



STRENGTHENING CAPACITY TO IMPLEMENT ALTERNATIVES TO DETENTION

Kuala Lumpur, Malaysia

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Asia Pacific
Refugee Rights
Network

International
Detention Coalition

Human rights for detained refugees,
asylum seekers and migrants

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BACKGROUND

Governments across the Asia Pacific region increasingly use immigration detention as a means to deal with refugees, asylum seekers, stateless persons and irregular migrants. This is of particular concern to the Asia Pacific Refugee Rights Network (APRRN), the International Detention Coalition (IDC) and other civil society actors in the region.

The Asia Pacific region hosts more than half the world's refugees and also has the largest number of stateless persons globally. Due to a lack of a protective framework for refugees and stateless persons in many countries in the region, such individuals are at risk of arbitrary detention, often in conditions that fall well short of international standards.

Research has shown that immigration detention is costly, ineffective and psychologically damaging. International law also stipulates that the use of immigration detention should be proportional, necessary, and a measure of last resort. Notwithstanding this, detention has tended to be applied in a blanket, arbitrary manner in many countries in the region, and alternatives to detention (ATD) are still not commonplace.

Further advocacy is needed to encourage the adoption and implementation of ATDs.

For the past six years, IDC and APRRN have been working consistently through APRRN's Immigration Detention Working Group (IDWG) to improve protection of detainees, increase access to justice for detainees, limit and end the use of immigration detention, and advocate for ATDs. The work of the IDWG includes the development of national and regional action plans to achieve these goals, as well as the organisation of advocacy and capacity building workshops around themes related to immigration detention and ATDs.

In August 2013, APRRN and IDC co-organised the 'Capacity Building Workshop on Alternatives to Detention' in Jakarta, Indonesia. This aimed to strengthen the capacity of IDC and APRRN members to implement or further develop ATD models in the region. In November 2013, regional consultations on immigration detention were held that brought together APRRN/IDC members, UNHCR officers, other international organisations as well as representatives of multiple national human rights commissions (NHRCs). During these consultations national and regional actions plans were drafted. It was also agreed upon that there is a need to organise a second capacity building workshop on ATDs that would focus on sharing of good practices.

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INTRODUCTION

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The Capacity Strengthening Workshop on Alternatives to Detention, jointly organised by the International Detention Coalition and the Asia Pacific Refugee Rights Network, was held from 30 April to 1 May 2014 in Kuala Lumpur, Malaysia. The workshop was designed for APRRN/IDC members who are already focusing on developing and strengthening alternatives to detention in the Asia Pacific region.

The workshop was highly practical; participants learnt about and shared successful strategies and good practices in advocating for and implementing ATDs. Key topics included in-depth discussion of: ATD case studies at a national level; the process of forming and sustaining multi-stakeholder working groups to advocate for ATD; the use of strategic litigation to challenge wrongful and arbitrary detention; the importance of conducting monitoring and evaluation of ATD projects; and developing proposals for ATD projects.

The core workshop objectives were to:

1. Build upon existing knowledge, skills and capacity amongst organisations working on ATDs; and
2. Provide a platform for sharing experiences, challenges and ATD good practices.

The workshop focused on the following core areas:

1. Key strategies for promoting ATDs and achieving change;
2. ATD case studies and proposals in Indonesia, Japan, Korea, Malaysia, Pakistan and Thailand: Opportunities and Challenges;
3. Advocating with governments to adopt and implement ATD;
4. Building and sustaining strong civil society working groups;
5. Strategic Litigation; and
6. ATD Monitoring and Evaluation.



The training sessions were highly participatory, with presentations and group discussions around the issues outlined above. Participants actively discussed:

- Current use of the Community Assessment and Placement (CAP) Model;
- Baseline research they are using to bolster their knowledge of the national detention context and challenges/ opportunities for ATDs;
- Actively surveying populations in detention;
- How to engage governments on ATD exploration, development and implementation, including strategies that have proven effective; and
- National working groups and their ability to influence change.

A wide range of participants from different countries within and outside the Asia Pacific attended the course, including participants from Australia, Germany, Indonesia, Japan, Korea, Malaysia, Mexico, Pakistan, Thailand and the USA. Nineteen NGOs, two representatives of national human rights commissions, and the UNHCR Regional Office were present (see Appendix 1 for details of participants). This report provides an outline of the main issues covered throughout the two-day workshop.

This workshop would have not been possible without the dedication and assistance of many people. A big thank you to the entire team at IDC (notably Grant Mitchell and Vivienne Chew) in addition Julia Mayerhofer and Evan Jones (APRRN). Thanks are also extended to speakers and moderators throughout the two-day event. A further thank you is extended to the funders of this workshop; UNHCR, Oak Foundation, Open Society Institute and Planet Wheeler.

