

## **Summary of the APRRN-IDC Asia Pacific Webinar on the Impact of COVID-19 on Immigration Detention**

### **Background**

On Monday 6 April 2020, the International Detention Coalition and the Asia Pacific Refugee Rights Network co-hosted a webinar on the impact of COVID-19 on immigration detention in the region. The purpose of the webinar was to (i) create a space to listen and learn from each other, (ii) identify areas of need and potential collaboration/coordination, and (iii) to discuss what kind of support that the IDC Secretariat can offer. More than 20 IDC and APRRN members attended the webinar. The participants shared practices from mainly five countries, including Australia, Indonesia, Malaysia, Thailand and South Korea. Additional written responses from members were also taken into consideration in this summary. Please note that the below reflects realities as understood by the participants at the time of the call; as this is a rapidly changing situation, things may have changed since.

### **Key issues, concerns and challenges**

- **Risk of spread within immigration detention centres** (Australia, Malaysia, Thailand, South Korea). While none of the participants was aware of immigration detainees having been infected, they were concerned about the vulnerabilities created by overcrowded detention centres with insufficient WASH facilities and detainees with preexisting health conditions. In Australia, if someone has contracted the disease in an area, the entire building is cleared out. However, it is unclear what the government's contingency plan is if someone in detention contracts COVID-19.
- Closing off **access to detention** (Australia, Malaysia, Thailand, South Korea). Authorities' justification generally was that this measure was taken to prevent visitors from bringing the virus into detention facilities. However, this practice makes it difficult to assess whether detention centres are following [WHO guidelines](#) for detention facilities during COVID-19, can make it difficult for detainees to access legal advice and other assistance from outside.
- **Delays in legal proceedings** (Nauru and Papua New Guinea). News of the indefinite adjournment has triggered a high level of distress for some, particularly those who have already experienced a prolonged and complex RSD process.
- **Concern about the neglect of other medical issues** due to the focus on COVID-19 (Nauru and Papua New Guinea).
- **Unclear screening/preventative measures** for persons who are just entering IDCs (including transfers from prisons and other detention centres or similar activities) or are leaving the IDCs and entering the communities. While barring visitors does reduce the risk of the virus entering the IDCs, new detainees could also bring the virus in.
- **Risk of deportation** (Indonesia, Malaysia, South Korea). In South Korea, NGOs are concerned about government plans to accelerate deportation. In Malaysia, NGOs are concerned about what will happen to the new arrivals once the MCO (Movement Control Order) is lifted. In Indonesia, some people are stuck in the airport as they have not been

permitted to enter Indonesia, and it's unclear whether they can/will be sent back to where they arrived from.

- **Access to information.** While information about the importance of washing hands and physical distancing has been translated into languages widely spoken by refugees and other migrant populations, government orders (e.g., Movement Control Orders) are not always being translated, or there is a lag in translation. Breaking government orders can result in fines and even jail times even if migrants broke them simply because they are unaware of them.
- **Lack of access to basic needs** (Thailand, Malaysia). Many refugees who previously could work informally will not be able to during lockdowns and do not have sufficient savings to support themselves; this could force them to choose between going hungry and flouting government orders to earn a living, thus heightening their risk of detention. In some cases, migrants are likely being required by their employers to work and are getting arrested for doing so.
- **Bail** is becoming more difficult (Thailand, South Korea). In Thailand, the cost of bail has recently tripled, whereas in South Korea the government promised to be lenient in granting bail, but in practice, few bail requests have been granted.
- **Unintended consequences** of advocacy. One participant noted that, in advocating for screening mechanisms for persons entering or leaving detention, we need to pay attention to the possible unintended consequence of our advocacy resulting in solitary confinement of new arrivals. Another noted that the success of alternatives to detention depends on the existence of effective alternatives - if the community is scared to welcome the detainee back or if they cannot afford to support the detainee, the alternative could create new problems for detainees and their communities.

## **Current responses**

- **Translation of key messages**, both in terms of how to stay safe and updates regarding government orders, into languages widely spoken by refugees and in accessible media, including audio messages
- **Calling for release** into appropriate alternatives, through appeals to government and public campaigning
- **Fundraising** to pay for fines, pay for necessities; distributing masks, food, other necessities
- **Legal assistance** for those arrested under movement control orders
- Some advocacy groups are exploring **judicial engagement**

## **Positive practices**

- South Korea: After advocacy groups pushed for the government to grant more temporary releases of detainees, the government
  - Promised to minimise the crackdown on undocumented migrants
  - Rather than enforced deportation, they want to use an exit/advised order
  - Separated new arrivals from existing detainees, to limit the spread
  - Wanted to increase the sanitation of the facilities

- Urged undocumented migrants with any COVID-19 symptoms to get tested at public health facilities and scrapped the duty of medical staff to report the undocumented migrant patients to the immigration authority
- Granted temporary release to 3-4 people, a practice that has rarely been used
- Malaysia:
  - Free testing and treatment of COVID-19 for non-Malaysians
  - Assurance that undocumented persons would not be arrested if they were to go for COVID-19 testing
  - Community-based organisations and UNHCR are working with the government for contact tracing, testing clusters, coordinating with other CSOs to provide aid and disseminate information
  - Prison and Chief Justice called for non-custodial sentences to prevent the spread of COVID-19 in places of detention
  - Mutual aid networks are engaging in disseminating information, coordinating and mobilising aid quickly. CSOs and the Social Welfare Department are working together to support much-needed areas.
  - ICRC shared guidelines for health in detention response for COVID-19 in detention facilities with MOH and CSOs and also are restoring family links programme for persons in detention
  - [ICRC Malaysia: Swift action by authorities reduces COVID-19 risk in prisons](#)
- Thailand:
  - To the extent possible, CBOs and NGOs are monitoring the situation and plan to take an action if there's discrimination or the arrest taking place
  - ICRC is focusing on restoring family links between migrants/refugees and detainees. Families can still send parcels and money to detainees.
  - Authorities have put in place a contingency plan including detained migrants.
  - ICRC providing Guidelines for health in detention response for COVID-19 in detention facilities (given to MoPH and DoC)
  - Distribution of masks to refugee communities
  - Good collaboration between CSOs

### **Gaps, Questions and Next steps**

- **Sharing of good practices** between ASEAN governments
- **Better coordination between UN agencies and CSOs**, UNHCR taking a clearer lead
- **Explore what to do if people are released from detention**: what placement options exist in the community and are there good practices to learn from?
- **Legal strategies** - which legal arguments can be applied across various jurisdictions?
- Highlighting **specific risks/vulnerabilities of detainees** in the context of COVID-19