



Global Detention Survey Summary of findings October 2008

1. Background

At the annual meeting of the International Detention Coalition on June 26th, 2008 in Geneva, it was decided to send a survey to members to assist the IDC target its advocacy work and develop a 2-year Strategic Plan. The survey aimed to get an update from members on detention priorities in countries/regions, organizational need and capacity, and comment on possible ways the IDC could assist. The survey was drafted with Steering Committee input in July 2008 and completed by members in August and September 2008.

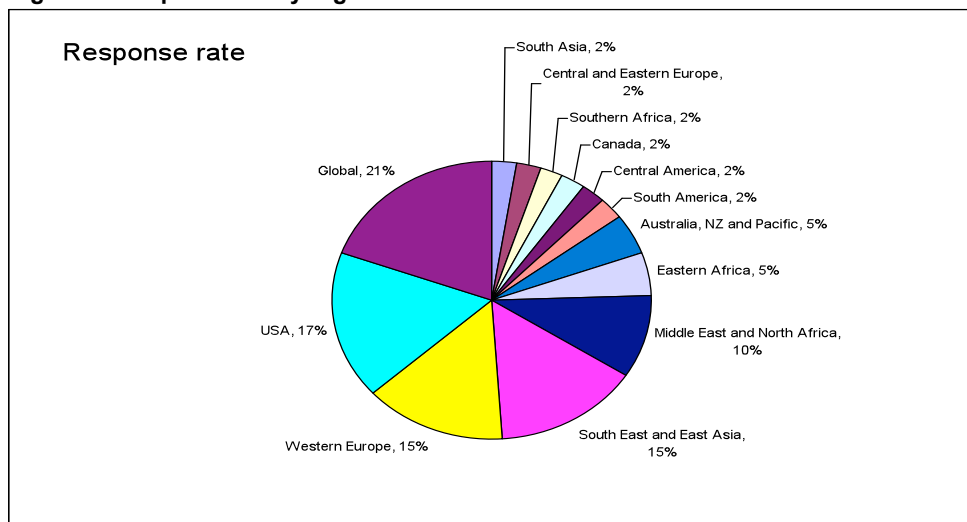
The findings of the survey have been incorporated into the IDC Strategic Plan for member and Steering Committee consideration. All ideas raised by members were considered in line with identified priorities, budget and IDC capacity.

2. Member Participation (Questions 3-5)

40 surveys were completed, totaling more than 25% of total IDC members, with all IDC member regions covered (See Figure 1). Members from 21 countries were represented, including 10 countries in the global south, which comprised 12 surveys, or 30% of total respondents. In addition, 22 respondents, or more than 55% of respondent member's work covers the global south. 66% of respondents are domestic focused, with 34% having either a regional or international focus.

All respondents work on migration-related detention issues in their work in four main areas: 1) Human rights and detention monitoring, 2) Research and policy, 3) Advocacy and campaigning, and 4) Detention services, such as pastoral care, welfare, health and legal provision.

Figure 1: Respondents by region.



3. Survey Findings

3.1 Detention Priorities (Question 7)

Of the 101 responses regarding core detention priorities:

- **28%** - Ending or limiting of the use of detention, particularly noted for vulnerable individuals, asylum seekers and refugees, including ending long-term, indefinite and arbitrary detention. 32% of this group highlighting the need to end the detention of children, including Belgium, Japan, Lebanon, Malaysia, Thailand, South Africa, UK and USA.
- **22%** - Improving the rights of detainees, the monitoring of places of detention and ensuring detention conditions, including health services, comply with international human rights standards.
- **18%** - Development, research, advocacy and campaigning on alternatives to detention
- **13%** - Provision of legal services, ensuring due process, the right to seek asylum and preventing refoulement.
- **19%**- Of the remaining responses, apart from country specific policy and practice issues raised, concerns included: 1) Gender issues, such as sexual violence, 2) Separating asylum seekers from convicted criminals, 3) Improved training of detention staff, 4) Improved training and capacity of NGOs working on detention issues 5) Need for increased NGO involvement in detention issues, and 6) Increased understanding of global detention trends.

