

There are alternatives: Africa



A complementary resource to *There are alternatives* - the handbook for preventing unnecessary immigration detention

Includes successful examples from thirty-two States

**International
Detention Coalition**

Human rights for detained refugees,
asylum seekers and migrants

The IDC is a global network of over 350 civil society organisations in 80 countries, working towards a world without unnecessary immigration detention. The IDC is the leading provider of technical expertise providing in-depth research, policy and practical guidance on alternatives to immigration detention, with a track record of direct impact on government decision-making.

This report compliments *There are alternatives* - a handbook to prevent unnecessary immigration detention and builds on IDC's 2016 report *Alternatives to Immigration Detention in Africa*. It contains new and updated country case studies covering 32 African countries. The IDC is glad to present these findings, together with our African Members and partners. We hope the "Alternatives to Immigration Detention in Africa" series will build evidence and momentum towards increased use of engagement-based alternatives to reduce and ultimately end the use of immigration detention.

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Guide for policy makers

This report provides an overview of alternatives to immigration detention in Africa. Drawing from examples in 32 African countries, the report highlights some of the measures in place that contribute to the effective and humane governance of migration, while avoiding the use of unnecessary immigration detention.

African policy makers are facing both internal and external pressure to manage migration more effectively. The research undertaken for this report demonstrates that:

- Many African States are managing migration well with strategies that respect rights and support preferred outcomes in a cost-effective manner
- Alternatives to immigration detention are found in a wide range of contexts across the region
- Non-government organisations (NGOs) are at the forefront of developing and implementing alternatives to detention in this region
- Alternatives for vulnerable groups, such as children and survivors of trafficking, are more widely available

This report is of particular use for immigration authorities and other departments responsible for domestic policy. The following areas are of specific interest to these key departments:

- There are existing State commitments – including national, regional and international laws and regulations – to develop and implement alternatives to detention
- There are authorities in the region that can provide technical expertise in the development and/or expansion of alternatives to detention
- A wide range of examples of alternatives to detention can be used to develop or expand implementation in your national context, with shared benefits for migrants and citizens

This report will also be of value for government officials engaged in international and regional diplomatic roles. Specifically, it enables diplomats to:

- Identify avenues to protect your own citizens from immigration detention in other States through alternatives to immigration detention, and use this to advocate for those citizens during bilateral meetings
- Identify and expand opportunities for shared regional approaches that assist in reducing the need for immigration detention
- Name positive examples of domestic and regional law, policy and practice
- Draw from such positive examples to support arguments for particular commitments in inter-governmental agreements, such as the Global Compact on Migration and the Global Compact on Refugees

I wish you well in your endeavors to provide an effective and humane migration governance system.

Sincerely,



**Commissioner
Maya Sahli Fadel**

Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, African Commission on Human and Peoples' Rights.

High-level political commitments

- ✓ Fifteen Southern African States have committed to “develop and implement alternative options to detention,” as well as implement MDSA Regional and National Action Plans to oversee progress.¹
- ✓ The New York Declaration, adopted unanimously by all 193 UN Member States in 2016, includes State commitments to pursue alternatives to immigration detention and to work towards ending child immigration detention. These principles are now being transposed into a set of actionable commitments via the Global Compact on Refugees and the Global Compact on Safe and Orderly Migration. The IDC has outlined milestones for the Compacts through a Roadmap on alternatives to detention² and one on ending immigration detention of children.³
- ✓ **Zambia, Botswana, South Africa and Zimbabwe** are focus countries of UNHCR’s Global “Beyond Detention” Strategy,⁴ resulting in coordinated national work to reduce detention and expand alternatives.

Executive summary

This report is the second publication in the International Detention Coalition's (IDC) series mapping alternatives to immigration detention in Africa. The research has identified and described a range of alternatives to immigration detention currently operating in the Africa region that enable states to achieve legitimate migration goals without the use of detention.⁵ It contains new and updated country case studies covering 32 African countries.

Alternatives to detention are laws, policies or practices by which persons are not detained for reasons relating to their migration status. They provide a range of mechanisms that used together provide an effective way to manage migrants, housed in the community with freedom of movement, for the duration of their migration status determination. Alternatives can be effectively implemented to avoid detention at all stages of a migration procedure, including upon arrival, during processing of migration-related claims, or when preparing for departure. Such systems that avoid the use of detention have been identified across the African continent including in countries experiencing "transit" migration, those hosting large numbers of refugees, asylum seekers or irregular migrants, and/or those with limited resources available to manage such populations.

The case studies detailed in this report include a range of alternatives implemented by civil society, governments or a combination of both. They range from spontaneous and *ad hoc* measures, to laws and policies implemented in a systematic and sustained manner. The case studies were gathered by IDC staff between January 2017 and January 2018 through member surveys, telephone interviews, desk research, and country visits to **South Africa, Zambia, Malawi and Botswana** in April and May 2017, and trainings in **Libya** from 2016 to 2017. The material is presented

using the IDC's Community Assessment and Placement model ("CAP model") as a framework. The CAP model is a tool for governments, civil society and other stakeholders to build systems that ensure immigration detention is only used as a last resort and that alternatives to detention result in optimal outcomes.

Liberty: A presumption against detention

The survey identified national legislation in several African countries that may be used to uphold a presumption of liberty for migrants entering their territories. These include laws providing for the non-detention of certain groups of migrants such as unaccompanied children, refugees, asylum seekers, trafficked victims and stateless persons. In some countries, Constitutional provisions – such as freedom of movement and protection against arbitrary detention – provide legislative safeguards for all persons, including non-nationals. In some countries where migration related offences are criminalised, national laws or sentencing guides contain time limits on the length of any administrative or punitive detention. There are various sub-regional processes that are working towards stronger presumptions of liberty. Most notably, through the Migration Dialogue for Southern Africa (MIDSA), southern African states have committed to developing and implementing alternatives to detention. There is a need to close the gap between these policy developments and their implementation, throughout the region.

Identification and decision-making

The use of standardised identification and screening mechanisms, by which migrants are assessed and referred to relevant authorities for processing, is increasing in many countries – led by government ministries, civil society, or a combination of both. Whilst screening tends to happen in an *ad hoc* manner, there

have been some attempts to roll out referral mechanisms across a whole country and to train front line officials to screen, identify and refer different categories of migrant amongst groups of mixed migrants. Identification of victims of trafficking mechanisms appear to be well-resourced but under-utilised in several countries.

