

Summary

From staff orientation to departure

A study on the operation of immigration detention

The detention centres for immigrants in the Netherlands are managed by the Special Facilities Directorate (Dutch: *Directie Bijzondere Voorzieningen*, DBV), accountable to the Custodial Institutions Agency (Dutch: *Dienst Justitiële Inrichtingen*, DJI). In recent years, the capacity of immigration detention facilities has been decreasing. As of 2013 there are approximately two-thousand places, distributed across four centres. These centres accommodate immigrants that have been refused entry at the national border, as well as immigrants – mostly immigrants who do not or no longer have legal stay – apprehended in the Netherlands and who are considered to pose a risk of evading their deportation. All immigrants in detention are expected to leave the Netherlands within the foreseeable future (if there is little prospect of their imminent eviction, then their detention should be terminated). The implementation of immigration detention in the centres is in the hands of over 1,500 staff members, the majority of which are employed as detention supervisor (Dutch: *detentietoezichthouder*, DTH) with the daily supervision of the detained immigrants.

Background

Recently, the DBV performed two surveys among staff members and detainees to identify possible improvements. The current study should yield further knowledge on how the DBV and its detention centres can contribute to the daily execution of a mission informed by two key elements: ‘humane implementation’ and ‘contributing to preparing the detainees for their repatriation’.

Objective

This study consists of two parts. In the first part, we investigate how the detained immigrants assess the circumstances of detention, and what the staff can contribute to this. The second part examines whether there is a connection between the exposure to immigration detention and the way the circumstances of detention are perceived, and the extent to which immigrants cooperate with their repatriation. The research questions are thus closely modelled after the mission of the DBV.

Method

In both parts of this study, hypotheses derived from a theoretical examination of the literature about the operation of immigration detention are tested through quantitative analyses of surveys held among both staff members and detainees, and through qualitative analyses of interviews held with both staff members and immigrants in a detention centre. The selection of respondents took account of the variety in country of origin (if known), age, length of detention, and sex. The interviews sought to establish how mechanisms underlying the presumed theoretical relations actually work, according to the staff members and detainees.

Part 1: Staff factors and perception of detention

Theoretical assumptions

Due to the scarcity of specific literature on immigration detention, literature on regular detention was used to formulate the hypotheses. The detention literature distinguishes two types of factors that determine how detention conditions are perceived. First there are the import factors: characteristics, behaviours and experiences that detainees bring from before the detention (co-)determine how they experience the circumstances in detention. Second, there are the deprivation factors that relate to the current circumstances of detention: the applied regime with the associated house rules, the cells and overall premises, multiple occupancy of cells, and the treatment style by staff members. The treatment is assumed to be crucial to realise humane detention circumstances.

The treatment of detainees can take several forms. Detention supervisors can focus strongly on the rules, on maintaining order and safety, or they can emphasise respect, trust and helpfulness. A third form distinguished in this study is motivational treatment: the supervisors work on behavioural change by focusing on ambivalences in how detainees think, which sometimes means holding up a mirror to them. These different styles do not necessarily exclude each other. Based on the literature, it is assumed that all styles can have a positive influence on how detention conditions are perceived. A passive attitude by staff members would not contribute to the safety and humaneness in the detention centre. An active attitude (the purposeful application of different treatment styles) can be encouraged and supported by certain working conditions for the staff members. The literature for example states that inspiring leadership encourages a motivational and supporting style, while corrective leadership encourages staff members to focus more on rights and rules. Other 'favourable' working conditions (with a view to the active application of treatment styles) are a reasonable work pressure, clearly

defined tasks, collegiality, debatability of moral issues, and a diverse composition of the team (in terms of sex, age and work experience).

Method of testing

The hypotheses derived from the literature were tested by means of various regression analyses. First, we examined how the perceived working conditions among detention supervisors relate to the treatment style they report to use. Information from the qualitative interviews is used to describe what this relationship may actually look like in practice. We subsequently examined whether there is a relationship between the treatment style that supervisors say they use, and the detainees' evaluation of their detention conditions. Information from the interviews was used for a more in-depth description of the found relationships.

Results

The quantitative analyses indicate that the 'strong application' of the different treatment styles by detention supervisors correlate with their high appreciation for the debatability of moral issues, stimulating leadership of the department head, and the extent to which the supervisors feel they are treated fairly within the organisation. It further emerges that satisfaction regarding the work correlates with the application of the motivational treatment style, which is applied more frequently by more highly educated staff members. Additionally, the interviews reveal that staff members believe that the most favourable team composition consists of detention supervisors of diverse profiles in terms of work experience, (ethnic) background, sex, age and treatment style, so as to take better account of the variable needs of immigrants in detention. One important aspect is language. Not all immigrants can speak Dutch or English sufficiently to communicate properly with the detention supervisors. The quantitative analyses show that the different treatment styles are applied more emphatically when the department staffing includes female, older and more experienced supervisors.