KEY THEMES

1. Overview of CAP Model and analysing local contexts



1.1. The CAP Model

The CAP Model is detailed in the IDC's publication, *'There are Alternatives: A Handbook for Preventing Unnecessary Immigration Detention'*. The CAP Model is a way for NGOs and governments alike to rethink how immigration detention is used and how they can move away from this practice. It is intended as a tool for stakeholders to utilise to prevent unnecessary immigration detention and ensure that detention is used as a measure of last resort. The CAP model was developed following research conducted by the IDC and La Trobe University in 2009 and 2010 on community-based ATD in over 20 countries. This research also found that ATD are cheaper, more humane and more effective than detention.

The below table provides a snapshot as to the detention and ATD policies and practices in the countries represented at the workshop.

Facilitators and presenters:

Grant Mitchell (IDC)
Vivienne Chew (IDC)
Julia Mayerhofer (APRRN) Anderson
Selvasegaram (SUKA Society)
Lars Stenger & Chris Eades (JRS)
Patra Jirawisan (Thai Committee for Refugees)
Ji Yoon (Refuge pNan)
Mieko Ishikawa (Forum for Refugees)
Susumu Tada (Japan Association for Refugees)
Imran Laghari (Human Rights Alliance)

Country	Authority that Detains	Presumption Against Detention?
Indonesia	The Immigration Department	Generally, the Government will only detain asylum seekers who try to leave Indonesia by boat to get to Australia. There is also a provision in Indonesian law that certain groups, including children and pregnant women, should be placed outside of immigration detention centers.
Japan	The Immigration Department	Children (up to 16 years of age) and pregnant women are not detained; however, this is only enshrined in policy and not legislation.
Korea	The Immigration Department	Generally, all asylum seekers are detained including children and pregnant women. If they are ill then they are often placed on provisional release.
Malaysia	The Immigration Department	UNHCR cardholders are generally not detained; however this is not consistently applied in practice. Cardholders may also be detained to verify the authenticity of their UNHCR cards and are subsequently released once verification is obtained. If a non-registered asylum seeker is already in detention, they may be released upon registration by UNHCR; however this process can be lengthy.
Pakistan	Border security forces at land borders, the Immigration Department at airports and the police for refugees / migrants already in the country.	All groups are detained, even UNHCR recognized refugees; however, this group can be released, but generally only if lawyers represent them.
Thailand	The decision is made by the first law enforcement official the person has contact with (generally local officers).	The Royal Thai Government does not detain Rohingya women and children in immigration detention centres. They are instead put into community shelters run by the Ministry for Social Development. However, when there is a large influx of Rohingya women and children, detention often occurs.

The aforementioned table highlights that some vulnerable persons such as refugees, women, children and families can be, and are being, exempt from immigration detention. To support advocacy efforts around ATD, these should be shared as examples of alternatives already operating in the region. It is important however, to advocate for ATD to be codified in law and not simply developed as informal policy, as is the case for many of the above examples.

“ Screening and assessment processes help officers and decision makers to determine when detention is absolutely necessary and legitimate ”

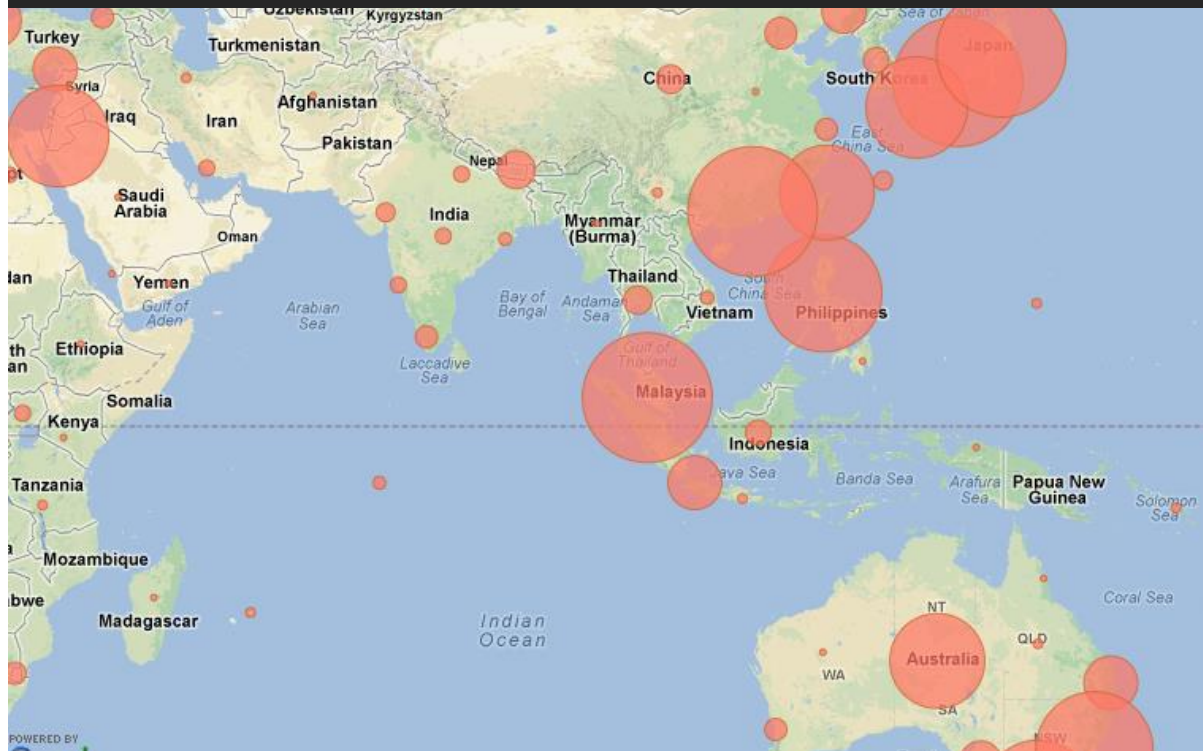
In order for governments to avoid unnecessary immigration detention, they must be made aware of whom they are detaining. Screening and assessment processes help officers and decision makers to determine when detention is absolutely necessary and legitimate. They also help identify vulnerabilities that should be taken into consideration in a decision on whether to detain, notably age, gender, diversity, protection needs and health.

