be conducted (which modality)
- When will it be done, focusing on priority and preliminary actions

Where possible, indicators should be included to help support M&E.

g. Monitoring and evaluation

Monitoring and evaluation (M&E) is an important part of advocacy. Among other things, this helps to ensure that approaches are on-track, to highlight where they can be strengthened, and to adjust as necessary.

M&E planning can be guided by the Plan of Action and should be a combination of ongoing, as well as periodic more detailed monitoring and evaluation.

h. Sharing experiences

Knowledge management and sharing of experiences, both positive and negative, is a useful way to enhance overall progress on ATD at country level, regionally as well as globally. Establishing mechanisms for sharing experiences is therefore invaluable.

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- 2020 COVID-19 and Immigration Detention: What Can Governments and Other Stakeholders Do?, UN Migration Network - Working Group on Alternatives to Immigration Detention.

United Nations Working Group on Arbitrary Detention (UN WGAD)

- 2018 Revised Deliberation No. 5 on deprivation of liberty of migrants. OHCHR, Geneva.

Web-based resources

United Nations Migration Network - Working Group on Alternatives to Immigration Detention, <https://migrationnetwork.un.org/thematic-working-group-2-alternatives-detention>.

European Network on ATD, www.atdnetwork.org/.

ATD Toolkit Course, IDC, <https://toolkit.idcoalition.org/courses/alternatives-to-detention-atd/>.