Case management and case resolution

The IDC identified several examples of case management systems, mainly for vulnerable persons such as unaccompanied children, victims of trafficking and, refugees and asylum seekers. A growing number of these case management systems are holistic, including not just the legal aspects of the case but responding to the unique social, psychological and medical strengths and challenges of individuals. Some case management programs pursue collaboration with government and NGOs across borders, especially to support an individual voluntarily departing for their country of nationality. Other systems contain some elements of a case management approach or only cater to certain categories of migrants. The majority of the case management systems identified are run by civil society or run through informal or formal collaborations between the government and NGOs. An increasing number of service referral networks were identified which maximise the use of existing resources, rather than creating parallel support systems for migrants.

State-led initiatives that reduce the population at risk of immigration detention include the resolution of migration status of groups through amnesties for undocumented migrant workers, and *prima facie* refugee status for certain nationalities. Efforts to open up more pathways to legal migration, via labour channels within economic and political regional blocs, were also identified that assist in expanding case resolution options.

Placement options

The use of shelters and safe houses for all categories of migrants – particularly vulnerable migrants – was identified as a means to house people in the community without conditions, while their migration status is being determined. Options for community placement with conditions, such as bail or reporting, were also identified. Provisions permitting the adoption and guardianship of unaccompanied or separated children are available in several African countries. There is also a clear trend towards the deinstitutionalisation of children into family or foster care.

Minimum standards

Minimum standards, such as respect for fundamental rights and access to basic needs, underpin successful alternatives. Across Africa international legal standards continue to be domesticated, with governments lifting reservations on refugee and migrant rights provisions. This reflects the increasing recognition of migrants' contributions to local host economies when they are permitted to work and trade to meet their own basic needs. The issuing of documentation to regularise an individual's stay in a country whilst their migration status is being determined is now used in some countries. Provisions that entitle all persons within a state's territory *de jure* access to education, employment and health-care are available in some countries. Other states are mainstreaming refugees' access to government-run social assistance services developed for citizens, so as to avoid parallel systems and to multiply the benefits of diverse funding streams.

1. Introduction

1.1 Alternatives to detention in Africa: Project description

African Members of the International Detention Coalition (IDC) have undertaken combined information gathering with the hope of triggering meaningful advocacy at national, regional and international levels against the use of immigration detention. The first publication in our series to map alternatives to detention in Africa was the “Alternatives to Immigration Detention in Africa, 2015-2016” report focused on six countries: **Egypt, Kenya, Libya, South Africa, Tanzania and Zambia**.⁶

This report contains new descriptions of alternatives to detention currently operating in an expanded selection of 32 African countries. These include laws, policies and practices that allow migrants to live in the community with freedom of movement while their immigration status is being resolved or while they are awaiting removal from the host country.

Evidence was gathered through member surveys, telephone interviews and desk-based research. The report includes case studies identified during the IDC’s meetings and site visits in **South Africa, Zambia, Malawi and Botswana** in April and May 2017.⁷ An IDC staff delegation visited the region to discuss alternatives to detention, following up on the 2016 Migration Dialogue for Southern Africa (MIDSA) commitment to “develop and implement” alternatives to detention.⁸ More than 25 Member organisations and 50 government representatives were engaged in multiple sessions, and follow up programming work has taken place since in **Malawi, Zambia and South Africa**. The report also includes the alternative to detention processes being developed in **Libya** in collaboration with the IDC. The methods of evidence gathering have led to a broad overview based on published information, the knowledge of key informants and limited in-country discussions.

1.2 Definition of alternatives to immigration detention

The phrase “alternatives to immigration detention” (“alternatives”) is not an established legal term nor a prescriptive concept. Rather, it is a fundamentally different way of approaching the governance of migration. Alternatives are a pragmatic and proactive approach, focused on working with each person to resolve their migration situation, shifting the emphasis away from security and restriction. This approach respects asylum seekers, refugees and migrants as rights holders who can be empowered to comply with immigration processes, without the need for restrictions or deprivations of liberty. The IDC defines alternatives to detention as “*any law, policy or practice by which persons are not detained for reasons relating to their migration status*”.

Within this broad definition, alternatives to detention can therefore be either formal practices such as programmes operating in the community in a systematic and sustained manner or informal and *ad hoc* responses such as one-off or short-term practices that are not formally recognised by the government. Alternatives can be effectively implemented to avoid detention at all stages of a migration procedure, including upon arrival, during processing of migration-related claims, or when preparing for departure. While some governments may only consider alternatives to detention to be appropriate when there is a plan for voluntary return and no option for local integration, other governments consider alternatives an integrated strategy for promoting the best possible outcomes from the community setting.

“Alternatives can be effectively implemented to avoid detention at all stages of a migration procedure”

1.3 Benefits of alternatives to detention

The IDC's ten-year programme of global research has highlighted the benefits of pursuing alternatives to immigration detention.⁹ The IDC's main findings are:

Alternatives are up to 80% cheaper than detention due to lower running costs and they also eliminate costly litigation and compensation claims.

- **There are alternatives.** There are a range of alternatives to detention that governments can draw upon to reduce unnecessary immigration detention and increase the success of community-based migration management. The IDC has identified more than 250 examples in over 60 countries. This includes in countries with large numbers of migrants and few resources.
- **Alternatives can be applied in the majority of cases.** Detention is rarely necessary while working with people towards satisfactory case resolution. Placement options range from open accommodation in the community with minimal requirements for low-risk groups, through to intensive supervision and case management for populations of highest concern, such as non-citizens facing deportation after completing a prison sentence.
- **Alternatives are more affordable.** Alternatives are up to 80% cheaper than detention due to lower running costs. They also eliminate costly litigation and compensation claims.¹⁰
- **Alternatives are more humane.** Alternatives are less harmful than detention.¹¹ Community placement supports health and wellbeing and upholds human rights.
- **Alternatives are highly effective.** Alternatives achieve effective case resolution outcomes: up to 95% appearance rates and up to 69% voluntary and independent return