Workshop facilitators agreed that the imposition of conditions upon an individual upon his/her release from detention could be used, if necessary and proportional. Some examples of conditions to release include: posting of bail, monitoring and supervision, passport retention, a requirement to depart the country within a certain timeframe and penalties for non-compliance.

Finally, it was noted that although *‘There are Alternatives’* has been translated into Japanese and Mandarin and some governments have used it in analysing and reforming detention practices, more can be done to promote the CAP model and ATD in the Asia Pacific region. IDC and APRRN members are encouraged to utilise the CAP model and the good practices and processes identified in *‘There are*

Alternatives’ in their advocacy and capacity building efforts and are welcome to contact the IDC’s Asia Pacific Coordinator for any technical assistance in this area.

1.2 Use of Detention across the Region and ATDs



MALAYSIA

There are currently 13 detention centres across Malaysia, although the exact number of detained persons is unknown. Vulnerable groups are not exempt from detention, though UNHCR cardholders and registered asylum seekers are, for the most part, able to be released from detention following UNHCR intervention. There has been a concerted effort by civil society to advocate for ATD for children and improved detention conditions through engagement, training and partnerships with the government, UNHCR, SUHAKAM (the Malaysian National Human Rights Commission) and the Prime Minister's Office.

As a result of such efforts, a 'government-SUHAKAM-NGO' working group has been formed in order to develop an ATD Pilot for children. The working group has two primary aims: (1) release of children currently held in detention into a temporary shelter and (2) prevention of any future arrest and detention of children. Mapping is currently underway to ascertain which organisations are able to provide relevant support/assistance in implementing this ATD.

The working group is grappling with several challenges in relation to structuring the ATD. These include:

- Identifying legal mechanisms for non-detention/release and guardianship of children that do not require a change in current legislation
- Ensuring the integrity of the family unit
- Detention centres are spread across the country and therefore the best location for the ATD shelter is difficult to determine
- Funding - civil society is currently attempting to institute the ATD with their own funding

THAILAND

There is little contact with refugees in immigration detention centres across Thailand. APRRN members have worked in two detention centres in Thailand: Suan Phlu and Kanchanaburi. The number of people in immigration detention fluctuates due to short stays; however there are a significant number of stateless persons who are part of the long-term population. It was noted that APRRN members currently have very limited access to the detention centres in Southern Thailand where there are large numbers of Rohingya.

Existing ATDs

The Thailand participants highlighted three different ways in which stakeholders in Thailand are trying to ensure immigration detention is used as a measure of last resort and that ATDs are implemented instead.

- Prevention Strategies
 - After the arrest of a refugee or asylum seeker, explain to police the human aspects of the refugee experience i.e. persecution, torture, fear of and inability to return, etc.;
 - UNHCR hotline for refugees to call where UNHCR can speak to the police officer to negotiate release (this only works prior to detention);
 - UNHCR training with police on refugee issues;
 - Training for refugees: a positive example is the 'Know Your Situation' training offered by Asylum Access Thailand.
- Bail Procedures
 - The Jesuit Refugee Service Thailand (JRS) and the Thai Committee for Refugees Foundation (TCR) act as guarantors to secure bail for refugees that have been offered resettlement. It was noted that this program is largely dependent on personal relationships with the government. Bail procedures are extremely opaque, and there is rarely consistency in decision-making. Persons released on bail must report to immigration detention every 15 days (with their sponsor – who must be a Thai national).
- Advocacy on ATD:

- The UNHCR is piloting an arrangement with the Thai government through which women and children have been screened to identify suitable test cases for transfer from immigration detention centres to government shelters. Persons identified under this arrangement were then resettled from the shelters, and now new cases have to be identified.
- Civil society is trying to advocate for UNHCR to provide better counselling for people in detention.
- The NGO Shadow report on Thailand's compliance with its obligations under the Convention against Torture (CAT) also contains information on children in detention.
- TCR is proposing a Refugee Bill; however, the fluid political situation is making it hard to progress the Bill.

