



Reforming Immigration Detention

Catholic Bishops and Migration Experts Propose Transforming the System

By SUE WEISHAR, PH.D.



Detention has become the “pillar” of the U.S. immigration enforcement paradigm. The main purpose of immigrant detention is to ensure that immigrants in removal proceedings appear at their immigration hearings, and, if they lack legal standing to remain in the U.S., that their deportation/removal be effected.¹ The vast majority of detention facilities resemble prisons, even though their occupants are not there to serve time for committing a crime. Like prisons, detention centers are secure facilities with hardened perimeters, often situated in remote locations. In their layouts, staffing plans, and population management strategies, most detention facilities mirror the traditional correctional objectives of command and control.²

When immigrants, especially those who have lived and worked for many years in the U.S. and have committed no criminal offenses, find themselves or their loved ones detained by Immigration and Customs Enforcement (ICE), their reaction is often an overwhelming sense of shock, humiliation, and disbelief. When Tanya Olivar’s husband of ten years, an undocumented immigrant from Honduras, was suddenly detained after a scheduled check-in with immigration officials in 2009, she was so ashamed that she told her children that their father had gone on a trip. After she finally decided to bring her 3-year-old son and 8-year-old daughter to visit their father in a detention center in north Louisiana before he was deported, watching their son trying to touch his father through the thick Plexiglas window that separated them was almost more than she could bear.³

Omar Hassan, who fled political persecution in Somalia in 1996, was detained after a 16-year legal struggle to obtain asylum, even though ICE officials knew they could not deport him back to

Somalia. After he was picked up at work, Hassan was taken to an immigration holding center where he was strip-searched and given a green prison uniform to wear. He told me during an interview in 2011: “I had never even been in a police station in my life. I am scared. They don’t tell you what they are doing. You feel like you are at the mercy of someone else’s hand. It makes you feel like someone from another planet. There was no humanity in it. There was no nothing in it.”⁴

An important report by the Migration and Refugees Services of the United States Conference of Catholic Bishops (USCCB) and the Center for Migration Studies (CMS) presents powerful arguments for dismantling our nation’s vast, inhumane, and costly detention system and building an immigration system that ensures due process protections, honors human dignity, and minimizes the use of detention. Instead of using detention as a central immigration “management” tool, *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System* proposes a continuum of supervised release/community support programs based on risk of flight and danger to community in order to ensure court appearances. The report notes that supervised or conditional releases have long been a mainstay of the criminal justice system and that there are already tested, effective, and humane ways to accomplish the government’s goals that immigrants in removal proceedings appear in court and, if required, cooperate in their removal to their home countries.

An alternative to detention (ATD) program for asylum-seekers I administered at Catholic Charities Archdiocese of New Orleans (CCANO) from 1999-2003 provides hard evidence that a community-based program with supportive case management



services can ensure that immigrants participate in their legal proceedings without the concomitant loss of human dignity and access to legal counsel that are almost inevitable when immigrants are detained.

Most of the 39 asylum-seekers served by the CCANO ATD program arrived in New Orleans as stowaways on commercial vessels that docked in New Orleans and had no family or friends in the U.S. The program’s case manager ensured that the asylum-seekers had a safe place to live and worked with employers familiar with CCANO’s refugee program to find them jobs. Most importantly, she linked the asylum-seekers with pro bono attorneys willing to represent them in their asylum proceedings. One asylum-seeker from Sri Lanka left the U.S. for Canada—his original destination—which made for an appearance rate of 97.5 percent for program participants at their immigration hearings. This was accomplished at a cost of \$3.90 a day,⁵ a mere fraction of what the government pays to detain asylum-seekers, which currently averages \$160 a day.⁶

The cost of immigrant detention has skyrocketed along with the explosion in the numbers of immigrants detained and deported. In 2014 ICE detained on average 30,597 immigrants a day in 202 facilities across the country,⁷ almost five times the average daily detained population of 6,785 in 1994.⁸ Twenty-nine percent of the 2014 average daily population of detained immigrants were held in 39 facilities in four Gulf South states⁹ (see Figure 1). The report notes that the number of immigrants annually detained by ICE has increased more than 500 percent since 1994—totaling 440,557 persons in 2013.¹⁰ In 2014 the combined funding for Customs and Border Patrol and ICE equaled \$18 billion,¹¹ dwarfing the budgets of all other federal law enforcement agencies combined.

Average Daily Population of Detained Immigrants by Gulf South State in FY 2014¹²

Gulf South State	Number of Immigration Detention Facilities	Average Daily Population
Alabama	3	338
Florida	9	1,537
Louisiana	4	1,658
Mississippi	0	0
Texas	23	8,766
Gulf South TOTAL	39	12,299
U.S. TOTAL	202	30,597

Unlocking Human Dignity recommends that a first step in dismantling the immigrant detention system and replacing it with a flexible, humane, and less costly continuum of release programs is for Congress to commission a comprehensive study on how a truly civil immigration detention system can be created. Other recommendations include the following: end the use of detention as a purported deterrence to refugee flows; greatly expand supervised release and community ATD programs and locate their infrastructure and oversight in a government agency other than DHS, curtail and rigorously monitor the role of for-profit prisons in detention, eliminate mandatory detention except in extreme

cases involving national security or egregious criminal activity, and end the detention of families with children.¹³

The growing realization that hyper-incarceration undermines American democracy and perpetuates racial hierarchy in the United States is fueling one of the most important social justice movements of our time—criminal justice reform. The system of hyper-detention of immigrants, driven by many of the same fears and racial bias as prison hyper-incarceration, must also be dismantled. *Unlocking Human Dignity* argues clearly and persuasively how this can be done and why Catholics should care. Anyone committed to immigrant justice and the common good should read this timely and invaluable report.

ENDNOTES

- 1 *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System*, Migration and Refugee Services/United States Conference of Catholic Bishops and The Center for Migration Studies, 2015, pp. 7 - 8, at www.usccb.org/about/migration-and-refugee-services/upload/unlocking-human-dignity.pdf
- 2 Ibid, pp. 14 -15.
- 3 Interview with Tanya Olivar, March 26, 2011, author’s files.
- 4 Sue Weishar, “A More Humane System: Community-Based Alternatives to Immigration Detention (Part II),” *JustSouth Quarterly*, Spring 2011.
- 5 Ibid.
- 6 *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies*, National Immigration Forum, August 2013, at <https://immigrationforum.org/wp-content/uploads/2014/10/Math-of-Immigration-Detention-August-2013-FINAL.pdf>
- 7 From U.S. Department of Homeland Security, Immigration and Customs Enforcement, “DMCP Authorized Facilities,” Oct. 6, 2013.
- 8 Ibid.
- 9 DMCP Authorized Facilities, op.cit.
- 10 *Unlocking Human Dignity*, op. cit., p. 7.
- 11 Ibid. p. 22.
- 12 DMCP Authorized Facilities, op. cit.
- 13 *Unlocking Human Dignity*, op.cit, pp. 29-33.

JSRI Staff Changes

We extend our thanks and best wishes to **Alex Mikulich, Ph.D.**, as he moves to the Loyola Office of Mission and Ministry as Assistant Director.

We welcome **Jeanie Donovan, M.P.A., M.P.H.**, as our new Economic Policy Specialist.