



International Detention Coalition

Human rights for detained refugees,
asylum seekers and migrants

SEEKING EXPRESSIONS OF INTEREST

POSITION:	Research Consultant
PROJECT:	Alternatives to Immigration Detention in North Africa
LOCATION:	Home-based, with travel in North Africa for a regional workshop
DURATION:	5 months
PERIOD:	Stage 1: August-September Stage 2: October-December (subject to funding)
CLOSING DATE:	Friday 22 nd July 2016

1. SUMMARY

The International Detention Coalition (IDC) has been commissioned by MHub and the North Africa Mixed Migration Task Force (NAMMTF) to undertake a study on alternatives to immigration detention (ATDs) in North Africa. The study aims to identify, describe and assess alternatives to detention in the countries of Algeria, Egypt, Libya, Morocco, Sudan, and Tunisia, with a focus on children and youth. A consultant is required to lead the research under the direction of the IDC's Research Coordinator.

2. BACKGROUND AND RATIONALE

As a region, North Africa is experiencing significant and complex migration patterns. Migration to, through and from the region is comprised of people from a wide range of countries of origin with a variety of motivations for their transnational movement. In recent years, significant upheaval in the Middle East and North Africa (MENA) region has seen larger numbers of people on the move. The scale of forced displacement within the MENA region since 2011 has been significant, particularly the large numbers of Syrian refugees fleeing the war, and refugees and migrants (particularly from sub-Saharan Africa) who had been living and working in Libya or transiting through the country, having to flee to escape the political upheaval and targeted violence in Libya. Countries in the region have seen a growth of regional migration, as well as inter-regional, as the North African coastline has increasingly been used as a launching point for those seeking to travel irregularly to Europe. These mixed migration flows within and through the region include significant numbers of children many of whom travel without their parents or guardians from the outset, or have subsequently become separated from their parents or guardians. Given the dramatic rise in maritime departures and the number of deaths at sea, North African states have come under increasing pressure to reduce onward migration across the Mediterranean. At the same time, North African states are facing serious domestic and regional challenges with a growing number of ISIS-affiliated cells becoming active within the region, resulting in a heightened concern for national security and border sovereignty.

It is within this context that governments in the region are using immigration detention to detain foreign nationals, both arriving into the country and attempting to leave the country. Immigration detention is a form of confinement applied by the administrative arm of government for reasons relating to a person's migration status. It differs to criminal incarceration, which is applied by the judicial arm of government as a result of a person being convicted of a criminal offence. Immigration detention is known to negatively impact mental and physical health, with particularly bad outcomes for those detained in poor conditions. The impact of immigration detention is especially destructive for children and youth, as many studies and expert testimonies attest. Furthermore, research suggests that the possibility of detention does not deter new arrivals to the extent desired by governments, and can impede outcomes such as resolution of migration status.

The current situation highlights the need for alternative approaches that respect fundamental rights to liberty and security, including freedom from arbitrary arrest and detention, human dignity and the right to seek asylum and protection, while still ensuring that States can responsibly manage their borders. It is therefore a critical moment to look at developing and expanding effective and humane alternatives to detention. This project evolved from the shared interests of the NAMMTF member agencies in reducing the use of detention in North African countries, in favour of alternatives. Alternatives to detention offer a humane, cost-effective and reliable way to govern migration. Taking a broad definition, alternatives to detention can include any policy, program, and practice, including arrangements not involving conditions/restriction to freedom of movement or liberty, that help to ensure non-nationals are not detained for reasons related to irregular entry, stay, or departure; or because of their legal status. It is important to emphasise that asylum seekers and refugees should always be considered to be lawfully in the country of asylum or transit, and therefore should not be penalised through the imposition of restrictions on liberty or freedom of movement, as per the provisions of the Refugee Convention.

Often non-governmental organizations (NGOs), community-based organizations (CBOs) and communities themselves are undertaking a range of effective practices that function to keep people out of immigration detention. Without identifying, describing and assessing these practices, effective responses cannot be developed or replicated. Once identified and assessed, these practices can be offered to other NGOs and international agencies to reproduce, and ultimately offered to states as alternatives to the costly practice of immigration detention.