INDONESIA

There are currently an estimated 10,600 asylum seekers in Indonesia. Of this population, 18% are in immigration detention, 26% are placed in ATD and 56% have no support. There has been a disturbing trend in recent times where people have been surrendering themselves to immigration detention as they do not have enough financial resources to support themselves in the community. There is also limited release of persons into ATD community housing. Some groups, notably Rohingya, have difficulty accessing ATDs.

Existing ATDs

At present civil society is attempting to improving standards within one immigration detention centre at a time. This is seen as more achievable compared to changing overall government policy.

There is currently a great deal of advocacy occurring to try to institutionalise and promote ATDs in Indonesia. This includes:

- Internal monitoring;
- Letters, briefings and engagement with government bodies;
- Research and best practice documentation/sharing;
- Awareness raising; and
- Active engagement with refugee communities including local meetings, assisting with housing, raising individual cases/concerns with UNHCR or local authorities.

JAPAN

Japan currently has one very small ATD pilot project that was funded from April 2012 to March 2014. This started after the signing of a Memorandum of Understanding between the Ministry of Justice, Japan Federation of Bar Associations, Forum for Refugees Japan (FRJ) and UNHCR. The project was primarily aimed at airport arrivals who had strong grounds for protection claims. Once individuals were referred to the ATD, FRJ had the task of meeting them at the airport and finding them appropriate healthcare and accommodation. Whilst the pilot officially ended at March 2014, the Ministry of Justice has continued to refer individuals to the ATD project.

Over the two years of the project, 12 people (9 cases) were referred to FRJ and five people received refugee status within two years. Disinterest from government and funding/human resource constraints were all challenges highlighted by participants from Japan.

KOREA

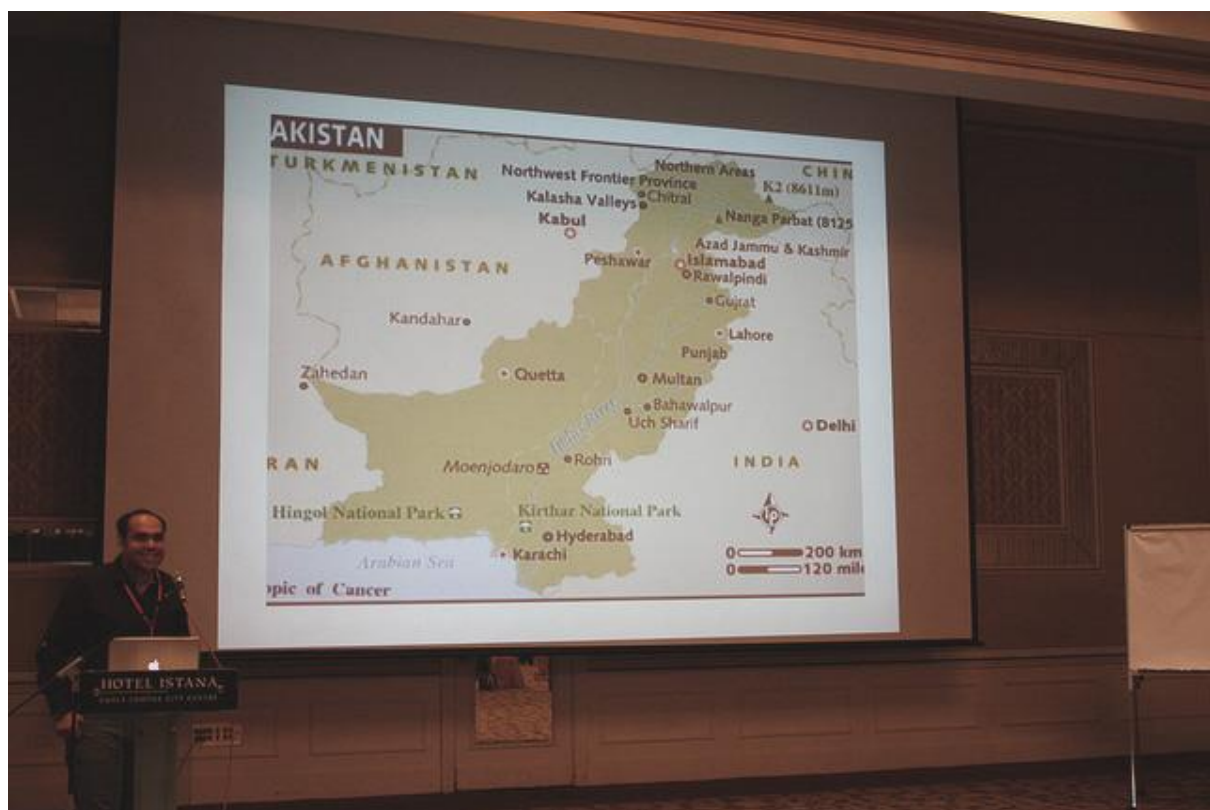
Korea currently has three detention centres and one main 'reception centre'. The Korean Refugee Act came into force in 2013, providing greater safeguards and protection standards for asylum seekers and refugees. Under the Refugee Act, persons are able to claim asylum at the airport, although in practice the Act is inconsistently implemented by immigration officials. As a result, many persons who have claimed asylum at the airport have been detained. Detention times have varied from 7 days to three months.

