

International Detention Coalition

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Introduction

Good morning and good afternoon to everyone. Thank you so much for inviting me to participate in this important panel and thanks to ESCAP and the Network for their very inclusive and participative process with stakeholders in the region. It's an honour for me to be here today. My comments will mainly focus on Objective 13 of the GCM about using immigration detention only as a measure of last resort and working towards alternatives to detention but of course aligned with other GCM objectives.

IDC

Firstly, let me quickly tell you about IDC. The International Detention Coalition is a global network of 400+ organisations, groups and individuals, based in over 100 countries. In the Asia Pacific Region, IDC coordinates with members and partners on advocacy, research, coalition and capacity building, to reduce and eliminate immigration detention and advance rights-based alternatives to detention. IDC is also working regionally and globally to support GCM implementation.

Grounding

When talking about GCM implementation and immigration detention, it is crucial to ground what we say, because ultimately, we are talking about people whose lives are at play. Let me start with some real-life situations in the region illustrating the importance of alternatives to detention.

- Let's think about Omar who left his country as a child only to find himself in immigration detention in transit to another country. Omar was not able to tell his mum that he was alive for 6 months
- Mariam and her daughter Yu were separated for several months while she was kept in detention. The girl still has nightmares about it.
- Than was detained when he was 15 and spent many years in detention. His mental health is now seriously deteriorated and he's unable to make a living and survives on strong medication.

It is undeniable that detention is costly not only in terms of its incredibly high human cost but also in terms of the economic cost for states. Rights based alternatives to detention can work well for people affected by or at risk of detention and also for States.

- For instance, let's think about Mohammad, an unaccompanied child survivor of violence who was referred to an ATD program run by an NGO. He had dengue but was afraid to get medical treatment because he was undocumented and at risk of detention. The NGO found him housing and he accessed medical treatment and attended school. His wellbeing improved within 12 months of entering the ATD program. He has also enrolled in university and plays for his local football team

Promising practices:

There have been some promising practices in the region including some Countries taking steps to end child detention or implementing alternatives to detention. Some of these include:

The Government of Thailand signed the MOU on alternatives to detention of children in immigration detention and set out an inter-ministerial framework for this purpose, in partnership with civil society and UNICEF. Community centred, case management based ATDs have also been used. It's early days, and it will take time for the MOU to be implemented more systematically in every province.

Indonesia has implemented a policy that children can no longer be detained in immigration detention centres. The policy also facilitates free access education for refugee children. Ending child immigration detention as a policy is a welcome step, but there has been a gap in the implementation of community care models for people released from detention.

In Japan, during the COVID-19 crisis, there were releases from immigration detention and relaxation of reporting conditions

Another promising practice is **a regional instrument through the ASEAN Declaration on Children in the Context of Migration** stating that "in order to promote the best interests of the child, States should work to develop alternatives to child immigration detention and ensure that children are kept with their families in a non-custodial, and safe environment". The challenge is for this instrument to be adopted and implemented.

The role of civil society has been crucial. For instance, In Malaysia and Thailand some NGOs are doing a great job implementing community based ATDs. These include SUKA's community placement program in Malaysia for unaccompanied children at risk of detention, the ATD pilots run by HOST International in Thailand and the national strategy developed by the Coalition for the Rights of Refugees and Stateless Persons.

Other key effort is **IDC** and the Asian Dialogue on Forced Migration facilitating a Peer Learning Platform for states in the region to share promising practice. Additionally, UNICEF and IDC have developed the Cross-Regional Peer Learning Platform on Alternatives to Child Immigration Detention to support States in addressing the practical challenges when putting in place alternatives and working to end child detention. Some States from the region have proactively engaged with the platform.

COVID 19

It is also essential to consider the effects of COVID 19. The impact of the pandemic has been particularly complex for people affected or at risk of immigration detention. The pandemic has been used by some States to justify the increased use of immigration detention and deportations. However, COVID 19 has also presented opportunities and created momentum to advance alternatives to detention There have

been some promising responses globally ranging from temporary release from detention, relaxation on reporting requirements and greater use of casework for children. This momentum on ATDs presents a unique opportunity to look at how to make some of these temporary practices sustainable for the long term.

States should also seriously consider the cost-saving measures of ATDs. The economic impact of COVID-19 has put many States in a tight economic situation. Reducing unnecessary public expenditure on costly detention and implementing ATDs is key during this time. Not to add the enormous human cost of immigration detention on those affected by it.

Points to consider when implementing ATD programs:

There are key points for States and other stakeholders to consider when thinking about Implementation of Objective 13 by developing ATD models and gradually moving away from the use of immigration detention:

- Child immigration detention needs to end in the region. Let's leave no doubt: there is no good practice for detaining children. Children do not belong in immigration detention.
- Rights-based, community-based and gender responsive alternatives to detention need to be implemented and scaled up across the region, and immigration detention must only ever be used as a highly exceptional measure.
- Pilots are a helpful way of testing alternative approaches. However, pilots need to be time-bound, and be scaled up after independent monitoring and evaluation. Initiatives shouldn't remain at the pilot level.
- Family unity needs to be preserved. It is not conducive to release children and detain one or both parents. Research has clearly shown that family separation can impact children as badly as the experience of detention.

- Releases are welcome but are not enough. Releases need to be accompanied by casework and by access to services and rights, so migrants are not left in destitution
- Children need to be integrated into national child protection systems, moving away from institutionalized forms of care such as shelters, towards community-based protection where families can live in a community setting.
- Often migrant children are deemed to fall under the jurisdiction of National Security Agencies. However, under a whole of government approach, Child Protection Ministries should be the ones to provide the best care for children.
- Temporary practices as a result of COVID 19 need to be sustainable for the long term, and explore migration governance systems that expand regularization pathways without the use of immigration detention.
- Finally, it is crucial to align national, regional and global efforts in implementing ATDs. Champion states efforts need to coordinate with the Regional Network on Migration and the UN Migration Network. This work needs to embed a whole of society approach.

Whole of society approach, leadership of people with lived experience and intersectionality

For the GCM to be effectively implemented and make a difference to migrants' lives, it is important to promote a genuine collaboration with migrants, civil society and other stakeholders. Migrants and civil society organisations are on the ground and trusted by the community. The Regional UN Network on Migration can continue playing a role to promote this genuine collaboration and keep promoting inclusiveness.

The leadership of people with lived experience of detention is crucial. The voices plus direction of people affected by these damaging policies, need to be at the heart of the effective implementation of the GCM and of developing rights based ATDs

The implementation of ATDs also needs to be based on an intersectional approach. People affected by detention should be recognised in all their diversity of identities. This means addressing the specific needs of women and LGBTI communities affected by detention, taking on the lessons learnt from the Black Lives Matter movement, and ultimately, centering the leadership of all these communities in shaping the policies that impact them directly.