3.2 Other concerns noted include: (Question 17)

- Punitive government policy, with detention used as a deterrence mechanism
- Authority raids increasing detention numbers
- Violence in the detention system and coercion during removals
- Mental health impact of detention
- Unlawful detention
- Countries like US, EU and Australia funding off-shore detention facilities in neighboring countries
- Lack of monitoring of detention at airports
- Impact of closed camp policies
- Negative media and community sentiment on the plight of detainees
- Need for increased psychosocial support for detainees, particularly those vulnerable, such as elderly, children, women, torture and trauma survivors and those with health conditions.
- The increased use of detention by authorities.

3.3 Changes to detention policy (Question 6)

74% of respondents stated that there had been significant changes to detention policy in the past 3 years. In many cases positive steps in some areas were coupled with negative steps in others. In all areas however civil society groups have been working tirelessly on addressing concerns. The core changes reported over the past 3 years include:

Legislation, Policy and Practice

- **Belgium**- Increased use and length of detention for removal purposes. Detention conditions remain unchanged, with punitive approach leading to increased hostilities within centres.
- **EU**- The Return Directive allowing for immigration detention on the basis of implementing removal for up to 18 months
- **Hong Kong**- Court of Appeal in August ruling detention unlawful due to lack of clear policy – but with practice continuing
- **Hungary** – Legislative change in 2007 reducing maximum detention time to 6 months. Continued cooperation with Border Guards and NGOs and decreased numbers of asylum seekers detained
- **Indonesia** – Increasing use of closed centers. Australian funding of centers and IOM monitoring of detainees in hostels
- **Israel** – Since beginning of 2006 detention of Sudanese asylum seekers under the 1954 Infiltration to Israel Law, classifying them as enemies of the state. Ad-hoc release has

since occurred, however initial detention continues under the law. Refoulement has occurred under the 'Hot Returns Procedure' where people are refused entry and deported to Egypt. Civil society advocacy is increasing

- **Japan-** Since 2006 increased number of detained asylum seekers and length of detention, despite legislative change in 2005.
- **Kenya-** The introduction of the Refugee Act in 2006 has seen fewer cases of people administratively detained in police cells and prisons. Ongoing closed camp and warehousing concerns exist
- **Malaysia -** In 2007 immigration detention centers were taken over by the Immigration Department, which has seen a worsening of conditions and increased numbers of human rights violations. Increased raids have led to more people detained.
- **Mexico –** Marginal improvement in conditions in some centers, but human rights abuses and lack of protection for vulnerable cases continues. Increased number of detainees.
- **South Africa –** Unlawful detention occurring with officers not understanding or applying law. Corruption occurring.
- **Spain-** Detention pending removal to increase from 40- 60 days.
- **Sri Lanka –** IDPs vulnerable to detention in various regions, many facing torture if detained. Increased numbers of immigration detainees, primarily from other parts of South Asia, including Pakistan and Bangladesh.
- **UK-** In March 2007 the New Asylum Model introduced, giving each asylum seeker a caseworker and assistance throughout their claim. NGO concerns about the model continue given lack of consistency and its return focus. Increase in long-term detention cases since summer 2006.
- **US-** Increased funding to DHS to expand detention facilities nationally, with now over 300,000 people detained per year. Over 80% mandatorily detained with few release options. Increased number of raids and detention occurring. Detention health remains a big concern, with increasing public interest. A detention health bill has been introduced but not passed. Positively, government funding more than tripled for NGO staffed legal orientation programs (LOP), including group orientation, individual interviews, referral to pro bono attorneys and building community pro bono capacity, while a government funded chaplaincy program continues.