A Taskforce within the Korean Bar Association has recently been formed, which consists of approximately 20 lawyers and NGO workers. Since its inception, six investigations into cases of immigration detention have been conducted. A sub-group within the Taskforce has been formed, which is researching detention laws and regulations from other countries. Refuge pNan runs a shelter for asylum seekers; however there is very limited capacity to provide accommodation. A lawsuit against the Korean Government is planned to challenge immigration detention practices.

PAKISTAN

There are currently in excess of 3 million Afghan refugees in Pakistan, in addition to a further stateless population from Bangladesh. ATDs are relatively unknown in the Pakistan context and the primary reaction of the government is to detain. This is due to the general perception that refugees and asylum seekers are threats to security.

There is limited access for NGOs to detention centres and, correspondingly, limited data and awareness about conditions in detention. There is some informal detention monitoring; however, NGOs are generally unable to hear from detainees during these monitoring visits. To further promote ATDs in Pakistan there is proposed advocacy with law enforcement in addition to mapping of prison populations (in Sindh Province).



2. Key strategies for achieving change



It is essential for civil society to position themselves as actors who can assist in developing and implementing ATDs. By utilising contacts and networks and drawing on best practices from around the globe, civil society can provide policy and decision makers with evidenced-based research on the effectiveness of ATD as well as the harmful impacts of detention.

Facilitators and presenters:

Ben Lewis (IDC)

Grant Mitchell (IDC)

Professor James Hathaway (University of Michigan Law School)

Alice Nah (University of York)

2.1. Advocating with Governments

Throughout the workshop, it was noted that there are many ways of engaging governments. Participants outlined some examples including:

- The development of broad based civil society networks focusing primarily on one issue. Child protection was highlighted as one key area that may be a 'soft' entry point for dialogue and engagement. This can be done directly with states or also through other processes such as the Universal Periodic Review (UPR) Process.
- Engagement with individual government officials is also seen as an effective way to create an impetus for change. By 'humanising issues', policy makers and officials may

“ Every government is different and therefore a tailored approach must be taken in each context ”

be more amenable to change. Simulation exercises and hypothetical discussions have also proved useful as evidenced by the experiences of Australian participants. Individual connections have proven extremely useful in the Thailand context particularly with immigration detention officials. There is an idea to hold sensitisation training with relevant officials from the Ministry of Foreign Affairs.

- Roundtable discussions with governments, national human rights commissions and other civil society actors were considered integral. It was further highlighted that, for strategic reasons, specific and more easily attainable issues could be focused upon first in these roundtable discussions e.g. children in detention. Japan noted their success with roundtable discussions as an advocacy starting point and how that has led to full access to immigration detention centres.

Advocacy with governments for implementation of ATDs can also take several forms/styles. These include through service provision, more “noisy” advocacy, strategic litigation, and coordination and cohesive action among advocates. Every government is different and therefore a tailored approach must be taken in each context.

CASE STUDY: USA

Recent developments in the US are an example of successful government advocacy to end unnecessary immigration detention and adopt ATD. The US is the world’s largest detainer with in excess of 30,000 persons incarcerated at any one time. These numbers reflect the potential damaging and costly impacts to a large number of vulnerable people. As a result of pressure from numerous avenues, the Obama Administration decided to reform immigration detention practices. A screening ‘risk assessment tool’ was developed that weighs the potential risks to the community against the use of detention. As a result of such reforms, a significant shift has occurred in the US, with policies that are more focused on using detention as a measure of last resort.

2.2. Strategic Litigation

Strategic litigation can be a useful tool for changing national laws and policy. The case study below provides an example of when strategic litigation may be used. In the case of ATDs, depending on the country context and the political climate, strategic litigation could be an effective mechanism to challenge wrongful, arbitrary detention and to create legal precedents that ensure detention is used as a measure of last resort.

CASE STUDY: KENYA

In 2012 the Kenyan Government declared that in order to access registration and other services, asylum seekers and refugees had to leave urban areas and relocate to either Kakuma or Dadaab refugee camps. This was contrary to the right to freedom of movement (and any permissible derogations to this right), enshrined in both international law and the Kenyan Constitution. This declaration was challenged in the High Court by way of strategic litigation and was successfully overturned. The court determined that refugees could live anywhere they like. Despite this, the Government ignored the ruling and ordered for all persons to be moved to these camps.

