



THE GLOBAL CAMPAIGN FOR PRETRIAL JUSTICE

HOW PRETRIAL DETENTION STUNTS SOCIOECONOMIC DEVELOPMENT

The excessive and arbitrary use of pretrial detention critically undermines socioeconomic development—and is especially harmful to the poor. Pretrial detention disproportionately affects individuals and families living in poverty: they are more likely to come into conflict with the criminal justice system, more likely to be detained awaiting trial, and less able to make bail or pay bribes for their release. For individuals, the excessive use of pretrial detention means lost income and reduced employment opportunities; for their families, it means economic hardship and reduced educational outcomes; and for the state, it means increased costs, reduced revenue, and fewer resources for social service programs.

Income

Persons detained awaiting trial cannot work or earn income while detained, and often lose their jobs. If the period of detention is lengthy, detainees' future earning potential is also undermined. Those who are self-employed—common to people working in the informal economy in much of the developing world—are at risk of bankruptcy, losing their goods through theft, missing sowing or harvesting season, or foregoing their trading space at the local market.

In **Mexico**, an independent study estimated the amount of income lost, as a result of their detention, by pretrial detainees who were employed at the time of arrest, as 1.3 billion pesos (or about \$100 million) in 2006. In **England and Wales**, a study showed that half of men and two-thirds of women employed at the time of arrest lost their jobs as a result of their detention, while only 18 percent of men and 11 percent of women expected to have a job to return to upon their release.

Lost income affects not only the detainees, but their entire families who in addition to reduced household income, they have to wrestle with legal fees, the cost of bribes to corrupt criminal justice officials, and other expenses such as travel to the prison and food and personal items for the detainee.

The impact is especially severe in poor, developing countries where there is no safety net and where it is usual for one breadwinner to support an extended family.

Education

Many pretrial detainees are young adults, some of whom will have their education interrupted as a result of their detention. In addition, the education of children is often disrupted when their parents are detained. These children have to take on new roles, including providing domestic, emotional, or financial support for other family members. Children may have to move to a new area, a new home or a new school, and the consequent disruption often results in heightened rates of school failure and eventual criminal activity.

Future Employment

Even where correctional systems offer educational or vocational programs, pretrial detainees are ineligible because they are considered transient. The enforced idleness leads to lower self-esteem and the loss of skills. Add to this the social stigma attached to detention, and it is clear why detainees have great difficulty finding employment after their release.

The interruption of education, the lack of vocational programs for pretrial detainees, the stigma associated with pretrial detention, and the loss of work all conspire to disrupt and undermine the occupational prospects of pretrial detainees and, in many cases, those of their children – thus the impact can be felt over two generations.

RIPPLE EFFECT:

The Impact of Detention on a Family

A 29-year-old truck driver lived with his wife, his retired-father-in-law, and his eight-year-old son in a council house in England. He was arrested in connection with a robbery and held in pretrial detention. When the case was scheduled for trial, the police withdrew their initial objection to bail, but after almost four weeks in pretrial detention, the defendant had lost his job and the rent on the house where he had lived for seven years was in arrears. He and his family were evicted. The mental strain of the situation caused the defendant's wife to suffer a nervous breakdown and so disturbed his son that he had to be given psychiatric treatment. The defendant found it difficult to get work and could not obtain unemployment benefits because he was awaiting trial. Four months after his arrest he was tried and acquitted.

Funding Development

Excessive pretrial detention—especially for persons charged with minor, non-violent offenses—is costly and restricts states’ ability to invest in socioeconomic development. For poor countries, where state budgets are rarely balanced and state funding to meet the basic needs of all citizens is inadequate, expenditure on incarcerating pretrial detainees represents a stark opportunity cost. Every bit of state revenue spent on detention

results in potentially less money for crucial social services, health, housing, and education.

The true impact of pretrial detention on development is often hidden. States generally count only the direct costs of housing and feeding pretrial detainees and overlook indirect costs such as the lost productivity and reduced tax payments of pretrial detainees who could have continued working if they

were released before trial. Moreover, an Open Society Justice Initiative study in Mexico found that it is far more costly to investigate a case involving a pretrial detainee than one in which the defendant is at liberty: cases involving detainees must be expedited, and pretrial detainees usually face a higher number of court hearings than defendants who are not detained—all of which must be paid for by the state.

Mutually Reinforcing Consequences

The various factors through which pretrial detention weakens socioeconomic development are not mutually exclusive, but overlap and reinforce one another. Thus, detaining a large group of people is not only costly for the state (and, thereby, the taxpayer), but has negative financial and social repercussions for detainees, their families, and society at large. Reducing the excessive use of pretrial detention can boost socioeconomic development at the family and community level, especially in developing countries where the difference between a stable existence and bare survival is often tenuous.

RIPPLE EFFECT:

The Impact of Detention on a Community

When the male head of a household in rural Malawi was arrested and detained, his family had to sell its maize-milling machine to obtain cash for legal fees, bail, and money for bribes. The milling machine had brought steady income into the household, and its sale meant the family had no money to hire labor or buy seeds for their beetroot plots. The beetroot production ceased and income from the crops was lost. The new owner of the milling machine moved it to a distant location so the community no longer had a milling machine, and women in the area had to go back to pounding maize, which increased their workload and lowered their productivity.

Recommendations

- Pretrial detention should be used only when no reasonable alternative can address genuine risks of flight or danger to the community. States would better serve their citizens by spending less in locking up people who are presumed innocent and dedicating more resources to social services.
- The use of monetary bail should be avoided. Poor people do not have money readily available to deposit with the court. In place of bail, courts should use personal surety (a promise by the defendant to attend court hearings and stand trial) or reporting requirements under which the defendant reports regularly to the local police station.
- Where monetary bail is used it should be proportionate to an accused person’s income and within his or her means.
- Detained persons should receive basic necessities—nutritious food, clothing, toiletries, and medication—free of charge from the prison authorities.
- To the extent practicable, pretrial detainees should be able to volunteer (though they should not be coerced) to perform prison-based labor for remuneration, and should be eligible for training and education programs.

This is a summary of the report, “Pretrial Detention and Socioeconomic Development,” published by the Open Society Justice Initiative in 2011. <http://pretrialjustice.org>

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