Children in Detention

- **Australia –** Children no longer detained since 2005, and new government recently announced in August 2008 that detention would only be used as a last resort with alternatives used instead, using a risk and case management model. Off-shore processing closed, however Australia continues to fund Indonesian detention facilities.
- **Belgium –** Following years of civil society outcry, the new government announced the release of some children from detention under a 'coaching model' in October 2008. There has been limited NGO input into model development and concerns exist that the model is aimed at pushing return outcomes. Unaccompanied minors are no longer detained.
- **Egypt-** Separate detention centers for children following civil society push and change to law on children's rights.
- **Lebanon-** NGO given increased access to provide psychosocial assistance and health and legal referral for vulnerable cases, including women and children and individuals with health issues. Increased referral of cases from authority to NGO prior to detention. NGO reported increased respect for detainee rights following training on detainee human rights.
- **Malaysia-** Increasing numbers of children detained across the country, including unaccompanied minors. Human rights abuses and unacceptable conditions have been reported.
- **US-** Responsibility for unaccompanied minors was transferred a few years ago from Department of Homeland Security (DHS) to the Office of Refugee Resettlement (ORR) with some improvement noted in terms of increased focus on overall child welfare and NGO ability to advocate for the best interests of the child. Age determination however remains a concern with DHS retaining responsibility for determining who is who is a child and whether they are "unaccompanied". There is also overall increased detention of accompanied children throughout the country, with NGOs pushing for release alternatives and improved conditions in facilities where children are placed. Separate family detention is increasing, which has been criticized by many NGOs. The Trafficking Victims Relief Act

2008 included some reform provisions regarding immigration detention of minors, but did not pass.

- **UK** – Increased number of children detained, with a doubling of time detained over the past 2 years.
- **South Africa**- Child Act and Amendment Bill of 2005 meant to minimize detention of children, however practice continues.

3.4 Detention statistics (Questions 8-9)

60% of respondents stated that there are no official statistics published on numbers or demographics of people detained, with respondents reporting that where official statistics are available they are often dated, not comprehensive and questionable reliability, with many governments not actively tracking statistics. Recipient aggregate estimates totaled more than one million people administratively detained and hundreds of thousands in closed camps, in the countries covered by the survey. An IDC intern will further explore these figures, particularly around estimates of numbers of children detained globally.

More than 20% of respondents reported the numbers of people detained were unknown, most likely from lack of official figures available and NGO access to places of detention.

3.5 Detention monitoring (Questions 10-12)

3.5.1 Official monitoring

61% of respondents stated that there was no official monitoring body for places of detention in their country, including: Belgium, Canada, Indonesia, Japan, Kenya, Lebanon, Poland, Spain, Sri Lanka, Thailand, Tunisia. It was reported that while the US does not have an official monitoring body that has the comprehensive mandate to cover all centers, some monitoring occurs in an ad hoc manner and at different levels, such as ad hoc NGO investigation and reports, investigations by federal Inspector General staff and periodic monitoring by the American Bar Association.

Of the 39% that did have official monitoring bodies, the following concerns were raised:

- Reports not made public (USA)
- Recommendations relate only to conditions not policy (UK)
- Recommendations not binding (EU)
- National Human Rights Commissions focusing on prisons not on places of immigration detention (South Africa, Mexico)
- Many countries have not signed OPCAT.

Examples of better practice included:

- HM Inspectorate of Prisons (UK)
- European Committee for the Prevention of Torture (EU)
- Hungarian Helsinki Committee (Hungary)

3.5.2 NGO role in monitoring

The role of respondents differed greatly from visiting detainees or places of detention for social or legal support, undertaking informal monitoring, through to providing a formal monitoring role.

88% of respondents stated that NGOs can visit detainees or places of detention, however the majority with conditions and restrictions, including:

- Visits discretionary and may be cancelled, with no right to visit detainees. Prior approval needed. (Belgium, US)
- Visits only permissible when a detainee name is provided (Belgium, HK, South Africa)
- Time limits, privacy concerns and restricted access (HK, Japan, South Africa, Thailand, US)
- Only certain facilities open to visits or level of access differing in various centers (Canada, Spain, US)
- NGOs careful to keep a low profile and limiting advocacy to prevent being barred access (Lebanon, Malaysia)

- NGOs with service or pastoral care arrangements contractually barred from advocating publicly (US)
- NGO providing formal monitoring role, but with limited access to centers to monitor conditions (South Africa)
- Detention access curtailed following advocacy (Israel)

Examples of best practice included:

- 24 hour NGO presence in the provision of social work support, legal referral and informal monitoring (Lebanon)
- Formal agreement undertaken between NGO and authorities, including legal advice provision and monitoring of conditions (Hungary)
- NGOs holding workshops and information sessions in centers (Mexico, UK)
- Social visits without booking following submission of ID (UK)
- Chaplains having extended open access (UK)
- Weekly consultation with detainees (South Africa).

