

AN NGO ADVOCACY GUIDE

PUT A CAP ON IMMIGRATION DETENTION!

A supplement to *There are alternatives: a handbook for preventing unnecessary immigration detention*

Dear civil society partners,

Governments around the world are increasingly using detention as a migration management tool, with refugees, asylum seekers and migrants detained for prolonged periods in conditions below international standards, that deny basic rights, and with limited or no access to asylum procedures or judicial review of their detention. International human rights law and standards indicate that alternatives to detention should be first explored, with detention used only as a last resort, in exceptional cases, after all other options have been shown to be inadequate in the individual case.

The International Detention Coalition (IDC) has identified alternative to detention examples from around the world, combined into a good practice handbook, including CAP, the Community Assessment and Placement model.

CAP is a unique combination of mechanisms to prevent unnecessary detention with strategies for effective and humane case resolution in the community, reducing the financial and human cost of immigration detention. The handbook uses pragmatic language in order to be effective for policy makers.

This NGO Advocacy Guide explores five major activities we can undertake to prevent unnecessary detention and to ensure community-based alternatives for refugees, asylum seekers and migrants: Analyse, Network, Prioritise, Advocate and Connect.

Emerging from two years' research and international advocacy work on alternatives to detention, the advocacy strategies outlined in this guide draw from experience and learnings from UN level meetings, direct government engagement and the work of civil society and NGOs in various regions. Use the guide to engage with your government.

Grant Mitchell, IDC, Director

WHAT IS CAP

The five-step Community Assessment and Placement model outlines mechanisms and examples from around the world that prevent unnecessary detention and effectively support individuals in the community. Full details are provided in chapter four of the handbook that can be found at www.idcoalition.org/cap

CAP ensures governments have a clear understanding of the diversity within the population of asylum seekers and irregular migrants, as well as understanding those contexts that promote good outcomes for a range of stakeholders. Individual case and community assessments assist in making informed decisions on appropriate placement, the setting of conditions if required, and the provision for basic needs, legal advice and individual case management while awaiting a final outcome. The research found that detention is not necessary to meet government requirements of compliance and co-operation, as in most cases the first three steps outlined are sufficient.

THE CAP MODEL

Community Assessment and Placement model

DECISION MAKING PROCESS



Not detain
Open accommodation

Conditional release
Alternatives to detention

Detain
Last resort
with review

PLACEMENT OPTIONS

BENEFITS OF THE CAP MODEL

- Improves health and welfare
- Respects, protects and fulfills human rights
- Reduces overcrowding and long-term detention
- Improves integration outcomes for approved cases
- Reduces wrongful detention and litigation
- Maintains high rates of compliance and appearance
- Increases voluntary return and independent departure rates
- Costs significantly less than detention
- Highlights good practices and mechanisms from around the world.

FIVE IDEAS TO ADVOCATE FOR CHANGE

The IDC is seeking to engage governments on how this model can be used to support and manage asylum seekers, refugees and irregular migrants in the community without resorting to detention. The handbook asks governments to work with civil society to achieve this. You can use the CAP model as a framework to engage your government on exploring alternatives to detention. The ideas listed are to assist in this process, and will require analysis of which steps from the handbook are applicable in your country.

1 ANALYSE AND APPLY CAP

Study the CAP model in relation to migration management practices in your country. This will assist you to work out what steps are needed to prevent and reduce immigration detention in your country and identify how to better protect vulnerable populations.

- Use the CAP model to assess current legislation, policy and practice. Look for policy gaps and legislation which may require revision to ensure detention is a last resort
- Identify if any alternatives already exist (but may be underutilized)
- Analyse populations subject to or at risk of detention
- Identify if alternatives can be tested or expanded without immediately changing existing legislation

Become familiar with the terminology and use the glossary on page two and three of the handbook. Check for available translations at www.idcoalition.org/cap

2 NETWORK AND FIND ALLIES

Join forces with key partners to advocate for alternatives more effectively: connect with international, regional, national and local NGOs, community groups and religious groups who are similarly committed to alternatives. Allies can bring diverse knowledge and resources to the network. Include legal and service providers and build partnerships with government departments and agencies such as health, child protection and family services. These connections will be important to obtain information on community options and to positively engage with the authorities.