Although the Kenya case was in some respects an ideal opportunity for strategic litigation, some of the key ingredients for success were missing. Notably, despite a favourable outcome in the case, key stakeholders including UN agencies and NGOs were ill-prepared or unwilling to condemn the Kenyan government for failing to respect the court's decision.

It was suggested that there is a 'checklist' that can be utilised to determine the feasibility of strategic litigation. If each of the preconditions are met then strategic litigation is a viable and worthwhile mechanism. These preconditions are:

- if by winning, political reform is highly likely;
- there is rule of law and judicial independence in the country;
- there is a solid legal course of action supported by international law;
- there are enough financial and human resources to ensure success. Without this there may be a negative legal precedent;
- ensure you do not have individual litigants as these can be fallible;
- all downside risks have been considered; and
- there are national or international coalitions that can help to support the process.

“ Although the Kenya case was in some respects an ideal opportunity for strategic litigation, some of the key ingredients for success were missing

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2.3. Civil Society Collaboration

Discussion in the session centred around the preconditions for a successful network that would be able to engage governments to achieve change. Facilitators and participants agreed upon the following elements as integral to networks such as APRRN, IDC or other regional or national civil society networks.

- **Leadership**
 - Must be able to understand members and set the vision and direction of the network; and
 - Actively facilitate, coordinate and build consensus
- **Shared vision, commitment and trust amongst members**
 - Willingness by members to engage in collective action; and
 - They must feel like something can be gained
- **Strong personal relationships between members**
 - Mutual understanding and opportunities for informal networking
- **Structures and processes for decision-making and direction setting**
 - Mechanisms to reach consensus and for conflict resolution
- **Good Governance**
 - Transparent, accountable, timely and effective
- **Technical Expertise**
 - This is essential for legislative or policy change on the national, transnational and international level
- **Time and Resources**
 - Networks are time consuming but at the same time they have the ability to make larger and more meaningful changes



3. Analysing the Local Context



3.1. Detention and the ATD Diagnostic

In the 2000s, detention started to be used a lot more due to increased irregular migration of Central Americans to the USA. In order to better understand the detention context and possibilities for ATD in Mexico, the IDC conducted a “diagnostic” exercise to analyse national laws, policies and practices relevant to the use of detention. In particular, the IDC wanted to understand why there was often a disjoint between legislation and practice. The diagnostic consisted of desk research, field research and interviews.

CASE STUDY: AMERICAS

What were the objectives?

- Identify existing ATDs, good practices and areas for improvement and plan follow-up actions. This information was shared with other NGOs.
- Propose specific solutions to developing and implementing community-based ATDs e.g. having the phrase “person should not be detained” on a person’s asylum card would be a start.
- Clarification of existing legislation. There was confusion around how legislation was being interpreted and therefore inconsistencies in implementation.

Challenges

There was a lot of misinformation on detention and ATDs. In addition, detention was not perceived to be as relevant as other human rights violations against migrants. This led to a lack of public support for, and social debate around, the subject.

Lessons Learned

- Mapping available services within the community is important, with a view to developing local networks. This is especially relevant if the diagnostic has the aim of promoting the development and implementation of ATD programs.
- Diagnostics can help to plan short/medium and long-term strategies and is also useful for training and advocacy.
- Whenever possible, access information or build comparisons with other forms of detention and community living. In contexts where there is not a clear idea about what an ATD is, conduct national case analysis to help NGOs and authorities to better understand the topic.
- Whenever possible, include information regarding the negative effects of detention on people.

3.2. Using detention surveying to identify ATD needs and opportunities

Asylum Access conducted a survey (published December 2013) of several prisons in Tanzania to assess the degree to which refugees and migrants were being detained and the circumstances of their detention. Desk research had revealed that a large number of refugees and migrants were likely being detained, and those in detention did not have access to UNHCR and very limited access to legal assistance.

CASE STUDY: TANZANIA

Asylum Access outlined the process by which they had conducted this survey. The key information they hoped to attain was:

- the number of registered refugees in detention;
- the refugee/migrants' intended final location;
- the number of women and children detained (if any); and
- the number of refugees that had valid visas for third countries or had been offered resettlement.

The research team initially proposed a partnership with the Prison Services (Tanzania Government), although this took approximately six months to come to fruition. A precondition to the agreement from the Prison Services was that questions on the

conditions of detention were not to be included in the survey or documented. Further challenges in conducting the survey included: building trust with prison authorities and refugees, language barriers, confidentiality, managing the expectations of those being surveyed as to the purpose and expected outcomes of the survey, attracting negative attention from the prison authorities, and illiteracy of detainees.