Given the specific needs and vulnerabilities of children and youth,¹ particularly those who are unaccompanied or separated, targeted alternatives to detention are required to cater for these needs. The Committee on the Rights of the Child have made it clear that the detention of a child because of their or their parents' migration status is always a child rights' violation and never in the best interests of the child. Further, adolescence is an important stage of physical, psychological and intellectual growth. In some cultures, it is also a recognised period of identity formation and social transition. The developmental challenges of childhood and adolescence are compounded by the refugee and migration experience, and significantly impacted by the experience of detention. In light of these considerations, this study will highlight the differential ATDs for children and youth.

In order to improve the protection of migrants, refugees and asylum seekers in immigration detention, or at risk of immigration detention in North Africa, this study is being commissioned to identify, describe and assess alternatives to detention within the region. Using the IDC's revised

¹ This project defines children as any person aged 18 years and under, and youth as persons between 12 and 20 years of age.

Community Assessment and Placement model (CAP model) as a framework, the project will identify alternatives that are currently operating in six countries in North Africa.²

The Cairo-based MHub serves as a knowledge hub and secretariat for the NAMMTF, consisting of the Danish Refugee Council (DRC), the International Organization for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), the Regional Mixed Migration Secretariat (RMMS), Save the Children's Regional Office for the Middle East and Eurasia, the UN High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC). The NAMMTF promotes a human rights-based approach to ensuring the protection of people moving in mixed and complex flows to, through and from North Africa.

In 2016, the NAMMTF has identified children and youth on the move as a key focus area and will undertake a range of outreach, research and influencing initiatives in this field. Under this focus area, the NAMMTF is commissioning in 2016 three interrelated research pieces: 1) a study on Unaccompanied and Separated Children (UASC) in North Africa; 2) this study on Alternatives to Detention, with a focus on children and youth; and 3) a legislative review providing legal context for both of the aforementioned studies. In undertaking the Alternatives to Detention study, IDC and the consultant will work closely with the consultant undertaking the Legislative Review to ensure complementarity between the research outputs. The legislative review output shall provide overarching legal information to support the delivery of research questions 1-5 of this study.

3. ALTERNATIVES TO DETENTION

As the term 'Alternatives to Detention' (ATDs) is not defined in international law, there are a range of definitions and approaches used by different actors. This study will seek to take a broad definition of ATDs in order to capture:

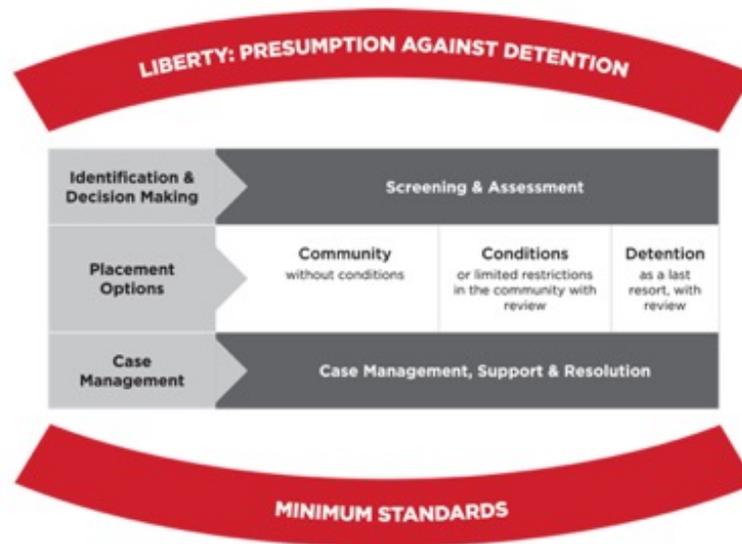
- Provisions that establish a presumption against detention and promote liberty
- Screening and assessment processes to understand and break down the population
- A range of placement options with varying degrees of monitoring and supervision
- The use of case management to understand and address the range of issues that can impact migration decisions and outcomes
- Ensuring minimum standards such as meeting basic needs, providing legal advice, and issuing documentation.