Respondents in Tunisia and Kenya stated there was no provision for NGO visitation to places of detention in their country, while one group in Egypt stated there is no access, another that access is possible if permission given from the General Prosecutor for visits for legal purposes. Kenyan, Sri Lankan, Tunisian, Thai and Indonesian respondents stated that there was no official monitoring body and limited NGO access.

3.6 Alternatives to detention (Question 13)

41% of respondents stated that there are functioning alternatives to detention in their country. Countries such as Australia, US, Canada, Belgium and the UK have recently begun or are exploring alternatives to detention, using some of the following mechanisms:

- Case management in the community
- Risk assessment based on identity, health and security concerns
- Reporting requirements
- Bail
- Residence restrictions (curfew)
- Electronic tagging.

In addition, in a number of countries have developed other alternatives:

- Accelerated release into the community through NGO facilitation of release into their care of a small number of vulnerable cases (Lebanon)
- Release on own recognizance by the Department of Immigration for asylum seekers and CAT applicants, subject to individual identity and security assessments. (HK)
- Hostels used under supervision of IOM (Indonesia)
- A number of NGOs have developed their own small alternative pilots, with individuals released into their care with detainee sponsorship or assurance of support. (US, Australia)

Concerns included:

- Alternatives hastily implemented and inadequate NGO involvement in development or implementation (Belgium, UK, US)
- Alternatives are small pilots and not developed as programs for broader application (Canada, Australia, UK, US)
- Ad hoc alternative arrangements (Indonesia)
- Alternatives only for individuals with prima facie Convention or CAT claims (HK)
- Alternatives focus on pushing return outcomes (Belgium, UK)
- Alternative conditions restrictive, such as freedom of movement (US, Indonesia)
- Alternative forms of detention being labeled alternatives to detention, for example separate family detention centers being called alternatives (US)
- Mental health impact of restrictions on freedom of movement (US)

Best practice:

- A comprehensive model of 'beginning to end' individualized case management support through the immigration pathway, including legal advice and welfare support, freedom of movement in the community and NGO involvement. (Australia)

- NGO ongoing social work role in detention centers providing a basis for transition into the community of vulnerable cases under assurances of support, as well as playing a detention monitoring role. (Lebanon)
- NGO staffed legal orientation programs (LOP) in detention centres, improving legal provision and increasing release outcomes. (US)

3.7 Information Needs and Advocacy (Questions 14-16 & 28)

87% of respondents meet with Government and authorities to advocate on detention concerns, with 73% stating there are possibilities to explore lobbying alternatives to detention, including: Australia, Belgium, Canada, Egypt, Hungary, Israel, Kenya, Lebanon, Malaysia, Mexico, South Africa, UK, USA. Countries such as Israel, Sri Lanka and South Africa indicated that it is however increasingly difficult to engage government on detention issues.

Respondents stated that the information most lacking in their work included:

- Best practice and functioning alternatives to detention
- Alternative models used for children and families
- Global trends and international practices
- NGO international practice on detention issues
- Detention trends in the global south
- Global detention statistics
- Good jurisprudence and case law

83% of respondents have engaged or provided reports to UN bodies, primarily UNHCR, in their work on detention issues. With 94% of respondents interested in being updated on UN human rights mechanisms relevant to their region, such as UPR, Special Rapporteur visits, utilizing Special Procedures etc.

95% of members are interested in an on-line newsletter on global detention trends and ideas for the IDC website included:

- Best practice and success stories
- News and data on international detention trends
- Lobby and campaign techniques and material
- Training resource material
- Legal resources
- Member information
- Links to relevant websites.