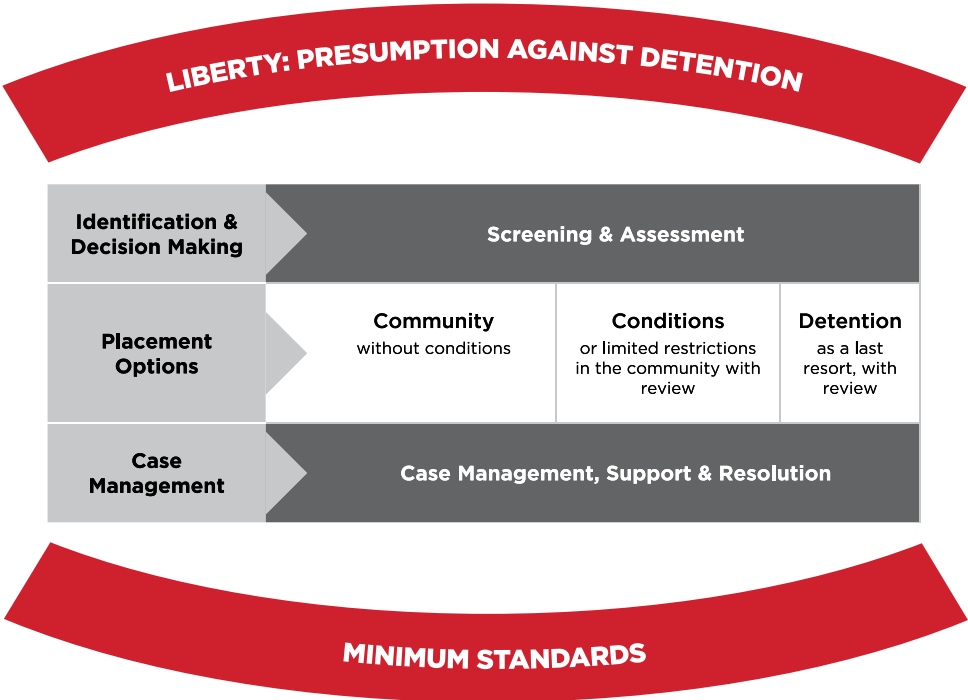
rates for refused cases. When people are able to live in the community and remain engaged throughout the process of their migration status determination, they are more likely to be reconciled to the outcomes of their eventual immigration decision.

1.4 The Community Assessment and Placement model

This report uses the IDC's Community Assessment and Placement model (CAP model) to present the alternatives currently in place in Africa identified during the mapping process. The CAP model is a tool for governments, civil society and other stakeholders to build systems that ensure detention is only used as a last resort and that community options result in optimal outcomes (see Figure 1).¹² Readers can find more information on all elements of the CAP model in *There Are Alternatives*.¹³

The CAP model is a tool to build systems that ensure detention is only used as a last resort and that community options result in optimal outcomes.

Figure 1: The Community Assessment and Placement model (CAP model)



2. Liberty: A presumption against detention

The first overarching principle of alternatives is the right to liberty including a presumption against detention. Migrants are rights holders who should be free to live in the community, rather than being forced into places of detention, while they await a migration status decision.¹⁴ Liberty can be established by adopting laws, policies and practices that create a presumption of liberty; provide a mandate to apply alternatives in the first instance; only permit restriction of liberty when other alternatives cannot be applied; only allow use of detention as a last resort; or prohibit the detention of vulnerable individuals.

2.1 Regional legislation

The African Charter on Human and Peoples' Rights 1984 outlines the right to liberty and protection from arbitrary arrest or detention (Article 6) and the right to freedom of movement (Article 12(1)).¹⁵

2.2 National legislation

A presumption against detention for all persons with irregular migration status exists in national legislation. For example, Constitutional provisions for freedom of movement, right to personal liberty and protection from arbitrary detention exist in **Zambia** (Constitution 2016, Article 11 and 13),¹⁶ **Uganda** (Constitution 1995),¹⁷ **Zimbabwe** (Constitution 2013, Section 49)¹⁸ and **South Africa** (Constitution 1996).¹⁹

Legislation can be an alternative to detention and assist States to ensure that detention is used as a last resort

National laws prohibit the detention of vulnerable individuals, for example, asylum seekers and refugees are protected from detention in **Lesotho** (Refugee Act 1983 and Regulations of 1986, Article 9(1)b),²⁰ **Uganda** (Refugees Act 2006, Section 30),²¹ **Djibouti** (Refugee Law, passed in January 2017)²² and **South Africa** (Refugees Act 1998)²³ – although the presumption of liberty is threatened by the government's White Paper on International Migration.²⁴ Legal protections for stateless people exist in **Algeria** (Aliens Law 2008, Article 42).²⁵ Whilst not detailed in law, **Ethiopia** maintains an open-door policy for Somali refugees²⁶. A partial presumption against detention can be created by the existence of time limits on the permissible length of detention in national laws. Limits exist in **Zimbabwe**,²⁷ **Botswana**,²⁸ **Angola**,²⁹ **South Africa**,³⁰ **Zambia**³¹ and **Malawi**.³²

Malawi's Immigration Act 1964³³ contains many provisions that can be used to prevent the detention of migrants. An Immigration Law Audit³⁴ was undertaken in 2016 to summarise such alternatives to detention, prompted by the challenge of non-national children unsuitably placed in the prison system of **Malawi**. The report was initiated as a result of round-table meetings in 2015 that sought to address such issues.³⁵ The government hosted a second meeting in May 2017³⁶ where a Technical Working Group on Alternatives to Detention and a Statement of Principles³⁷ were created in which the government committed to developing an alternative to prison pilot for children irregularly entering the country.



