

ALTERNATIVES TO DETENTION IN LIBYA

Report on the 2nd workshop, 14-15 December 2016

Introduction

A two-day 'Alternatives to Detention' (ATD) workshop was held on 14-15 December 2016 under the auspices of the Mixed Migration Working Group (MMWG), with support from the Danish Refugee Council (DRC), the International Detention Coalition (IDC) and the International Organisation for Migration (IOM) as a follow up to a two-day workshop held in February 2016. The second workshop on ATD was funded by the European Commission Humanitarian Aid and Civil Protection department (ECHO) and the Permanent Mission of Italy to the United Nations Office (see Annex 2: agenda).

Invited attendees from Libya included representatives of the following government departments/organisations:

- Department for Combating Illegal Migration (DCIM)
- Ministry of Justice
- Managers of Sabratha and Sorman immigration detention centres
- Mercy Wings Organization (MWO)
- The International Organization for Cooperation and Emergency Aid (IOCEA)
- The Libyan Center for Research and Training
- Libya Homeland of Peace Organization

Guest presenters from IOM, MHub (Mixed Migration Hub) and the United Nations Support Mission in Libya (UNSMIL) were in attendance as were representatives from the following UN agencies and international organisations:

- UNHCR
- UNICEF
- CESVI
- CIR
- ACTED
- Save the Children
- IFRC
- ICMPD
- IMC

On the first day there were 29 participants in attendance (19 male and 10 female), the following day 16 participants attended (11 male and 5 female) with 33 participants in attendance in the afternoon of the second day for a donor briefing.

Presentations delivered on 14-15 December

Recap of 1st Alternatives to Detention in Libya Workshop

DRC started off the workshop by reminding the participants of the first workshop held on Alternatives to Detention in February 2016 (see Annex 4: DRC-IDC 1st Workshop Report on ATD in Libya, Feb 2016). The main outcomes of that workshop including the follow up actions were presented. In the first workshop, Libyan civil society organizations had agreed on five groups of extremely vulnerable persons to be prioritized when finding alternatives to detention:

1. Unaccompanied minors
2. Serious medical condition/serious disability
3. Pregnant/lactating women
4. People in danger for security reasons
5. Elderly at risk

A number of concrete next steps were proposed to reach the overarching goal of finding alternatives to detention for these vulnerable groups. One of the concrete action points included in the first ATD workshop report was to hold a follow-up workshop to further discuss solutions and plan concrete pilots, together with national/ local authorities and the local organisations.

Presentation on available tools and resources

(i) IDC Alternatives to Detention (CAP Model) and pilots

IDC presented on its Alternatives to Detention approach (<http://idcoalition.org/publication/thereare-alternatives-revised-edition/>) and the Revised Community Assessment and Placement Model (Revised CAP model) which identifies the principles and processes that prevent unnecessary detention and supports community-based placement options instead.

(ii) IDC Vulnerability Screening Tool

IDC also presented a screening tool on identifying and addressing situations of vulnerability which is a UNHCR and IDC collaboration intended to help guide and inform frontline workers and decision-makers on the relevance of vulnerability factors to detention decisions, referrals to alternatives to detention, open reception facilities, community-based placement and support options, in the context of asylum and migration procedures and systems <http://idcoalition.org/publication/identifying-and-addressing-vulnerability-a-tool-for-asylum-and-migration-systems/>

(iii) MHub (North Africa Mixed Migration Task Force)

A representative from MHub introduced the participants to how MHub can be used as a resource for obtaining data on detention conditions and alternatives to detention.

The North Africa Mixed Migration Task Force (MMTF) promotes a human rights based approach to ensure protection of people moving in mixed and complex flows to, through and from North Africa (Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan) with objectives to share and pool information, disseminate good practices and lessons learned, support collaboration and joint initiatives and support collective advocacy efforts. The Secretariat for the MMTF is provided by the MHub. MHub collects analyses and disseminates relevant data among MMTF members and concerned stakeholders. In the recent years, MHub has worked on a number of research initiatives focusing on detention of children and youth in Libya. MHub is currently partnering with IDC on *ATD regional study (6 countries) – literature review and regional workshop* which will hopefully culminate in a workshop in 2017. For more information visit www.mixedmigrationhub.org

(iv) Mixed Migration Working Group (MMWG)