“ The survey, in addition to being useful for monitoring purposes, set the government and UNHCR into a course of action to prevent further unnecessary cases of immigration detention

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The prisons surveyed were all in urban centres where migrants were known to be residing. All persons inside the prisons were surveyed, totalling 478 people across 13 locations. For the report, only 389 transcripts and responses were analysed.

Overall, the survey highlighted the overall desire by detainees to return home over staying in detention, although financial resources were inadequate for many to do so. For persons determined to be refugees, legal counsel was provided as was expedited RSD proceedings. The survey, in addition to being useful for monitoring purposes, set the government and UNHCR into a course of action to prevent further unnecessary cases of immigration detention.

4. Promoting Monitoring and Evaluation of ATD Projects



4.1. Monitoring and Evaluation

In establishing monitoring and evaluation systems, it was broadly agreed that simple reporting tools can be the most effective for achieving operational efficiency and donor accountability. Moreover, they are essential for managing workloads and also for future advocacy. Dependent upon the organization, a basic Microsoft Excel spreadsheet may be more than sufficient to track case-specific trends and outcomes. However, it must be ensured that data collection is consistent, factors in constraints and includes mid-term reviews. Results can be used at a later stage for advocacy, to secure funding, to analyse change over time, and evaluate programmes.

The JRS Asia Pacific Office also provided an example of their collation of various vulnerability criteria across numerous detention guidelines. This is now used by JRS Caseworkers to determine someone's level of vulnerability and is a good baseline tool. In developing program objectives and indicators for monitoring and evaluation, it is essential to ensure that these are:

- Specific
- Measurable
- Agreed / Achievable
- Realistic / Relevant
- Time-Specific

5. Next Steps in Developing, Promoting & Implementing ATDs



Facilitated by

Vivienne Chew (IDC)

Julia Mayerhofer
(APRRN)

Participants worked within country groups to draft action plans and strategies to be implemented in the coming year. A summation of the action plans is below.

THAILAND

It was agreed amongst all participants that especially during this politically tumultuous time, key pre-existing relationships with immigration officers should be fostered and maintained. Moreover, all participants from Thailand agreed the following 'next steps':

- There should be a focus on children and separated families in detention, as this is likely to gain the most traction in the Thailand context.
- Civil society must continue to work together to create and foster better communication channels with the Government and UNHCR.
- The Immigration Detention Superintendent and other senior immigration officials should be invited to an APRRN/IDC sponsored training on ATDs and improving conditions in detention.
- Research into the cost of detention in Thailand should be undertaken and shared.

- More local Thais should be engaged in the work of civil society to further the ability to make contacts across a broader number of sectors, including with government actors.

MALAYSIA

- Civil society will continue advancing towards the development of a viable ATD for children in Malaysia, through the government approved working group with SUHAKAM and civil society. As part of this goal, there was a lot of discussion around pushing for an ATD pilot project (transitional shelter) with case management follow-ups. This will be subject to the ability to secure funding for the shelter.
- Subject to human resource capacity, APRRN/IDC should conduct research into gaps in protection for refugees and asylum seekers in Malaysian immigration laws and policies and possible actions to address such gaps.

PAKISTAN

- There was a commitment by the Pakistan participant to undertake a survey of prison populations in Sindh Province. There was an estimated timeframe of November 2014 for the release of findings and organising a subsequent training/workshop for Pakistan government representatives, to be hosted together with APRRN/IDC.
- There were discussions to bring the findings from the sample survey to the politicians, the media, border control officers and detention officers, to understand their needs and encourage them to undertake screening as it is in their interests to avoid unnecessary and wrongful detention. The survey and associated report will also be used as an advocacy tool for engaging with relevant government ministries.

JAPAN

As noted earlier, Japan has recently completed a 2-year ATD pilot project and are now finalising a report on the outcomes of the ATD project.

- The Japanese participants primarily highlighted their need for assistance and support from regional and international organisations such as IDC and APRRN to continue, improve and expand the ATD project.
- This could include continued advocacy to encourage greater dialogue between the government and civil society on detention issues. It would also be useful to continue to highlight global and regional good practices as the Japanese government can be quite receptive to learning more from other countries' practices, particularly its neighbours in East Asia.
- Finally, a training of immigration officers on the CAP screening mechanism was proposed for 2015, to be facilitated by IDC and APRRN.

INDONESIA

The Indonesian participants highlighted two main areas where they intend to pursue in terms of ATDs. These were:

- National Roundtable
 - This would involve engaging a multitude of stakeholders including the National Human Rights Commission, the Government, UNHCR, civil society and refugees. It was noted that the government must be informed well in advance with a detailed Terms of Reference. There was agreement that encouraging discussion through the use of smaller breakout groups would be ideal and that simulation exercises would be useful. An Australian representative with good regional knowledge should also be invited.
- Training and Sensitisation
 - There was agreement that there is a need to provide awareness and sensitization training to the National Human Rights Commission and Immigration Officials. A 'pocketbook' for detention guards containing information on human rights obligations was expressed as a tangible product that could be developed.