In focus: Alternatives for children

Alternatives to detention for children exist across the continent. Detention of children is a child rights violation, as it is never in a child's best interests: as such, children should never be detained for reasons relating to their or their parents' migration status.³⁸

Liberty: Protections for unaccompanied or separated refugee children are outlined in Article 23(3) of the African Charter on the Rights and Welfare of the Child 1990 and Best Interests of the Child are detailed in Article 4³⁹ as well as the national laws of **Algeria**⁴⁰, **Egypt**,⁴¹ **Tunisia**,⁴² **Kenya**,⁴³ **Lesotho**,⁴⁴ **Botswana**,⁴⁵ **Mozambique**,⁴⁶ **South Africa**⁴⁷ and **Swaziland**.⁴⁸

Identification and decision making: There are child-specific screening systems and accompanying trainings for government officials in place in **Algeria**,⁴⁹ **Ethiopia**,⁵⁰ **Djibouti**,⁵¹ **Kenya**,⁵² **Zambia**,⁵³ **Malawi**⁵⁴ and **Zimbabwe**.⁵⁵

Case management: Case management systems run by civil society and the government for children are operating in **Ethiopia**,⁵⁶ **Kenya**,⁵⁷ **Malawi**,⁵⁸ **Zambia**,⁵⁹ **Mozambique**⁶⁰ and **Zimbabwe**.⁶¹ Monthly "case conferences" take place in **Zimbabwe** for government and NGO actors to discuss individual cases. Case resolution for unaccompanied children through Assisted Voluntary Return and Reintegration (AVRR) to their country of nationality has been identified in **Mozambique**⁶² and **Zambia**.⁶³

There are bilateral and multilateral attempts to harmonise case management systems for children across borders. For example, the "West Africa Network" (WAN)⁶⁴ is based on a standardised procedure⁶⁵ for government authorities and NGOs across 16 countries to

undertake the identification, protection and reintegration of children (in their countries of nationality or in "third" countries).

Placement options: Migrant children are housed in shelters while their migration situation is resolved. Use of shelters is codified in law, for example, in **Malawi**⁶⁶ and **Uganda**.⁶⁷ Community placement for children is widespread in practice, for example, state-run shelters exist in **Malawi**,⁶⁸ **Zimbabwe**,⁶⁹ **South Africa**,⁷⁰ **Mozambique**⁷¹ and **Tunisia**.⁷² There are shelters run by civil society, including religious institutions in **Zambia**,⁷³ **Botswana**,⁷⁴ **Kenya**,⁷⁵ **Morocco**⁷⁶ and **Malawi**.⁷⁷ Foster care or guardianship arrangements for non-national children are an example of alternative care for children in the community and are codified in law in **Zambia**,⁷⁸ **Uganda**,⁷⁹ **Kenya**,⁸⁰ **Tanzania**,⁸¹ **Zimbabwe**,⁸² **South Africa**,⁸³ **Libya**,⁸⁴ as well as in domestic law in **Egypt** and **Morocco** through the Kafala system.⁸⁵ Other *ad hoc* placement of children in host families has been identified in **Senegal**,⁸⁶ **Malawi**,⁸⁷ **Kenya**⁸⁸ and **Zimbabwe**.⁸⁹

Minimum standards: Basic needs such as food and healthcare are provided through the aforementioned placement options and case management systems. Non-discrimination provisions exist in national laws, for example, in **Sudan**,⁹⁰ **South Africa**⁹¹ and **Botswana**.⁹² Refugees in **Djibouti** were mainstreamed into national school systems in 2017.⁹³ The government of **Zimbabwe** reviewed the Children's Act 1972 in 2017 in order to incorporate definitions of unaccompanied migrant children.⁹⁴ Legal status and documentation is issued, such as free birth certificates for refugee children in **Ethiopia**,⁹⁵ **Mauritania**⁹⁶ and **Zimbabwe**.⁹⁷ National laws that consider unaccompanied child migrants found on the border with an unidentifiable nationality as their own nationals exist in **Kenya**,⁹⁸ **Tanzania**,⁹⁹ **Zambia**¹⁰⁰ and **Swaziland**.¹⁰¹

3. Identification and decision-making

Successful migration governance programs understand that refugees, asylum seekers, stateless persons, irregular migrants and other non-citizens without legal status are a highly diverse population with different needs and motivations. Identification via screening and ongoing assessment of individuals highlights the key aspects of their migration situation such as legal obligations; identity, health and security checks; vulnerability; individual case factors; and community context. A robust and effective screening system is essential to facilitate referral of the migrant to the appropriate entity and determine the level of case management needed. The IDC and UNHCR's Vulnerability Screening Tool is a useful guide when designing country-specific screening mechanisms.¹⁰²

A robust and effective screening system is often a common factor for successful migration governance programs

3.1 Screening and assessment

Screening, identification and referral measures are codified in law, such as the victim referral system outlined in **Botswana's** Anti-Trafficking law 2014.¹⁰³ Other countries have devised guidelines for frontline immigration officials – often referred to as National Referral Mechanisms (NRMs). In **Zambia** the NRM¹⁰⁴ has been rolled out with immigration officers nationwide. A Directory of Services to Aid Migrant Referrals is currently undergoing review, while a Directory of Services for Cases of Trafficking is already in use.¹⁰⁵ The NRMs of **Botswana, Zimbabwe** and **Malawi** were being reviewed at the time of writing.¹⁰⁶ **Malawi's** NRM was adapted from the **Zambian** model following discussions during a Training of

Trainers (TOT) for the protection of vulnerable migrants that took place in Lilongwe, November 2014. Screening and referral systems specifically designed to identify victims of trafficking exist in **Mozambique**¹⁰⁷ and **Senegal**.¹⁰⁸

While a screening and referral mechanism at point of arrival or contact can avoid the detention of vulnerable persons altogether, it is important that screening systems are used within detention centres as well.¹⁰⁹ For example, vulnerable categories of migrants are screened out of detention centres through monitoring visits to centres by NGOs in **Tunisia**¹¹⁰ and **Zambia**.¹¹¹ HAART Kenya is exploring possibilities to identify and release victims of trafficking caught up in prisons and detention centres.¹¹²

3.2 Training of immigration personnel

Training events and awareness campaigns to sensitise local government officials to refugee and trafficking issues were run by the governments of **Senegal**,¹¹³ **Botswana**,¹¹⁴ **Somaliland**,¹¹⁵ **Lesotho**,¹¹⁶ **Ethiopia**¹¹⁷ and **Zimbabwe**.¹¹⁸ In **Zambia**, 2017, the NRM was introduced into the standard training of the Police Services.¹¹⁹ Civil society-led training also took place in **Kenya** and **Uganda**. HAART Kenya's Awareness Department trained police about trafficking issues¹²⁰ and the Refugee Law Project (RLP) Uganda trained officials working in the Justice, Law and Order sector after which there was a reduction of reported cases of arrests and increase in referrals of migrants and refugees.¹²¹