- Build or strengthen a regional and national network to advocate for alternatives to detention. Meet in person to streamline advocacy work
- Unite behind the shared message on alternatives to detention: appoint a spokesperson for your network if needed
- Visit, research and share examples of alternatives in your region and stay in touch with your contacts afterwards
- Work together to develop a multi-level advocacy strategy (See activities 3, 4 and 5)
- Link up with the IDC in your region

The IDC has Regional Coordinators and Representatives in Africa, the Middle East, Europe, the Americas and Asia Pacific. Contact them at www.idcoalition.org/contact or info@idcoalition.org

3 PRIORITISE AND PILOT

Prioritise one vulnerable group

Identify and prioritise one or more vulnerable groups in detention as a starting point to advocate for alternatives to detention, and open the door for others. Depending on the context, you may consider groups such as: children and unaccompanied minors, pregnant women, refugees, asylum seekers, trafficked women, stateless persons, people with disabilities or other vulnerable groups that are known to be held in immigration detention. By focusing on one group, it becomes easier to engage with the public, media and governments.

- Collect relevant fact and figures about the priority group. Collect stories and examples
- Research national and international law around your priority group. E.g. Convention on the Rights of the Child
- Broaden your network once you have defined a priority group. E.g. child rights groups, health and child specialists and services etc.
- Work on alternatives for your priority group with the entire CAP model in mind. Once alternatives are in place for this group expanding them to other groups is often less difficult

Develop community models

Develop legislative, policy and programmatic models for change on what your network thinks should be in place in your country. Don't wait for the government to do it. In some countries, NGOs have started their own community housing pilots, to test that they work. Service-based advocacy can be a powerful point of entry to engage governments on the practical application of alternatives.

- Develop, test and promote the model
- Build on existing community models available that could be used for people currently in immigration detention. For example community and religious community housing or shelters, legal programs, social work models, volunteer programs, welfare services etc.

GET INVOLVED

The IDC is building an international campaign against the detention of children. See www.idcoalition.org/children

For example: In the Netherlands, civil society groups came together under the coalition "No child in detention". On 29 January 2008 the government publicised a new policy regarding the immigration detention of children and their families creating more alternative accommodation for them, and the improvement of detention conditions. After repeated calls by the coalition this was expanded to unaccompanied minors. In 2011, the Minister started investigating alternatives to detention for adults.

4

ADVOCATE FOR ALTERNATIVES

There are three key advocacy areas explored here: **Targets, Messages and Tactics.**

TARGETS

Start by mapping and choosing key targets (power mapping), i.e decision-makers and allies.

These may be government ministers, cabinet staff, administration or national bodies. Choose people who have the power to make changes to immigration detention or who can influence those with this power, such as friendly parliamentarians or nationally respected figures. **Focus on a set of key people rather than an entire institution.**

KEY MESSAGE

Use one message throughout. Ensure the message is evidence-based, using supporting arguments on page four and from your national analysis from activity 1.

Adapt these key messages below for your national context:

For the public, allies and constituencies	The government, policy makers, legislators and officials
(X) many people are detained every year for immigration purposes. This has a very negative impact on their mental and physical health especially for (Y) vulnerable group. There are effective alternatives, which the government must start using.	The CAP model reduces the financial and human cost of immigration detention and avoids wrongful and unnecessary detention. It maximizes management and case resolution in the community.

TACTICS:

Use the right tactics when working towards the goal. Be flexible and creative and use the powers of the various allies to reach the set of key people you have identified. Choose a name and slogan for your campaign. Make sure you tell the same story throughout. Various tactics will need to overlap in time. Make separate plans with specific timings and plan backwards.