We subsequently analysed the relationships between treatment styles and detainees' assessment of their detention conditions. In the majority of cases, the effects matched the anticipated direction; however, only the factor of the motivational treatment style appears to be significant. In departments where this style is applied more vigorously by the staff members, detained immigrants are more satisfied about the interaction with staff members, the daily activities, their autonomy, and the extent to which they are treated with respect. Interviewed immigrants who expressed a need to have contact with staff members – a need not shared by all immigrants – said they were satisfied with the attention afforded them by the detention supervisors. Most of

the interviewed immigrants indicate that the supervisors promote or guarantee safety in the detention centre.

Part 2: Perception of detention and departure readiness

Theoretical assumptions

This part of the study centres on the development of ‘departure readiness’ during detention. It should be noted here that, while it is considered part of the DJI mission to contribute to preparing detainees for repatriation, influencing the detainees’ departure readiness during (and possibly by means of) the detention is not an explicit goal of the legislature. The formal purpose of the detention of immigrants is to hold the immigrants in the interest of public order, while their repatriation is prepared.

In most of the relevant scientific theories, the stay in immigration detention does not play a significant role in the immigrants’ decision-making process regarding whether or not to depart. Immigrants are often unwilling or unable to leave because they are indebted (on account of their journey to the Netherlands); because they feel shame towards their family at home (they were the ones chosen ‘to make it’); or because they feel that the situation in the home country is not safe enough to permit their return. Strong social bonds in the Netherlands or weak bonds in the country of origin can also hinder their (cooperation with) repatriation. Their life chances in social, economic and political terms in the Netherlands, compared to the home country, are also factors in the decision-making process. Psychological and physical health can also be a reason to not want or not be able to cooperate with their return. These factors do not have a direct bearing on immigration detention and the implementation thereof. This study has investigated whether a number of mechanisms that do relate directly to immigration detention may have an effect on immigrants’ readiness to return.

First of all, immigration detention may in practice have a deterrent effect. Although deterrence is not a goal of immigration detention, the detention is coupled with various deprivations: detainees are constrained in their free movement and in their access to many other facilities and existing social relationships. These deprivations may influence immigrants’ behaviour in that they wish to end the detention experience, or wish to avoid being detained again after their release (and hence are willing to cooperate with their return). It is not known, however, how these deprivations weigh up against other factors influencing return, such as the said social bonds and life chances.

Second, the extent to which an immigrant views his or her detainment as legitimate can influence his decision-making process. Two forms of legitimacy play a role here: ‘outcome justice’ and ‘procedural justice’. Outcome

justice here refers to the immigrant's understanding and normative acceptance of his or her return. Procedural justice concerns the procedures during the period of detention: are all rights and rules observed during the implementation of detention?

Third, state-provided assistance, support and information can encourage immigrants to depart. Immigration detention is an opportunity to provide the required information and assistance. The responsibility for this is in the hands of the Repatriation and Departure Service (Dutch: *Dienst Terugkeer en Vertrek*), but organisations outside the government such as the International Organisation for Migration (IOM) can fulfil a role here as well. This study also considers how detention centre staff (especially the detention supervisors) can contribute to the preparation for repatriation. The assumption derived from the literature is that, to the extent that an immigrant is better informed about the possibilities and provisions regarding their prospective return home, he or she is more willing to cooperate.

Method of testing

Also in this second part of the study, the assumptions were tested by means of various regression analyses and information from the interviews. The factors that are assumed to affect an immigrant's decision-making process were operationalized and captured through measurements in the immigrants' survey. To this end we sometimes used existing scale constructs, and in one case new scale constructs were devised using existing items in the questionnaire. The operationalization is to some extent arbitrary, as the questionnaire was not specifically developed for this research, and the theoretical assumptions could not be measured exactly. The dependent variable in this second part was formulated as follows: 'Since my detention, my willingness to leave the Netherlands has increased.' Indicators for deprivation, the perceived legitimacy and the perceived repatriation support were successively examined for their relationship to the development of immigrants' willingness to leave the Netherlands. Further examples from the interviews are given to illustrate how such relationships may work in practice.

Results

The presumed *deterrent effect* of immigration detention is supported only partly by the empirical evidence obtained by this study. The perceived deprivations of detention (measured in terms of immigrants' satisfaction regarding the detention conditions) appear to not have a significant relationship with the development of immigrants' willingness to leave the Netherlands. The length of detention also does not seem to have any significant effect. In the interviews, young immigrants do say that they view the time spent in detention as lost time, and that they wish to leave as quickly as possible in