A presentation was provided by IOM Libya on the Mixed Migration Working Group (MMWG) which was launched in December 2016. The MMWG is the main coordination forum for policy, protection and operational matters related to migrants and refugees in Libya. It comprises of UN agencies, NGOs and other international organizations working with migrants and refugees in Libya. The MMWG is co-led by IOM and UNHCR and chaired by the same agencies on a 6 months rotational basis. In the presentation, the Terms of References (ToRs) of the MMWG was presented as well as the MMWG strategic plan for the first 6 months of 2017. One of its strategic objectives for 2017 is for the members of the MMWG to advocate with the Libyan authorities for alternatives to detention and immediate release and referral of the most vulnerable migrants and refugees from detention.

Local initiatives on piloting alternatives in Libya

(i) Draft law (IOCEA)

A representative from IOCEA presented a draft law on immigration and refugee status drawing on current law from 2010 (article 12), and a previous law from 1987 (article 6) related to the entry of foreigners into Libya.

IOCEA took the lead since 2013 to review and work on a new law on immigration and refugee status with the support of DRC and other organisations including UNHCR and IOM. The draft law was submitted to the Ministry of Interior and DCIM by mid-2014. However, due to the deteriorating security situation and change in government structures in Tripoli, the law was not further processed.

After a careful analysis conducted through a high committee for review, the draft law is now being proposed to stakeholders including the Ministry of Justice and the Presidential Council. Objectives of the new draft law are to ensure the sovereignty and security of the Libyan state, to combat trafficking in persons and to protect human rights of foreigners arriving to Libya. Sections included definition of concepts (including: economic migrant, asylum seeker and refugees), legal provisions and a section on sanctions and penalties. In the draft law, there are seven chapters and 29 articles. Article 1(4) of the draft law specifies the institutional frameworks to govern immigration and the importance of alternatives to detention especially for children who according to the draft law should not be detained. The law further discusses the release of detainees, addresses the overcrowdedness of detention centres, issues of mixing women and men and how to ensure the protection of human rights. The draft law also outlines how Libya can benefit from skilled migrants in their workforce. Moreover, it makes referrals to international conventions and bilateral agreements between different countries. The aim is to finalize the draft law in 2017 and pass it on to the legislative power for review. It was suggested that the draft law is shared with international partners for review and inputs (such as MHub).

(ii) Model of Registration being carried out in Sabratha (DCIM Manager)

The detention centre manager of Sabratha presented a model, introduced in 2013, of the registration of detainees for purposes of releasing the detainees by matching them with labour market needs. In Sabratha Detention Centre, the detainees are registered upon arrival to the centre

and issued an electronic ID card regardless if they have a regular status in Libya or not. On the ID card their specific employment skills are stated and this information is also recorded by the detention centre management. When there is a request from a local employer to find workers to his/her company, factory or farm, the detainees with relevant skills are released upon finalization of an employment agreement between the detainee and the employer.

This initiative has been coordinated with the municipal authorities of Sabratha. A special municipal committee was established to oversee the initiative and to inform the neighbouring municipalities about the ID cards to ensure that the individuals holding those ID cards can move freely between the neighbouring municipalities. The card is not recognised in other regions of Libya. The relevant embassies have been informed about this initiative and they assist with medical checks and checking criminal records of the migrants before they are matched with an employer. All medical concerns are raised with the Ministry of Health. If a migrant wants to return to his/her country of origin, he/she is encouraged to contact IOM to facilitate the return.

Outline of proposed pilots endorsed by workshop participants

On the second day of the workshop, the participants were tasked with a practical exercise where they came up with pilot projects on ATD in Libya. The participants were divided into two groups, where one group was focusing on initiatives for skilled labourers and the other group focused on initiatives for women and children (vulnerable groups). There was also a joint discussion on the draft legislation. Below is a summary of the discussions held in each group and the worksheets are attached as annex (see Annex 1).

1. Pilot for Women and Children

The participants of the workshop discussed piloting alternatives to detention of migrant women and children. It was agreed that this should be done in three phases: registration, screening and release. In every phase, the participants discussed who should be involved from local entities such as the Ministry of Social Affairs, DCIM, coast guards and Ministry of Health.

Step A: Training on Identifying Vulnerable Women and Children - with detention centre managers + officers (encourage the employment of female officers in detention centres) who are responsible for identifying vulnerable people, NGOs and community focal points

- Then Training of Trainers (ToT) + handbook + refresher training on annual basis. Could be done by MMWG and specialist agencies.
- Maintain referral network(s) to follow up on protection concerns and medical needs.

