

## **Bilag C: International research perspectives on Ellebæk detention centre**

Migration-related detention is a measure widely used by states to control illegalised migration, and in particular to facilitate deportation enforcement. It is permitted under international and European human rights law, if used restrictively and in a ‘proportionate’ manner and in compliance with international standards (see Article 3 and Article 5 of the European Convention on Human Rights, and the EU Return Directive 2008/115/EC). However, researchers and international human rights organisations have repeatedly raised concerns that migration-related detention jeopardises migrants’ fundamental rights (Flynn, Majcher and Grange 2020; Global Detention Project n.d.; Ryo 2019), and negatively impacts their physical and mental wellbeing (Filges et al. 2018; Robjant et al. 2009).

We are researchers based at the Centre for Advanced Migration Studies, University of Copenhagen, who have researched asylum and detention centres and deportation processes in Denmark, Sweden and other European countries over the past decade. Drawing on our own research in asylum centres (Whyte, Odgaard and Kohl) and in detention centres, including Ellebæk (Lindberg), we have compiled an overview of key findings from Danish and international research (encompassing the fields of migration studies, public health research, social work, criminology, law, anthropology and sociology), on how migration-related detention negatively impacts the health, well-being and rights of detained persons.

**Detention negatively impacts detained persons’ physical and mental health.** Danish (Nielsen et al. 2008; Filges et al. 2018) and international research has shown that detainment have long-lasting damaging effects on the physical and mental well-being of detained persons (Bosworth 2016; Silverman and Massa 2012; Steel and Silove 2001; von Werthern et al. 2018). Among the identified causes hereto are the uncertain duration of detention, communication problems, pre-existing health issues (including post-traumatic stress syndrome) and inadequate access to healthcare. These factors all contribute to the high levels of reported depression, sleep distortion, anxiety, and post-traumatic stress disorder (PTSD), self-harm and suicide among detained persons (Bosworth and Turnbull 2015; Robjant et al. 2009). For survivors of torture, trafficking or abuse, detainment risks aggravating pre-existing traumas (Amnesty International 2013; Canning 2019; Silove et al. 2007). The harms are aggravated the longer people are held in detainment (Gashi et al. 2019; Griffiths 2013; Hvidtfeldt et al. 2019).

Our own research has found that **protracted uncertainty and restrictions on individual autonomy** also negatively impacts the well-being of people living in Danish asylum centres, detention centres, or with precarious residence permit (Kohl, Whyte, Odgaard Jakobsen and Turner 2019; Whyte 2011; Whyte et al. 2018; see also Røde Kors 2019). Similar to what has been highlighted in the documentation compiled by Ellebæks Kontaktnetværk, our research indicates that people who seek asylum or who are detained in Denmark often feel criminalised and degraded in their encounters with Danish immigration authorities and have low trust in them (Lindberg 2019; Suárez-Krabbe, Lindberg and Arce 2018). Stigmatising public and political discourses, but also negative experiences of immigration authorities, police, and detention staff, contribute to this atmosphere of mistrust.

In this regard, it is important to mention that research also has found that the stressful atmosphere in detention centres **negatively affect the well-being of staff** (Bosworth 2018; Hall 2010; Puthooppambal et al. 2015; Ugelvik 2016). Lindberg’s ethnographic research inside Ellebæk found that prison officers experienced significant ‘moral stress’ and regular burnouts (Lindberg 2019). Several officers reported that they lacked both material resources and training,

including language skills, to create a safe environment for the people detained and for themselves. These conditions are also likely to aggravate the reported tensions and animosity between staff and detained persons.

**Detention punishes people who have committed no crime.** Even though people detained on migration-related grounds have not committed any crime and their confinement is regulated under administrative law, international research has shown that migrants often perceive detention as a form of punishment (Aas and Bosworth 2013; Bosworth 2014). Detained foreign nationals experience similar ‘pains of imprisonment’ as regular prisoners (Crewe 2011; Sykes 1958), including loss of liberty, autonomy, security, and social relationships. Yet in several respects, migration-related detention is *worse than regular imprisonment*: detained migrants have limited access to information and legal support, less resources and activities, and importantly, do not know for how long they will be detained and when and how their detainment will end, which aggravates the uncertainty they experience (Griffiths 2013; Hasselberg 2016; Majcher and de Senarclens 2014).