We have identified a range of tactics for government engagement and reaching the wider public:

Government engagement: Identify who in the network is best placed to arrange a meeting with key government targets to discuss 'solutions'. Ensure your network does more than just raise the immigration detention problem and the lack of alternatives. Work out how you and your network can assist the government in exploring and developing these alternative models and the practical steps towards implementing alternatives.

When preparing to talk to the government, read the "Introduction for policy makers" to the handbook which outlines five stages in exploring and implementing alternatives:

- 1: Analyse the context, policy gaps and legislation
- 2: Assess the population subject to or at risk of detention
- 3: Build partnerships within government and with civil society
- 4: Explore alternatives abroad and discuss locally and nationally
- 5: Implement pilots, policy change and legislative reform

Other organisations may use other tactical approaches such as reporting on the impact of detention, litigation and public criticism, but the direct government engagement strategy should focus on working to find cost effective and efficient solutions that benefit all stakeholders.

Reaching the wider public. Build public support for alternatives by telling a powerful story. For example, wrongful detention, appalling conditions or the impact on a vulnerable group, may easily get media attention, however we need make sure people start thinking beyond detention and focus on the SOLUTIONS, i.e. alternatives.

Use media to reach the end goal, which is to convince governments to prevent and reduce immigration detention. The organisation in the network with the biggest media experience and capacity can contact media on its behalf. Find and brief friendly parliamentarians and nationally respected figures to talk about their concerns about immigration detention and highlight which neighbouring countries do not detain and use alternatives instead. Find the most powerful stories on individual cases of vulnerable groups in detention to highlight the need for change. Invite the media to visit a detention centre, as well as similar groups living peacefully in the community. See page 10 of the handbook for arguments to highlight the positive contributions of asylum seekers, refugees and migrants in the community.

IDENTIFIED TACTICS - Explore these to see which are relevant in your national context

For the public, allies and constituencies	The government, policy makers, legislators and officials
<input type="checkbox"/> Focus the message on your priority vulnerable group to make the issue concrete <input type="checkbox"/> Engage with media about alternatives to detention (letters to the editor, press releases, reports, research, media events, Op-Eds). Make it a growing issue, repeat the message over time on various occasions <input type="checkbox"/> Regularly inform the media of new data about your priority group. Always immediately circulate media releases to your network as well <input type="checkbox"/> Get pro bono help from a communications agency to brand the campaign and develop tools for action (post cards, posters, brochures, etc). Or you can use the graphic elements of the handbook (the silhouettes) which you can download from the website <input type="checkbox"/> Engage with the public (petitions, letter writing, events, outreach etc) using stories of people in detention and of those released into the community. Respect privacy and ensure confidentiality and consent <input type="checkbox"/> Use professionals to capture audio-visual stories about your priority group and use them online, at presentations, in schools, events etc <input type="checkbox"/> Contact documentary and filmmakers with a story they can focus on <input type="checkbox"/> Use social media to create a community around the issue. e.g. Facebook and Twitter	<input type="checkbox"/> Find ways to constructively engage with government, be solutions focused <input type="checkbox"/> Develop legislative, policy and programmatic models for change building on existing community models. Don't wait for the government to do it <input type="checkbox"/> Pilot, test and research these models yourself where possible <input type="checkbox"/> Promote the model to government, focussing on how it works in practice <input type="checkbox"/> Encourage governments to develop and implement the model, including pilots and national programs, highlighting your priority group <input type="checkbox"/> Write to your government on behalf of your network <input type="checkbox"/> Organise an expert roundtable to explore preventative mechanisms and alternatives relevant in the national and local context <input type="checkbox"/> Invite friendly parliamentarians to visit detention centres and alternatives <input type="checkbox"/> Encourage and facilitate a study visit to countries already implementing alternatives to detention <input type="checkbox"/> Use questions in parliament to table the issue and obtain relevant information <input type="checkbox"/> Use strategic litigation. Ensure the public message is that the case is about the need for policy change <input type="checkbox"/> Use international human rights instruments and mechanisms to draw international attention to the issue, such as the Universal Periodic Review and the UN Working Group for Arbitrary Detention