3.8 Training (Questions 18-25)

Around 50% of respondents undertake detention-related training, which they were able to share with other IDC members in terms of resource and training material or to participate in member training.

Member training skills included:

- Training detention service providers, police officers and border guards on legal standards regarding conditions of detention, rights of detainees and the asylum and legal processes available for detainees
- Volunteer visitation training
- Training on detainee services
- Mental health training and working in a stressful detention environment.

90% of respondents are interested or very interested in IDC facilitated training prior to the Geneva UNHCR NGO Consultations in Geneva on the following areas:

- 97% Alternatives to detention
- 97% Detention monitoring
- 96% Using human rights mechanisms more effectively
- 93% Legal standards on detention
- 91% of respondents were interested in the development of regional training on these areas (see Section 4).

Other training ideas included:

- Advocacy and policy development training (including lobbying training)
- Ways of working with detainees (i.e. managing expectations, information collation with trauma survivors, conflict prevention etc)
- Successful models of access to legal counsel for detainees.

4. Role of the IDC (Question 26-27 & 29-33)

88% of respondents provided ideas on how the IDC may be of most use to the work they do on migration-related detention issues, taking into account the limited capacity and resources of the Coalition. There were many innovative ideas raised to be further explored, with the primary suggestions being:

- Increased information, communication and working relationships with and between members
- Facilitating training and skills sharing with and between members – See 3.9.
- Campaign and advocacy assistance – particularly on providing international perspective, best practice examples and lobbying on alternatives where members seek assistance
- Research and policy work – particularly on alternatives to detention and in partnership with members
- Developing monitoring and human rights work where there is limited civil society response to immigration detention
- Partner projects, activities and capacity building with under-resourced members – See below.
- No concerns were raised by respondents to the three core areas outlined in Question 26 as a central focus for the IDC, namely, Coalition, Campaign and Capacity building.

95% of members from the global south were interested in exploring capacity building initiatives in their country. 88% were interested in training and skills sharing, 81% in advocacy support and 50% in joint project work, such as campaign, research, policy or project development on alternatives. Malaysian, Mexican, Lebanese, Kenyan and South African members, where there are concerns regarding children in detention and potential for advocacy and project work on alternatives, in particular sought IDC assistance for a range of potential capacity building initiatives. Ideas raised included:

- Partnering on advocacy and skill-sharing initiatives- Lebanon, Malaysia, Mexico, Kenya, Israel, Thailand, Tunisia, Egypt
- Lobby assistance with authorities on alternatives and best practice– Lebanon, Malaysia, Mexico
- Assistance in developing a regional network on detention related issues and exploring training and advocacy initiatives- Southern Africa and South Asia
- Project on detention monitoring and alternative to detention housing for children and vulnerable individuals. - Malaysia, Mexico.

5. Conclusion

A range of detention concerns has been identified as part of the findings of the 2008 IDC Global Detention Survey. The three core priorities identified by members, in line with the IDC Value Statement, being:

- Ending and limiting detention, particularly for children
- Improving the rights of detainees, the conditions of detention and monitoring of places of detention
- Developing and promoting alternatives to detention.

The survey confirmed both the interest in, and the need for the Coalition, to develop its work and support its members in seeking change for detainees. This includes making an impact on policy, practice and the lives of detainees by building organizational and member capacity and influencing decision-makers and public opinion on the rights of detainees and the need for alternatives to detention.

In light of these priorities, the majority of members want the Coalition to focus its work on three core strategic goals:

- 1) **Coalition Building** – Developing the Coalition and strengthening communication and information-sharing between members

- 2) **Advocacy and Campaign Building** – To develop the advocacy and campaign capacity of members and the IDC, with a particular focus on children in detention and alternatives to detention
- 3) **Capacity Building** – The facilitation of training, resource and skills-sharing and targeted partner projects with and between members, with a particular focus on members in the south.

The findings of the survey have been incorporated into the IDC Strategic Plan for member and Steering Committee consideration, and will provide a basis for further research and advocacy initiatives in the coming year.

Grant Mitchell
October 6th, 2008