4. Case management, support and resolution

4.1 Case management

The most successful alternatives use case management across all stages of the migration process, to ensure a coordinated approach to each case. Case management is a social work approach that builds on an individual's strengths, identifies vulnerability or protection concerns, and addresses needs. The case manager – who is not a migration status decision-maker – facilitates access to all relevant information and support services, and provides a link between the individual, the authorities and the community. Case management is useful to track cases and collect anonymised data that may be used for evidence-based policy design in future.¹²²

Case managers can contribute to timely case resolution by identifying legal, practical and personal barriers to likely outcomes and working on shared solutions

Case management systems are run by civil society. For example, in **Tunisia**, migrants visit the Tunis-based Terre d'Asile Tunisie to request legal, medical or social assistance.¹²³ The caseworker classifies the client's case as "Green" or "Red". Green flags a form of less-intensive case management such as administrative support for self-sufficient migrants. "Red" flags intensive support in which the complex case is assigned to one of the 20 specialised NGO partners who provide support such as legal aid, housing, healthcare as well as Family Planning in Clinics run by the Ministry of Foreign Affairs with whom the Terre d'Asile drop-in centre has an opera-

tional partnership. Other features of the Terre d'Asile programming include a "Civil Society Empowerment Platform" which aims to sensitise grassroots organisations to refugee and migrant issues in **Tunisia**.

Victims of trafficking identified by Police in **Kenya** are referred to HAART,¹²⁴ an NGO who receives several referrals per day. Caseworkers devise a case plan and arrange accommodation in local shelters or in group living arrangements – sometimes financed through the client's collective savings, acquired through employment. The government legalises the client's temporary stay in the country, while HAART, IOM and NGOs in the client's country of citizenship work collaboratively to trace the individual's family. When medical, psychosocial and psychiatric support is required, HAART refers the client to a partner NGO. HAART has a partnership with a local hotel so that clients may access employment if desired.¹²⁵

Migrants in **Egypt** visit St Andrews Refugee Service (StARS)¹²⁶ in Cairo to access assistance. StARS has a referral mechanism with other service providers related to mental and physical health, housing, financial or community support needs. The centre welcomes 20,000 migrants per year. Many former beneficiaries are employed by StARS which means that the initial screening interviews are conducted by people who represent the major refugee communities in **Egypt** and are therefore sensitive to the client's socio-cultural and linguistic needs.¹²⁷

A case management system for migrants in **Algeria** is operated by Recontre et Développement (R&D) – a social service agency established by the Reformed Church. Staff identify the purpose of the migrant's visit and assess their particular needs. Support available includes medical care, enrolment in school, clothes or assistance to return to their country of citizenship. In 2014, the organisation reported more than 1,900 visits from migrants of over 30 nationalities, with most from Sub-Saharan Africa.

In 2013, R&D helped more than 200 minors and paid the school fees for 23 children to attend school.¹²⁸

The most successful alternatives use case management across all stages of the migration process, to ensure a coordinated approach to each case, with collaboration between government and civil society

Case management systems are also run by governments or by a government and civil society in collaboration. For example, if a suspected victim of trafficking visits Terre d'Asile Tunisie they are referred to the National High Authority for Combating Human Trafficking and accommodated in centres run by the Ministry of Social Affairs (MSA) that provide food, clothing, legal aid, medical and psychological services. Since November 2017, sub-Saharan African Embassies have been involved with the referral mechanism and by mid-2018, the system will be formalised.¹²⁹

There are efforts to harmonise cross-border case management procedures through bi-lateral meetings between Southern African governments. The Immigration Department of **Zambia** has run meetings with **Malawi**, **Zimbabwe**, **Tanzania** and **Mozambique**. In addition, peer-to-peer learning is taking place between case management practitioners, for example, the **Malawi** National Technical Working Group on Trafficking in Persons visited **Zambia** in March 2017 to learn about protection mechanisms.¹³⁰

For some people, migration status is resolved through departure from the country. Assisted Voluntary Return and Reintegration (AVRR) can facilitate voluntary departure of migrants who are unable or unwilling to remain in host countries – especially for people who have been trafficked and asylum seekers who have not

been granted refugee status.¹³¹ AVRR has been facilitated by IOM in **Botswana**, **Malawi**, **Mozambique**,¹³² **Zimbabwe**,¹³³ **Libya**¹³⁴ and **Egypt**¹³⁵ and by the government in **Djibouti**.¹³⁶

4.2 Resolving migration status

The resolution of a migration case can take many forms, from permanent solutions such as regularization or return, medium-term options such as protection, humanitarian interventions, study or temporary work permits, and short-term status while a more substantive claim is decided.

In addition to such individualised case consideration, some governments provide for large-scale or group-based case resolution. A permanent migration solution for one group of refugees exists in **Tanzania**, with the government offering citizenship to Burundi refugees.¹³⁷ Some asylum seekers are given prima facie refugee status – in **Uganda** during an influx¹³⁸ and in **Djibouti** for Somali and Yemeni asylum seekers.¹³⁹

Other countries have offered amnesties for undocumented migrants through the granting of residency permits. For example, in **Djibouti** for undocumented Ethiopian migrants¹⁴⁰ and in **Morocco** where 18,000 one-year residency permits were granted to undocumented migrants in the country through a 2013 National Policy on Immigration and Asylum (NPJA).¹⁴¹ The government of **Zimbabwe** conducted exemption interviews for Rwandan refugees who lost prima facie refugee status due to the 2013 Rwandan cessation clause.¹⁴² In **Algeria**, refugees can apply for a residency permit.¹⁴²³

In focus: Alternatives to detention in Libya



While all kinds of migrants are exposed to arbitrary and indefinite detention in **Libya**,¹⁴⁴ efforts are on-going to divert people into alternatives. Meetings have taken place since 2014¹⁴⁵ including the constitution of a Mixed Migration Working Group (MMWG) in 2016 to oversee the implementation of alternatives.¹⁴⁶

Liberty: A law on immigration and refugee status which outlines the importance of alternatives to detention especially for children has been drafted by a Libyan NGO, the International Organisation for Cooperation and Emergency Aid (IOCEA).¹⁴⁷

Identification and decision making: Migrant identification in **Libya** is a decentralised and *ad hoc* process that varies by location. When vulnerability screening occasionally takes place during detention visits by NGOs, asylum seekers or refugees are referred to UNHCR. Meanwhile, unaccompanied or separated children, people awaiting deportation or voluntary return by IOM, adults with family living in **Libya**, and people who are able to work may be eligible for release into an alternative.