Successful examples:

- Sharing good international practice models and meeting government, led to the release of unaccompanied minors from detention in Japan
- Civil society in Argentina successfully developed and lobbied their government on a new legal and policy detention framework, which ensures detention is rarely used. They have been active in its development, implementation and monitoring its effectiveness
- Strategic litigation in Hong Kong led to court rulings on compensation and requiring the government to demonstrate the reasons for detention, leading to policy changes
- NGOs in the USA have worked with the government to develop a risk assessment tool
- NGOs in Australia developed a community-housing pilot for vulnerable groups, which government later funded as a national program
- Political pressure, community campaigns and media strategies to get the stories of 'invisible' detainees told, including children and long-term detainees, have been used in the UK
- NGOs in Asia Pacific have formed the 'Immigration Detention Working Group' to develop regional and national detention action-plans, including sharing information, capacity building, campaign and advocacy work, in collaboration with key stakeholders in the region, such as national human rights commissions and UNHCR

5

CONNECT TO THE INTERNATIONAL CAMPAIGN WORK

The IDC works at the international level and regularly attends United Nations (UN) meetings. The IDC also connects members regionally and nationally.

Join the international work on alternatives to detention: visit our website: www.idcoalition.org/cap to:

- Join our e-list and follow us on [www.twitter.com/idcmonitor](https://twitter.com/idcmonitor) or www.facebook.com/idc.cap for updates
- Receive our e-newsletter for latest news and developments
- Look up and share case studies on our alternatives blog
- Keep us updated about tools or resources that we can share with our members, as well as developments in advocating for alternatives info@idcoalition.org
- Become a member of the IDC

The IDC will launch its handbook in every region and in several individual countries and is developing an international advocacy strategy on alternatives. Find out when the IDC is coming to your region to engage groups on CAP and use this opportunity to build momentum. See www.idcoalition.org/cap

SUPPORTING ARGUMENTS FOR CHANGE

What we know about immigration detention:

- **Detention harms:** Detention, even for short periods, harms health and wellbeing for all. The consequences for the cognitive and emotional development of children may be lifelong
- **Detention violates human rights:** Detention undermines an individual's right to liberty and places them at greater risk of arbitrary detention and human rights violations
- **Detention is costly:** Detention and removal is more expensive than community-based alternatives.
- **Detention does not deter:** Detention is not effective in deterring asylum seekers, refugees and irregular migrants.
- **Detention is counterproductive** in achieving compliance with final decisions. On the contrary, asylum seekers and irregular migrants in the community comply and cooperate if they are able to meet their basic needs, have been through a fair and informed process and are supported to achieve sustainable long-term solutions while awaiting a decision on their case.
- **There are alternatives to detention:** Cost-effective, humane and reliable alternatives to detention are currently used around the world and have been found to benefit government, the community and the individual.

Remember what the IDC can do to SUPPORT you:

- We assist in lobbying and advocacy of government, so keep us up to date.
- We connect members to regional, national and local NGOs and civil society groups, including legal and service providers.
- We also provide training on alternatives for members as well as technical, programmatic, legal and policy assistance. Get in touch if you want to know more.

Remember the goal: End unnecessary immigration detention and introduce community-based alternatives. The CAP model is a concrete solution. Changes should be implemented in law, not just in policy and practice.

The International Detention Coalition brings together over 250 civil society organisations and individuals from 50 countries across the globe working together to improve the human rights of detained refugees, asylum seekers and migrants. To find out more or download the handbook visit: www.idcoalition.org or email: info@idcoalition.org.