To do so, the study will use the IDC's revised Community Assessment and Placement model (CAP model) as a framework to identify alternatives. Within this framework, a range of alternatives are captured, including measures which see asylum seekers, refugees and migrants placed in the community with conditions or limited restrictions on their freedom of movement.³ These conditions include, *inter alia*, reporting conditions, release on bail/bond, nominated address, provision of a guarantor, and community supervision.

² See Section 3 for a comprehensive definition of Alternatives to Detention as understood for the purpose of this study.

³ This is in line with the definition used by UNHCR in their 2012 Detention Guidelines which defines ATDs as a shorthand term to refer to any legislation, policy or practice that allows asylum seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement.

Community Assessment and Placement: The Revised CAP model



In addition to such conditions, the CAP model also covers the range of laws, policies and practices that together reduce the need for detention by supporting migration status resolution while a person remains at liberty. These may include community-based care arrangements for unaccompanied and separated children or other vulnerable individuals or families, migrant welfare projects, programs that use case management, legal advice, screening and assessment mechanisms, registration and documentation practices and case resolution options (such as regularization).

4. RESEARCH AIMS AND OBJECTIVES

Aim: This research will identify, describe and assess alternatives to immigration detention in Algeria, Egypt, Libya, Morocco, Sudan, and Tunisia with a particular focus on children and youth.

Objectives:

- To **identify community-based alternatives to detention** that are currently operating in six countries of North Africa
- To **describe in detail** how existing community-based alternatives to detention function in terms of identification and decision-making, placement, case management, funding and state security concerns
- To **assess** community-based alternatives in order to understand the elements that reduce the use of detention and improve the outcomes of community-based programs, including their replicability or expansion
- To examine the **specific alternatives to detention provided for children and youth**, attending to the differential needs, vulnerabilities and standards, of children and youth as distinct from adults

5. RESEARCH QUESTIONS

The research will use the IDC's revised CAP model⁴ as a framework of enquiry for each of the countries of Libya, Egypt, Sudan, Morocco, Algeria and Tunisia. Research questions 1-5 will draw in part upon the above-mentioned Legislative Review that MHub is concurrently commissioning. The Alternatives to Detention consultant will work closely with the legislative review consultant to agree the division of specific research enquiries and to ensure consistency and accuracy of legal and policy information in responding to the below questions.

1. What **regional legal and human rights mechanisms** establish limitations on the uses of immigration detention, particularly in relation to children and youth?
2. What laws, policies or practices in each country establish **liberty and a presumption against detention**, including those that:
 - 2.1. Establish a presumption of liberty
 - 2.2. Provide a mandate to apply alternatives in the first instance
 - 2.3. Only permit restrictions to liberty when other alternatives cannot be applied
 - 2.4. Only allow the use of detention as a last resort
 - 2.5. Prohibit the detention of vulnerable individuals, particularly unaccompanied or separated children and families with children
3. What laws, policies or practices in each country establish **minimum standards**,⁵ particularly for children and youth, including:
 - 3.1. Respect for fundamental rights
 - 3.2. Appropriate mechanisms of best interest determination (BID)
 - 3.3. Meeting basic needs
 - 3.4. Legal status and documentation
 - 3.5. Legal advice and interpretation
 - 3.6. Fair and timely case resolution
 - 3.7. Regular review of placement decisions
4. What laws, policies or practices exist in each country to ensure appropriate **identification, referrals and decision-making** relating to individuals at risk of immigration detention in terms of:
 - 4.1. Legal obligations
 - 4.2. Identity, health and security checks
 - 4.3. Vulnerability, particularly children and youth⁶
 - 4.4. Individual case factors
 - 4.5. Community context

⁴ Further information on the CAP model and the elements listed below are available in the full report at Sampson, R., Chew, V., Mitchell, G. and L. Bowring (2015) *There are alternatives: A handbook for preventing unnecessary immigration detention (Revised)*. Melbourne: International Detention Coalition. Available at:

www.idcoalition.org/publications/there-are-alternatives-revised-edition/

⁵ These minimum standards pertaining to fundamental rights, basic needs, legal status, legal advice, case resolution and review of placement decisions are defined in IDC's handbook "There Are Alternatives"