Placement options: Migrants are permitted to live in the community, with conditions pending expulsion, according to the Aliens Law 1987, Article 18.¹⁴⁸ In practice, unaccompanied children are sometimes placed in informal and *ad hoc* foster care arrangements. Adults in Sabratha in the West and Janzour in the Northwest of **Libya** are occasionally placed in the community with conditions through local release-to-work programmes.

Through a collaboration between municipal authorities and detention centre managers in Sabratha, operating since 2014, undocumented migrants are matched with labour market needs. If requested by a local employer, migrants may be issued with identification documents recognised by local authorities to prevent their re-arrest and released into the community to take up the promised employment.¹⁴⁹ Individuals with community links such as a spouse legally employed in **Libya** are released from detention. At the time of writing, an “Alternative Solutions” pilot was underway to accommodate vulnerable migrants in Embassy-run shelters or with host families pending voluntary departure to their countries of nationality.

Case management: The MMWG sub-working group on Case Management has developed specific forms and pathways for case referrals from detention centres including a “Joint Vulnerability Criteria”.

Minimum Standards: The Libyan authorities attempt to fulfil their minimum standards obligations under the Convention Against Torture, the Convention on the Rights of the Child and national laws through cooperation with international agencies and local NGOs who have access to places of detention for the purposes of monitoring conditions, humanitarian interventions and non-food item delivery. The draft law proposed by Libyan NGOs (detailed above) encourages further formalisation of migrant protection.

5. Placement options

The CAP model prioritises placement in the community without conditions – or with liberty – in the majority of cases. If shown to be necessary in the individual case, conditions such as monitoring, supervision and surety may be applied. Finally, immigration detention may be used as a last resort, in exceptional cases; provided the standards of necessity, reasonableness and proportionality have been met.¹⁵⁰ Many community-based placement options have been described in the previous section as a material element of the case management process. Further examples are mentioned below.

5.1 Unconditional placement options

The use of unconditional community placement may be codified in law. For example, the government of **Algeria** amended its Anti-Trafficking law to provide housing, financial assistance and medical care for trafficked people.¹⁵¹ In **Uganda**, the Refugees Act 2006 (Section 38) gives asylum seekers and refugees the right to choose their place of abode: in the refugee settlements where they are supported by the government and UNHCR or self-settlement in urban centres.¹⁵² The Prevention of Trafficking in Persons Act 2009 (Section 12(1) and 12(7)) provides for the use of open accommodation for trafficked people.¹⁵³ In addition, policies such as the Comprehensive Refugee Response Frameworks (CRRF) have outlined unconditional placement for refugees. In **Ethiopia**, 75,000 refugees of all nationalities can move freely and live in towns and cities as part of an expanded out of camp policy.¹⁵⁴

In practice, the use of open reception centres is widespread. For example, there are government-run shelters reserved for people who have been trafficked in **Senegal**,¹⁵⁵ **Zimbabwe**,¹⁵⁶ the **Gambia**¹⁵⁷ and **Zambia**.¹⁵⁸

A transit centre in Lusaka, **Zambia**, hosts over 80 refugees pending relocation or resettlement, or while their asylum applications are being processed by UNHCR. An open reception centre for asylum seekers in **Lesotho** issues guests with ID cards so that they can access appropriate services.¹⁵⁹ There are shelters run by both government and NGOs, for example in **Lesotho** an NGO-run shelter for trafficked people could be re-established through a Memorandum of Understanding (MoU) with the government.¹⁶⁰

5.2 Conditional placement options

Conditional placement imposes restrictions or conditions on a person's liberty. Persons at risk of detention can apply for conditional release by applying for bail, bond surety, or other consequences for non-compliance in place of a custodial sentence in **Egypt** (Articles 146-148 of the Criminal Code),¹⁶¹ **Zambia's** Immigration Act 2010 provides for bail (Section 57) or report orders (Section 14). **Zimbabwe's** Immigration Act 2001 allows for release through a bond (Article 9). Section 14(2) of **Malawi's** Immigration Act allows for bail if the immigrant provides sureties. In **Uganda**, poor health may be a basis for seeking release from detention on bond or bail. In cases of grave illness, release has often been granted.¹⁶²

Community placement with monitoring conditions such as directed residence pending deportation, is available in **Egypt** (Criminal Code, Article 145 and 149), **Sudan** (Passports and Immigration Act 1994, Article 22) and **Tunisia** (Organic Law 68-7, Article 19).¹⁶³ Reporting requirements exist in **Kenya**¹⁶⁴ and **Zambia** (Section 14 of the Immigration Act 2010). In practice, the Zambian Immigration Department issued 9,837 Report Orders in 2016 and have reported that very few individuals do not comply.¹⁶⁵

Placement at a nominated address is possible in **Mozambique** where the Immigration Department grants release from detention if a) the individual proves their financial capacity to pay the costs of deportation; or b) if friends or family members living legally in **Mozambique** sign a Terms of Responsibility (TOR) confirming that they will pay the travel ticket. These alternatives to detention are not mentioned in law but are administrative measures in place. In **Botswana** there have been *ad hoc* instances of migrants being housed in alternative accommodation by their Consulates pending the migrant's departure to their country of citizenship.¹⁶⁶

“In practice the use of open reception centres is widespread”

In focus: Facilitating lawful migration



Sub-regional economic communities¹⁶⁷ are exploring freedom of movement between member states, including the Southern African Development Community (SADC),¹⁶⁸ the Economic Community of West African States (ECOWAS),¹⁶⁹ the Intergovernmental Authority on Development (IGAD),¹⁷⁰ the Community of Sahel-Saharan States (CENSAD),¹⁷¹ and the Arab Maghreb Union (AMU/UMA).¹⁷² Bilateral arrangements are also in place in **Kenya** – for citizens of the East African Community (EAC)¹⁷³ and in **South Africa** – for SADC citizens through the White Paper on International Migration¹⁷⁴ and for **Lesotho** citizens through a 2013 Memorandum of Understanding (MoU) on Labour Cooperation.¹⁷⁵ Initiatives to facilitate labour migration between the island nations in the Indian Ocean and the African mainland are developing in **Madagascar**¹⁷⁶ and the **Seychelles**.¹⁷⁷

A Common Market for Eastern and Southern Africa (COMESA)¹⁷⁸ pilot on labour rights is in place in the **Zambia-Zimbabwe** border region, which prevents the detention of labourers who live in one country but work in the other country. Although the two countries have not yet ratified the COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence; with support from IOM, they set up National Monitoring Committees (NCM) in 2016, to monitor the implementation of the proposed Protocol.¹⁷⁹ This is a clear example of practice leading policy in the Africa region.