order to build their future elsewhere, but the quantitative analyses do not show any indications for such age-related effects. One striking finding regarding the deterrent effect of immigration detention is the number of times that some immigrants spend in detention. Immigrants that have been detained twice, three times or four times are more likely to report that their willingness to leave has increased than those detained for the first time, but also than those who have been detained five times or more. This suggests that repeated detention does increase the willingness to leave somewhat, but that this effect no longer occurs after five periods of detention. One possible explanation for this finding is that, by becoming accustomed to detention, the willingness does not increase after five stays, and that detention comes to be seen as just another part of life as an illegal migrant. From the interviews it furthermore emerges that the number of repeated detentions does not have the same effect on each detainee: while one person may lose all hope of obtaining a residence permit and is increasingly willing to leave, another sees detention as a 'normal' situation that has no effect on his or her migration intentions, and a third may perceive his repeated detention as extremely trying, but takes his decision whether or not to cooperate with repatriation on the basis of other decisive factors. In that sense, a process of selection seems to occur through which, over the course of time, a migrant population remains that does not (or no longer) perceive detention as a deterrent. Indications were found for a complex relationship between the health of detainees and the development of a willingness to leave. On the one hand, a healthy condition increases the likelihood that the willingness to leave will increase during detention. On the other hand, the inclination to cooperate with repatriation sometimes seems to increase if detainees fear that their health may deteriorate (further) as a result of the detention. This last effect – though it is weak – points to a deterrent effect of detention.

The more immigrants perceive the outcome of detention (repatriation) as *legitimate*, the more willing they are to cooperate with their return. Put differently: if an immigrant considers it just that he or she is detained in order to be returned, the immigrant will show a greater willingness to cooperate with departure. In the interviews, a majority of the immigrants said that they do not consider it just to be detained. They especially viewed the deprivations linked to detention (such as the lack of freedom and autonomy) as unjust. According to both staff members and immigrants, this perception tends to fuel the so-called 'system fighting', part of which is an active resistance to their deportation.

It emerges from the quantitative research that how the return readiness develops depends particularly on the *outcome justice* of the detention, that is, the normative acceptance of the fact that the immigrant is required to leave the Netherlands. Procedural aspects of the legitimacy (satisfaction about the rules and rights and the immigrants' appraisal of the detention supervisors) appears to be of subordinate significance. The conditions of detention,

including the relations with the supervisors, appear to have only a limited effect on the perception of the result justice. However, the interviews do indicate that the perceived justness of the detention may increase as a result of the independent role of the supervisors and their ability to explain the regime and perhaps modify the regime somewhat in the interest of the immigrant's experience (with respect to the clarity of rules, freedom and autonomy). It appears that immigrants often do not view detention supervisors as part of the migration policy or the return procedure. For that reason, immigrants sometimes entrust information to them that other entities are kept uninformed of (for instance regarding their actual origin). Indications were moreover found that the willingness to return may increase after supervisors set them on the path to independent return through IOM (when exploring options in informal conversations). The supervisors are cautious about discussing such options, however, as they understand their task primarily as providing for orderly detention. Losing their independent position could undermine that goal. It further emerged that the perception of strong repatriation support by IOM and/or DT&V (whether or not following informal mediation by detention supervisors) is linked to a greater willingness to return. Finally, there are indications that immigrants who are positive about the procedural and outcome justice of the detention show more commitment to cooperating with their return, while detainees who primarily perceive detention as a deterrent (and not so much as legitimate) are more inclined to complete the detention period, to subsequently attempt to relocate to other European countries (though they will, in principle, have no right to stay there either).

Conclusion and recommendations

The working conditions of the staff members can contribute to an active treatment style towards the detainees. Conditions that are positively correlated to the supportive and motivational treatment styles are stimulating leadership, debatability of moral issues, collegiality and safety. This is a relevant finding, since an active implementation of the treatment styles has a positive effect on the detention conditions as perceived by the immigrants. The immigrants are also more positive about the detention conditions when the department staff consists of relatively many female, older and more experienced detention supervisors. Since the humaneness of detention is part of the DBV mission, these findings offer valuable reference points in the attempt to implement the mission on the work floor even more effectively. A second element of the DBV mission is the aim to contribute to preparing detainees for their deportation. Repeated detention seems to increase the willingness to return to a certain extent, although this is bound to an upper limit (from 5 periods of detention and more, the willingness decreases again).

The fear for a deterioration of health seems to have a limited effect on the development of the willingness to return.

This research does not show any direct relation between the immigrants' perception of the conditions of detention and the development of the willingness to return. A just treatment in detention likewise has no significant direct relation with the immigrants' willingness to return. However, there do seem to be *indirect* relations between the perceived procedural justness of the detention and the development of willingness to return. Detainees who consider the detention just are better informed and also more positive about the available options in terms of return support. Both detention supervisors and immigrants report in the interviews that the deprivations regarding autonomy and freedom can be perceived as unjust, and that this can form a reason for immigrants to engage in 'system fighting'. This does yield some (indirect and weak) indications that improving detainees' perception of autonomy and freedom within the centres can contribute to increasing their willingness to return.

By investing in active treatment styles by detention supervisors (in supportive and motivational treatment, through training and education) the work floor seems able to contribute to the DBV mission. The treatment can focus both on enhancing the humaneness of detention, and on the facilitating the immigrants' deportation process. To support the staff members in these tasks, further investments in stimulating leadership, in the openness to debate moral issues, and in collegiality and safety could be considered. Finally, the results can be used for a societal discussion on whether – and if so by what mechanisms (deterrence, legitimacy and/or return support) – immigration detention should aim to influence migrants' willingness to leave.