Step B: Financial support to alternate housing for women and children (other than detention)

- Engagement and coordination with Ministry of Social Affairs, DCIM, Justice, Health, Education
- Translators – main nationalities (French, Amharic, Somali etc.)
- Information sheets in various languages
- Flexible fund for vocational training, other needs for people in detention (possibly implemented by an NGO) and outside detention
- with the support and supervision of relevant local NGOs, identification of foster families and monitoring the stay of vulnerable cases waiting for their voluntary repatriation. Flexible funds and in-kind assistance should be available to the host family and the persons of concern.

2. Pilot for Labour Migrants

Based on the local initiative presented by Sabratha Detention Centre manager, the participants discussed the ways forward on how to expand and improve this initiative. The participants suggested that the initiative should be forwarded for review and implementation more widely by the national authorities such as the Ministry of Labour, Ministry of Interior and Ministry of Health and it can also benefit from technical support and guidance by the international community/local civil society. The participants noted that the filtering and registration of skilled migrants should take place immediately upon arrival to the country. It was also suggested to establish an online system to start receiving skilled migrants in an organised and systemised manner.

Step A: improve intake & screening processes

- Earlier and more comprehensive screening procedure at point of disembarkation
 - DCIM, Libyan Coast Guards (LCG) with support of international organizations
 - To address security and humanitarian concerns
- Improve screening forms to include vulnerability criteria, as well as labor skills

→ Using vulnerability screening tool

→ Translation

→ Formalize referral pathways

Step B: Formalize and expand work program being piloted in Sabratha

- DCIM to create a local level committee to approach Ministries of Labor/Health/Interior in order to seek buy-in
- Registration cards/work permits rolled out in other municipalities as well
- Seek pathways for regularizing status
- Introduce a monitoring system to monitor workplaces to ensure protection of human rights and alignment with international labor law (DCIM + Ministries)

Donor presentation

As the last session of the Workshop, participants presented the two suggested pilots to the donor community. There was a strong agreement among all participants that the two initiatives should be supported by the government including relevant ministries which didn't manage to join this workshop such as the Ministry of Social Affairs. Participants also insisted that strong support is needed from the donor community especially on advocating for the new legislation and trainings for police officials, Libyan coast guards and detention centre officials on filtering, registering and referring most vulnerable cases.

Concrete next steps

1. Coordinate between IOCEA and MHub/IDC for the review of the draft law and once reviewed make sure to speed up the implementation with relevant governmental body. This is an important overarching framework for any alternatives in the context of Libya.
2. Introduce alternatives to detention as a standing agenda point on the MMWG meetings, focusing on advocacy with the Libyan authorities in particular Ministry of Interior, Ministry of Justice, Ministry of Labour and Ministry of Health.

3. Ensure timely identification of vulnerable cases in detention by training DCIM officials and NGOs/International Organizations on vulnerability screening (identify which organizations can provide this training through the Protection Sector or MMWG).
4. The MMWG sub-working group on case management to develop SOP on case referrals from detention centres.
5. In coordination with midwives identify as early as possible (also by DCIM officials) pregnant women in detention, do regular check-ups of their status, negotiate their release, refer cases to clinics/hospitals for delivery.

Annex 1: Pilot – Women and Children (Group worksheet)