6. Minimum standards

The IDC discusses minimum standards in relation to the standards that are needed to make alternatives to detention processes work. Minimum standards can be established through: respect for fundamental rights, including the right to liberty and freedom of movement;¹⁸⁰ meeting basic needs – including education, health care, employment rights; legal status and documentation; legal advice and interpretation; fair and timely case resolution; and regular review of placement decisions.¹⁸¹

6.1 Respect for fundamental rights

Ensuring fundamental rights are respected can support migrants to stay engaged with authorities, minimise secondary movement and improve the safety and security of both migrant and local populations.

Migrants are better able to comply with requirements if they are able to access and meet their basic needs while in the community

Various African regional bodies and processes establish minimum standards. Most notably, through the Migration Dialogue for Southern Africa (MIDSA), member governments have requested templates for good practices that align with their MIDSA commitments. The Assisted Voluntary Return and Reintegration (AVRR) technical guidelines were created by IOM; the Protection of Unaccompanied Minors technical guidelines are being created by Save the Children; the Vulnerability Screening technical guidelines have been created by the IDC and UNHCR.¹⁸²

6.2 Formal status and documentation

Formal status – and documentation of that status – is another minimum standard. Documentation on arrival is issued, for example, in **Malawi** (Immigration Act 1964, Section 10)¹⁸³ and **Kenya** (Refugees Act 2006, Section 11), documentation is issued to allow asylum seekers and refugees to pass through the territory. Temporary stay permits for trafficked people are available in **Mauritius** (The Combating of Trafficking in Persons Act 2009, Section 7),¹⁸⁴ **Gambia** (Anti-Trafficking Act 2007),¹⁸⁵ **South Africa** (Prevention and Combating of Trafficking in Persons Bill, Section 15(1)),¹⁸⁶ and **Botswana** (Anti-Trafficking Act 2014).¹⁸⁷ Administration of documentation for refugees and asylum seekers by the government is available in **Uganda**,¹⁸⁸ **Swaziland**¹⁸⁹ and **Zimbabwe**,¹⁹⁰ as well as bio-metric documents in **South Africa**¹⁹¹ and **Ethiopia**¹⁹² and travel documents for refugees in **Swaziland**.¹⁹³ UNHCR issues documentation for refugees in **Egypt**¹⁹⁴ and **Algeria** where trainings for the police are conducted in order to raise awareness about this form of identification.¹⁹⁵ Documentation to regularise certain groups is evident in **South Africa** where a new Zimbabwean Exemption Permit (ZEP) was launched in January 2018.¹⁹⁶ In addition, the **Lesotho** Special Permit (LSP) provides an amnesty to those who had previously obtained ID documents fraudulently.¹⁹⁷

Documentation for those facing departure is issued in some countries. Provision of exit permits to allow for voluntary departure is possible in **Malawi** (within 14 days, Section 21(4) of the Immigration Act 1964) and **Zambia** for rejected asylum seekers (Section 39 of the Immigration Act 2010). In practice, the Voluntary Repatriation Declaration Form has been recognised by the government of **Zimbabwe** as a valid document for refugees to travel with when voluntarily departing.¹⁹⁸

There are many local practices of administering documentation. For example, a NGO-run transit centre in **Zambia** issues a “Gate Pass” to

refugees which protects people from detention in Lusaka because intercepting authorities can call the transit centre's telephone number detailed on the Pass to understand the status of the resident before detaining them. This practice has developed into a formalised Standard Operating Procedure (SOP) within Lusaka, involving Action Africa Help Zambia (AAHZ), UNHCR and the Ministry of Home Affairs.¹⁹⁹

6.3 Legal advice and interpretation

The minimum standard of legal advice and interpretation²⁰⁰ is provided for in both international²⁰¹ and national laws. For example, in **Tunisian** law No. 2016-5 of 16, any person, regardless of nationality, can be represented by a lawyer, and Terre d'Asile Tunisie is training lawyers on these provisions.²⁰² National law detailing the right to interpretation is detailed in Section (8)1 of **Malawi's** Immigration Act and Section 42(1) (a) of the Constitution of **Malawi**.

6.4 Meeting basic needs

The ability of migrants to meet their own basic needs represents another minimum standard. There is evidence that migrants are better able to comply with requirements if they can meet their basic needs while in the community. Legislation that ensures both nationals and non-nationals are entitled to access all services is evident in **Morocco** (Constitution 2011, Article 30).²⁰³ Non-nationals can access healthcare in **Zimbabwe**²⁰⁴ and **Tunisia**, while **Uganda**²⁰⁵ and **Egypt**²⁰⁶ extend health rights to refugees only. In collaboration with Médecins du Monde Tunisia, Terre d'Asile Tunisie runs an advocacy programme to inform doctors that they may apply Constitutional rights to migrants.²⁰⁷

There have been attempts by several African governments to mainstream services for refugees and asylum seekers through existing national services to avoid parallel systems for refugees from those for host communities. Successful mainstreaming of refugees into national health service systems has

been identified in **Ghana**,²⁰⁸ **Djibouti**,²⁰⁹ and discussed in **Egypt**.²¹⁰ Refugees will be mainstreamed into the national education systems of Intergovernmental Authority on Development (IGAD) member countries – **Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Uganda**. Certificates that are recognised throughout the region will be administered to refugees who complete secondary education.²¹¹ In **Egypt**, only Syrian and Sudanese refugees have access to public education.²¹²

Mainstreaming migrants, refugees and asylum seekers access to government-run social assistance services developed for citizens can avoid parallel systems and multiply the benefits of diverse funding streams