Whereas Danish prisons are designed to punish and to rehabilitate prisoners, Ellebæk serves none of these functions. Still, **Ellebæk has a carceral appearance, and applies prison rules to regulate detained migrants.** This has not only been criticised by human rights monitoring bodies (CPT 2019; Global Detention Project 2020) but has also received internal criticism. In Lindberg’s study of prison officers working in Ellebæk, several interlocutors considered the carceral facilities and prison rules to be inadequate for the purpose of immigration enforcement, yet admitted that ‘if you put prison officers in charge of running a place, what you get is a prison’ (Lindberg 2019, 65).

The study also found that the penitentiary character of Ellebæk adds to detained people’s experience of being unjustly punished. The use of the penal state apparatus for immigration enforcement is not only problematic because it symbolically criminalises detained foreign nationals and adds to public stigmatisation of migrants (Dow 2007; Mainwaring and Silverman 2017). It has also raised concerns among legal scholars that detained migrants are subjected to intransparent and arbitrary forms of *de facto punishment* (Aliverti 2012; Sklansky 2012; Stumpf 2013). One example from Ellebæk is the reported use of solitary confinement for disciplinary purposes, which severely infringes on detained persons’ liberty and could amount to degrading treatment (CPT 2019; ECRE 2020). Ellebæk’s prison-like appearance is not purposeful from an immigration enforcement perspective and contributes to the unwarranted and disproportionate punishment of already vulnerable people.

**How should states then address the harms of migration-related detention?** Given the vulnerable situation that detained foreign nationals are in, it is of vital importance that they are treated with dignity, and are ensured access to information, legal safeguards and adequate medical support, including screenings to identify victims of torture. Ellebæk represents a punitive detention model that has repeatedly been criticised by human rights monitoring bodies, including the European Committee for the Prevention of Torture (2014, 2019), for failing to fulfil minimum standards. As highlighted by Ellebæks Kontaktnetværk, several measures can be taken to ensure that the existing detention facilities *comply with internationally prescribed standards* (notably Article 3 of the ECHR).

However, there is limited evidence from comparative international research that the long-lasting, negative effects of detention on migrants’ health and well-being can be addressed and their protection against injustice prevented solely through reformatory measures (Barker 2018;

Canning 2019; DeBono et al. 2015; Gomez Cervantes et al. 2017). Research has found that *detention has an independent, adverse effect* on mental health (Robjant et al. 2009) and entails significant risks of infringing on detained persons' right to liberty (Bosworth 2018). What is more, research has shown that detention for more than 1-2 months does not contribute to more effective migration enforcement (Kalir and Cantat 2020), nor is there evidence that detention is effective as a deterrence measure against illegalised migration (Ryo 2019). These findings should be of concern for policy-makers interested in finding migration control measures that fulfil their declared purpose and comply with international humanitarian principles.

Given the legal and ethical concerns associated with migration-related detention, academic researchers, human rights organisations and practitioners therefore recommend that states instead use **alternatives to detention** (ATDs) that allow migrants to live in non-custodial, community-based settings while their migration status is investigated and resolved (UNHCR 2012; International Detention Coalition n.d.; Mitchell 2016).

While there are ongoing debates regarding the advantages and disadvantages of different ATD systems, models where migrants are offered adequate access to housing, legal advice, and social and health care services have proven most successful both in terms of compliance with the immigration system (UNHCR 2012) and for the protection of migrants' health (Bosworth 2018). Yet, these measures require careful design as to guarantee migrants' right to liberty and security as well as transparency of law enforcement measures, so that they do not merely result in a proliferation of immigration controls among marginalised communities (ibid.; see also Beyens 2017; Khoulish 2015).

To conclude, international research has shown that **detention on migration-related grounds have significant, long-lasting negative effects on migrants' health and well-being, and infringes on the rights, liberties and dignity of already vulnerable persons**. It has also been found **costly and ineffective** from a societal perspective and from the perspective of immigration enforcement. In the references below, we have compiled a list of international and interdisciplinary research in the field. These should be useful for policy-makers whose task is to address the urgent and important criticism raised by international human rights monitoring bodies and grassroot movements like Ellebæks Kontaktnetværk and improve the government's responses to contemporary migration- and human rights related challenges.

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