1. REGISTRATION/INTAKE	2. SCREENING	3. RELEASE/POST-RELEASE
<p><i>(Map different agencies/ministries involved, pathways into detention)</i></p> <ul style="list-style-type: none"> - Registration of migrants and refugees take place not only at DC but also at disembarkation points through coast guards - Coast guards call UNHCR and/or IOM at disembarkation point to conduct basic registration (name, nationality, gender), basic services provided (food, health) then taken to DC. - At present use 2 different tools for registration; 1 basic (age, gender, nationality, name etc) 1 more in depth in DC - Coast guard conduct their own registration: how many rescued, deaths, name, nationality etc. identify UAMs, women, children, disabled, people of concerns etc. Lack of time at this point, just medical care at this point. By introducing proper registration mechanism will allow to track vulnerable concerns. - Endorse the 2 documents for registration: 1st level at disembarkation, 2nd level at DC - Build a referral pathway: 1st level registration (coast guards, DCIM) database available to all actors, vulnerable cases referred to specialized actors (CSO, INGO, trained DCIM or coast guards on CP, GBV etc) for 2nd level screening (info not shared through database, just case management and referral between service providers) - Actors doing 1st level registration at any of 5 disembarkation point: 2 person committee = 1 	<p><i>(use Vulnerability Screening Tool checklist)</i></p> <ul style="list-style-type: none"> - Vulnerable cases identified at registration should not be taken to DC but shelter (after review judicial authorities and/or Ministry of Social Affairs). Yet these shelters are missing at the moment. - DCIM officers working in detention centres and other implementing partners, such as local non-governmental organization (NGOs) and Civil Society Organizations (CSOs) to conduct vulnerability screenings. - Introduce interpretation tools available for DCIM staff. - Screening to take place in DC. Set-up a safe and segregated space where vulnerable screening can take place. - Build a referral pathway for each DC by identifying all the services providers in the area, incl. CSO and INGOs. Referral pathway to define which actor provide what services and what actor will serve as focal point for case management purpose - Use screening tools such as the screening toolkit. Ministry of Justice : include information on legal/criminal record, medical record, material belongings 	<p><i>(Standard Operating Procedures)</i></p> <ul style="list-style-type: none"> - 3 type of alternatives: <ol style="list-style-type: none"> 1) Guest houses for individual vulnerable cases (see list defined during 1st workshop). Used as temporarily shelters, can be managed by local authorities 2) Collective shelters for non-vulnerable mixed migrants (MM), semi-open. Including for MM who have received a notification of reject/deportation 3) DC for MM convicted of crimes - Min of Justice policy statement on unwillingness of Libyan government to overly detain MM (costly + damaging for public image), keen on facilitating AVR, openness to policy alternatives such as semi-open shelters, care centre for UAM - CSOs and INGO to support authorities is establishing and managing the 'guest houses' for vulnerable cases

Annex 1: Pilot – Women and Children (Group worksheet)

<p>coast guard + 1 CSO both trained. CSO funded by any INGOs. CSO will contact other service providers to inform about vulnerable cases for further screening and subsequent case management + referrals.</p> <ul style="list-style-type: none"> - Cannot be called a committee from legal standpoint. But CSOs and INGOs are already authorized by the Mol. Coordinated by the MMWG in terms of authorization. 		
<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> - Computers, database - Confidentiality SOPs 	<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> - Involvement of Ministry of Social Affairs - Training - Referral pathways for each DC - Documentation issued to MM for his/her safety - Humanitarian assistance / services - Safe space within DC, incl. CFS for children. 	<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> - Political and operational support from the government (Min of Social affairs, Min of Justice, Min of Interior etc) and institutions (DCIM) - Technical and material support from NGOs/CSOs and international organizations with regards to 'guest houses' and shelters - Awareness campaigns and capacity-building targeting authorities and state institutions - Adoption of the draft law on immigration that would be compliant with the relevant international standards

Annex 1: Pilot – Labour Migrants (Group worksheet)

1. REGISTRATION/INTAKE	2. SCREENING	3. RELEASE/POST-RELEASE
<p><i>(Map different agencies/ministries involved, pathways into detention)</i></p> <ul style="list-style-type: none"> - At disembarkation points, NGOs and UN agencies are assisting the LCG with rescue at sea and offering initial medical screening - Urgent medical cases are referred by LRC to hospitals - DCIM transferring the rescued migrants to detention centres - Other pathway to detention is when migrants/refugees are caught without documents on the streets (round-ups) and referred by Libyan police to DCs - Sabratha has a registration system in place inside of the DCs where detainees are registered, most other DCs has no formal registration system in place - When NGOs/UN agencies provide services in the DCs, they do head-counts/get estimates from DC management of number of detainees but never a full list of names and nationalities - Necessary to introduce earlier and more comprehensive screening procedure at point of disembarkation to address security and humanitarian concerns (DCIM, LCG with support of international organizations) 	<p><i>(use Vulnerability Screening Tool checklist)</i></p> <ul style="list-style-type: none"> -When NGOs/UN agencies are notified about particular cases in need of vulnerability screening, they send staff to conduct the vulnerability assessments - The following categories are flagged as vulnerable cases: Pregnant/lactating women, unaccompanied minors, traumatized men, women, children, medical cases (including mental health cases) - Set-up a safe and segregated space where vulnerable screening can take place - Recommended to train NGOs/CSOs who frequently go to DCs as well as DC officials on vulnerability screening - Introduce standard screening forms to be used upon arrival to DC. Forms should include vulnerability criteria, as well as labour skills - Build a referral pathway for each DC by identifying all the services providers in the area, incl. CSO and INGOS. Referral pathway to define which actor provide what services and what actor will serve as focal point for case management purpose - Also include screening on employment skills to match detainees with labor market requests. 	<p><i>(Standard Operating Procedures)</i></p> <ul style="list-style-type: none"> - Sabratha initiative to be explored in other municipalities by introducing more of a formal 'skills' screening upon arrival to the DC - DCIM to create a local level committee to approach Ministries Labour, Health, Interior in order to seek buy-in of Sabratha initiative - Registration cards/work permits rolled out - Seek pathways for regularizing status - Monitoring and Evaluation to monitor workplaces according to national law (DCIM + Ministries) - Release of medical cases and other vulnerable cases through the referral pathway (SOP) to relevant NGO/medical clinic for follow-up