<http://idcoalition.org/news/handbook-launch-in-middle-east-north-africa/>

⁶ The study will examine any safeguards in place to identify and respond to special cases and vulnerabilities: children and youth, but also refugees and asylum seekers, victims of trafficking, pregnant women, individuals with health issues, including mental health

5. What laws, policies or practices exist in each country to provide **case management, support and resolution**, particularly for children and youth, including:
 - 5.1. Case management such as support programs
 - 5.2. Case resolution such as temporary status, refugee protection, and regularization options
6. What laws, policies or practices in each country establish a range of community **placement options** including:
 - 6.1. Unconditional placement in the community, particularly for children and youth
 - 6.2. Placement in the community with conditions such as monitoring, supervision or surety
7. What existing evidence is available that assesses **outcomes** of alternatives to detention, particularly for children and youth, in terms of:
 - 7.1. Cost
 - 7.2. Compliance
 - 7.3. Health and wellbeing
 - 7.4. Respect for the best interest principle
8. What alternatives to detention identified during the study are best placed to be **strengthened, expanded or reproduced**, particularly for children and youth?

6. RESEARCH METHODS

Stage 1: Desktop Research and Key informant interviews

Stage 1 of the research will:

- Identify and describe regional mechanisms that limit detention (Question 1),
- Identify and describe laws establishing limitations on immigration detention (Question 2)⁷
- Identify and describe laws and formal policies relating to Questions 3-6
- Identify both formal and informal (or *ad hoc*)⁸ practices relating to Questions 3-6 to be explored in greater detail during Stage 2.

The first stage will entail undertaking desk-based research, supplemented by remote interviews with approximately 30 key informants by telephone or skype. The literature review will include national laws and policies, grey literature (such as reports by research organizations and human rights bodies) and published academic papers. The in-depth interviews will be undertaken with 5 key informants in each country via telephone or skype (total of 30 interviews). Interviews will be undertaken with known key informants (such as Task Force members and IDC members). Snowball sampling will then be used to identify further informants to contact and interview.

⁷ The laws and policies section will be based upon the findings of the accompanying Legislative Review being undertaken as a separate but complementary consultancy.

⁸ We use 'formal' practices to capture recognised programs operating in the community in a systematic and sustained manner (e.g. a recognised and established social welfare program for migrants operated by a government agency over several years). We use the term 'informal or *ad hoc*' practices to refer to one-off, short-term or clandestine practices that are not formally recognised by government as a valid program (examples include small NGOs that provide basic goods for irregular migrants through word-of-mouth networks, or informal arrangements between staff of a particular place of detention and local groups to release vulnerable persons from detention).

Interviewees will include staff of the organizations involved in the research, civil society groups in each country, and government representatives (where possible).

Stage 2: Regional Workshop and Focus Groups⁹

Stage 2 of the research will:

- Describe in detail both formal and informal (or *ad hoc*) practices relating to Questions 3-6
- Assess evidence of outcomes in terms of cost, compliance, health and wellbeing and BID mechanisms (Question 7)
- Recommend laws, policies and practices to be expanded or replicated (Question 8)

The second stage of the research will make use of a regional workshop and focus groups to produce in-depth data and analysis from regional and national experts. A regional workshop will involve approximately 50 participants, including local organizations from each country, experts on mixed migration in the region, and other regional experts (such as representatives from regional human rights bodies).

The workshop will begin by providing an overview of the results from Stage 1. It will then go on to provide training on alternatives to detention to establish a shared framework for discussion. This will be followed by facilitated break-out focus groups to discuss existing formal and informal (or *ad hoc*) alternatives to detention operating in each country and to brainstorm potential opportunities to support and expand upon those alternatives. The regional workshop would add to the research outcomes through the additional insights generated in focus group discussions, training of key players in the region (including staff of INGOs, NGOs, CBOs and IGOs), and strengthened networking between organizations across the region.