CONCLUSION

This workshop highlighted that each of the participating countries were at different stages regarding ATDs: some are at the diagnostic stage and some at the ATD implementation stage. It was stressed that the real battleground for ATDs must be fought on the national level. Whilst APRRN and the IDC can assist on the regional levels, the majority of the work and the impetus must come from the local and national levels. In-country actors have more credibility and a better understanding of local context and needs; however regional actors can be brought in as neutral independent experts to share good practices, build capacity and help create momentum for change.

The workshop really brought to the fore that children may be the best entry point for advocacy with governments as there is broad consensus at the international level that they should not and do not need to be detained. To this effect, the IDC highlighted the Global Campaign to End the Immigration Detention of Children, which many members are already familiar with. They encouraged members to utilise the Campaign as a tool for engaging with governments and raising awareness of the issue of child detention. Members can use the campaign's [online resources \(www.endchilddetention.org\)](http://www.endchilddetention.org) and run national focus months in their respective countries. All participants were encouraged to contact the IDC for more information on the Campaign, as well as other resources relating to immigration detention. It was also noted that a guide on monitoring places of immigration detention, jointly published by UNHCR, the Association for the Prevention of Torture, and the IDC, would be released in June 2014.

To conclude the workshop, the UNHCR provided an overview of opportunities in the region. The UNHCR Global Detention Strategy was highlighted as a useful document that outlines the following priorities: eliminate the immigration detention of children, develop national ATD legislation, and improve conditions in detention.

“The workshop really brought to the fore that children may be the best entry point for advocacy with governments as there is broad consensus at the international level that they do not need to be detained.

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“ Dialogue amongst civil society actors across all countries in the region is imperative to ensure that any changes in refugee protection and the detention context are monitored and shared

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The Asia-Pacific region faces a great deal of challenges and a lot of work is required to improve and increase refugee protection. Irregular maritime arrivals (especially in Australia) are detained immediately, pushed back to sea or sent to offshore processing facilities. Airport arrivals are often not known about, with persons being detained at the airport and sent back before being allowed due process, including access to asylum procedures.

However, there are opportunities available for civil society to be more involved in invoking positive change and lessen incidences of immigration detention. There has been a lot of discussion within the Bali Process framework regarding irregular movement by sea, although to date NGOs have had little ability to interact or engage with Bali Process mechanisms. However it was proposed that by continuing to actively engage with UNHCR, NGOs and civil society members could have their concerns and suggestions tabled at future Bali Process meetings.

Finally, dialogue amongst civil society actors across all countries in the region is imperative to ensure that any changes in refugee protection and the detention context are monitored and shared. This can help to groups across the region to identify and take advantage of opportunities for government engagement, as well as other advocacy and campaigning initiatives.

APPENDIX 1. Participants and NGOs Represented

Country	Participant	Organisation
Australia	Graham Thom	Amnesty International Australia
	Grant Mitchell	International Detention Coalition
	James Thompson	International Detention Coalition
	Leeanne Torpey	International Detention Coalition
	Libby Zerna	International Detention Coalition
	Lucy Bowring	International Detention Coalition
	Mary Latham	International Detention Coalition
	Tamara Domicelj	Act for Peace
Germany	Jem Stevens	International Detention Coalition
Indonesia	Jessy Magdalena	World Relief
	Melanie Sri Endang	KomnasHAM
	Siti Fahradata	Church World Service
	Zainuddin	JRS Indonesia
Japan	Mieko Ishikawa	Forum for Refugees Japan
	Susumu Tada	Japan Association for Refugees
Korea	Jiyeon Kim	Refugee pNan
	Ji Yun Goh	The Korean Bar Association
Malaysia	Alice Nah	International Detention Coalition
	Anderson Selvasegaram	SUKA Society
	Jennifer Clement	SUKA Society
	Jessica Low	Migration Working Group
	Shikin binti Hamzah	SUHAKAM
	Vivienne Chew	International Detention Coalition
	Moses	Health Equity Initiatives
Mexico	Elba Coria	International Detention Coalition
	Gigi Bonnici	International Detention Coalition
	Vanessa Martinez	International Detention Coalition
Pakistan	Imran Khan Laghari	Human Rights Alliance
Thailand	Chantal Hudson	Asylum Access (Thailand)
	Chris Eades	JRS Thailand
	Evan Jones	The Asia Pacific Refugee Rights Network
	Julia Mayerhofer	The Asia Pacific Refugee Rights Network
	Junita Calder	JRS Asia Pacific
	Moritz Reger	Thai Committee for Refugees
	Patra Jirawisan	Thai Committee for Refugees
	Tom Vargas	UNHCR Regional Office, Thailand
	Wanrob (Toi) Warasdr	JRS Thailand
USA	Amalia Greenberg Delgado	Asylum Access
	Anna Marie Gallagher	International Detention Coalition