Annex 1: Pilot – Labour Migrants (Group worksheet)

<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> - Specific training for NGOs /DC - Referral network - Specialist DCIM officers 	<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> - Local NGO partners to assist with registration intake - Specialist Transit centre (like Sorman) – food, clinic, telephone, recreation - Plan a training for DCIM, case workers, NGO case workers include focal points from communities - Dedicated focal points (managers) 	<p><i>Resources needed:</i></p> <ul style="list-style-type: none"> -Referral network
<p>WHAT DO YOU NEED?</p> <p>Step 1: Training in Libya near to Sorman, with detention centre managers + then some officers (especially female officers) who are responsible for identifying vulnerable people and referring them to places outside where they can stay + receive the care they need (food etc) (Training on Identifying Vulnerable Women and Children). Then Training of Trainers (ToT) + handbook + refresher training on annual basis. Could be done by MMWG and specialist agencies</p> <p>Step 2: Financial support to homes which are safe (from traffickers etc) – could be investigated through partnership with NGOs</p> <p>Engagement and coordination with Ministry of Social Affairs, DCIM , Justice, Health, Education</p> <p>Translators – main nationalities (Amharic, Somali, French etc)</p> <p>Information sheets in various languages</p> <p>Call to other donors: Vocational skills for detainees through a specialist fund (implemented by an NGO) that offers flexible funding</p>		

Annex 2

Workshop: “There are Alternatives 2”

ورشة عمل: "هناك بدائل 2"

اجندا---

Venue: Carthage Thalasso Hotel, Gammarth, Tunis

Day 1 — Wednesday 14th December 2016

09:00 – 09:30	Welcome and registration of participants
9:30 – 10: 30	Presentation on Alternatives to Detention (CAP Model) and pilots – IDC
10:30 – 11:00 <i>Coffee Break</i>	
11:00 – 11:30	Review of outcomes document from last workshop and alternatives - DRC
11.30 – 11.45	Presentation on Mixed Migration Working Group
11:45 – 13:00	Local initiatives on piloting alternatives in Libya: <ul style="list-style-type: none"> (i) Draft law (IOCEA) (ii) Model of Registration being carried out in Sebrata (DCIM Manager) (iii) Situation in Gharyan (IOM)
13:00— 14:00 <i>Lunch</i>	
14:00 – 15:00	Moderated discussion between participants on how to apply alternatives in Libya
15:00– 15:30	Presentation on Vulnerability Screening Tool – IDC/UNHCR
15:30 – 16:00	Agreement on next steps

Day 2 — Thursday 15th December 2016

09:00 – 09:15	Recap of Day One
09:15 – 09:30	Presentation on MHub (North Africa Mixed Migration Hub)
09:30 – 13: 00	Drafting a work plan for pilot in Libya – IDC/DRC (in small groups)
13:00— 14:30 <i>Lunch (includes group photo)</i>	
14:30 – 15:30	Finalising work plan (IDC/DRC and small group team leaders only)
16:00-17:30	Reception - Presentation of key recommendations and workshop findings to Donors/Embassies



Humanitarian Aid
and Civil Protection

Annex 3: Pictures from the ATD Workshop 14-15 December 2016