7. TIMELINE & DELIVERABLES

Stage 1: Desk-Based Research and Key Informant Interviews

Deliverables: August - September
Desktop research completion (including literature review and Skype interviews) and submission of Stage 1 report (maximum 30 pages including legal profiles for each of the six countries)
Support a teleconference with Task Force Research Advisory Group to present findings of literature review and interviews and to share plan for Stage 2

Stage 2: Regional Workshop and Focus Groups

Deliverables: September - December
Workshop agenda: Submit workshop agenda, including participants list
Workshop: Conduct regional workshop
Draft report, including workshop outputs and findings of focus group discussions, structured as per agreement with MHub. These could include:

⁹ Please note, Stage 2 of the research is pending funding availability. Therefore, the initial contract will be drawn up for Stage 1 only, with the contract for Stage 2 to follow once funding is confirmed.

<ul style="list-style-type: none"> - Short briefing paper on alternatives to immigration detention in North Africa - Interactive map of alternatives to detention in North Africa¹⁰ - A standard PowerPoint presentation of the research outcomes - Incorporation of research outcomes into IDC's online training mini-course on ATDs - Social media strategy for dissemination of positive case studies 	
<p>Presentation of findings and outputs to NAMMTF, MHub and other stakeholders at research launch event in Cairo</p>	
<p>Final report and outputs submission, following inclusion of feedback</p>	
<p>STAGE 1 + STAGE 2</p>	<p>5 months</p>

8. MANAGEMENT ARRANGEMENTS

International Detention Coalition (IDC)

The International Detention Coalition (IDC) is a unique global network of over 300 civil society organizations and individuals in more than 70 countries that advocate for, research and provide direct services to refugees, asylum-seekers and migrants affected by immigration detention. The focus of IDC's work in the Middle East and North Africa (MENA) region is promoting awareness of immigration detention; developing understanding of, and investment in, alternatives to immigration detention; building member networks and peer support; and engaging in regional processes and dialogues.

This study is commissioned by MHub on behalf of, and in coordination with, the North Africa Mixed Migration Task Force (NAMMTF). MHub has commissioned the International Detention Coalition to lead this study, with additional support provided by MHub and the members of the North Africa Mixed Migration Task Force.

North Africa Mixed Migration Hub (MHub)

The North Africa Mixed Migration Task Force (NAMMTF) is a group of agencies working on (or with an interest in) mixed migration in North Africa.¹¹ The Task Force, created in 2014, promotes a human rights-based approach to ensuring the protection of people moving in mixed and complex flows to, through and from North Africa. The Cairo-based MHub functions as the knowledge hub and secretariat for the NAMMTF.

MHub, through the administrative support of the IOM Regional Office for the Middle East and North Africa in Cairo is responsible for managing the contract with IDC. IDC is responsible for managing the contract with the consultant commissioned to undertake the research. Task Force members will assist in providing coordination with relevant country offices.

¹⁰ As per the global map produced by IDC, a North Africa specific map could be produced <http://idcoalition.org/interactive-map-alternatives-to-detention/>

¹¹ These agencies are the Danish Refugee Council (DRC), the International Organization for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), the Regional Mixed Migration Secretariat – Nairobi (RMMS), Save the Children, the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Office on Drugs and Crime (UNODC).

9. PROFILE OF THE CONSULTANT

The research consultant will demonstrate the following skills and experience:

- At least 5-7 years' experience conducting qualitative research
- Proven experience conducting research in the area of migration, policy studies and/or sociology
- Experience conducting research in collaboration with partner organizations
- Excellent written and verbal communication skills, including demonstrated ability to produce high-quality reports in English
- Experience working in North Africa for at least 1-2 years
- Proficiency in French and/or Arabic highly desirable
- Post-graduate qualifications in a relevant field highly desirable

10. HOW TO APPLY

TO APPLY, please submit the following documents via email to info@idcoalition.org with the subject line 'North Africa Research Consultant':

- CV
- Cover letter addressing the selection criteria listed above (maximum 3 pages)
- Writing sample such as a research report or academic paper (as a hyperlink in the cover letter or as an additional attachment to the email)

Please direct any technical enquiries to Dr. Robyn Sampson, Senior Advisor and Research Coordinator of the IDC: rsampson@idcoalition.org

Please note only short-listed candidates will be contacted.

Applications due by Friday 22nd July 2016.