An example of both refugee and host communities benefitting when the creation of parallel healthcare systems is avoided can be seen in Lusaka, **Zambia**. Using UNHCR funding, a Lusaka-based transit centre run by Action Africa Help Zambia (AAHZ) was able to improve the infrastructure of their health clinic. The surrounding host community became frustrated as the good standard of medical care was exclusively available to refugees. To increase the sustainability of the centre, the centre opened the clinic to the wider community and therefore could use their migration funding to develop the host population's standard of health-care. The host community subsequently became more tolerant of newcomers, employing some of the refugees in domestic work such as gardening. This has led to reciprocity as hospitals and clinics in other parts of Lusaka have opened their doors to refugees living nearby to save them having to travel across the city to the transit centre's clinic.²¹³

Granting the right to work to migrants, asylum seekers and refugees benefits the local community through the economic contributions reduces reliance on state resources

A number of African countries provide refugees with employment rights while their protection needs are being determined. There is a growing body of evidence that suggests granting the right to work to asylum seekers and refugees benefits the local community through the economic contributions of newcomers and reduces reliance on state resources or charitable supports for basic welfare.²¹⁴ Employment access is outlined in law or policy in **Zambia** (Refugees Act 1970),²¹⁵ **Kenya** (Refugees Bill 2017),²¹⁶ **Rwanda**,²¹⁷ **Uganda**,²¹⁸ **Algeria**,²¹⁹ and **Swaziland**,²²⁰ as well as in **Zimbabwe**²²¹ and **Botswana**²²² for high-skilled refugees. The Comprehensive Refugee Response Frameworks (CRRF)²²³ of **Ethiopia**²²⁴ and **Djibouti**²²⁵ outline employment and educational rights for refugees.²²⁶ As part of Djibouti's Refugee Law, passed in January 2017, all refugee camps were to be categorised as "villages" by the end of 2017 which promotes further freedom of movement that will enable easier access to services and jobs.²²⁷

Conclusion

Drawing on the framework of the IDC's Community Assessment and Placement (CAP) model, this report has highlighted the wide range of alternatives to detention currently in operation across the African continent, that could be expanded nationally or adapted in other African countries with similar migration contexts.

Case studies include spontaneous, *ad hoc* or local measures as well as laws and policies implemented in a systematic and sustained manner – with implementation by civil society, governments or partnerships between both. The research has shown that it is possible to manage migration in a holistic, rights-respecting way, without resorting to the use of detention. Streamlined identification, decision-making and referrals can increase the ability of governments to manage people within their territories effectively. A holistic, individualised approach to case management reduces demand on government resources and increases the likelihood of compliance. Additionally, placement options are already available in most host communities that can be increased through government and civil society cooperation with locals.

IDC's ten-year programme of research has found that alternatives to detention are on average 80% cheaper than custodial immigration detention while still ensuring compliance with immigration requirements – up to 95% appearance rates and up to 69% voluntary and independent return rates for refused cases. African nations can – and in many cases are already – exploring, developing and implementing many rights-respecting and cost-effective ways to manage migration without the use of detention. This report is an attempt to address the information gap on alternatives in Africa and can increase understanding of the successes and on-going challenges particular to this unique continent that will allow for the expanded use of alternatives to immigration detention in Africa.

End notes

- 1 At the MDSA Dialogue in 2016, the language moved from “explore” to “develop and implement” alternative options to detention through the sharing of existing practices in the region and elsewhere in the world, and through consultations with relevant experts, organisations and institutions.” See MDSA, 2016 Zimbabwe report, 1.7, https://www.iom.int/sites/default/files/our_work/ICP/RCP/English-Final-Report-MDSA-2015.pdf [accessed on 20/12/16]; Ministers shared country updates during the Third Ministerial-level dialogue, September, 2017. For example, the Zimbabwean government is carrying out their own internal process to come up with an Alternatives to Detention action plan. IOM Zimbabwe completed a training workshop for relevant state actors on Alternatives to Detention in September 2017. Zimbabwe member data, 2018; Zimbabwe National Action Plan Updates, 2018
- 2 “Alternatives to Detention Roadmap for the Global Compacts”, IDC, 2018, <https://idcoalition.org/wp-content/uploads/2018/02/631-Roadmap-v4-Press.pdf>
- 3 This advocacy tool has been developed by the IDC in the framework of the Initiative for Child Rights in the Global Compacts, which sees more than 26 agencies working together with expertise in promoting child rights worldwide. “Roadmap to End Child Immigration Detention” IDC, 2018, https://idcoalition.org/wp-content/uploads/2018/02/Roadmap-to-ending-detention_FINAL_12142017.pdf
- 4 UNHCR’s Global Detention Strategy webpage: <http://www.unhcr.org/detention.html>
- 5 Sampson et al., There are Alternatives: A handbook for preventing unnecessary immigration detention (Revised edition), 2015, <https://idcoalition.org/publication/there-are-alternatives-revised-edition/>
- 6 International Detention Coalition, “Alternatives to Immigration Detention in Africa, 2015-2016”, 2017, <https://idcoalition.org/publication/atd-africa/>
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- 8 International Detention Coalition, “Significant Regional Commitment to Implement Alternatives to Detention”, October, 2016, <https://idcoalition.org/news/significant-regional-commitment-to-implement-alternatives-to-detention/> [accessed on 12/10/16]; International Detention Coalition, “Final MDSA 2016 Conclusions and Recommendations”, October, 2016 <https://idcoalition.org/news/significant-regional-commitment-to-implement-alternatives-to-detention/final-mdsa-2016-conclusions-and-recommendations/> [accessed on 12/10/16]
- 9 International Detention Coalition, There are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition), 2015, <https://idcoalition.org/interactive-map-alternatives-to-detention>
- 10 International Detention Coalition, “Unlawful Detention: An Expensive Mistake for Governments”, February 2018, <https://idcoalition.org/news/unlawful-detention-expensive-mistake-governments> [accessed on 20/02/18]
- 11 Coffey, Guy J., Ida Kaplan, Robyn C. Sampson, and Maria Montagna Tucci. 2010. “The meaning and mental health consequences of long-term immigration detention for people seeking asylum.”; Physicians for Human Rights and the Bellevue/NYU Program for Survivors of Torture. “From persecution to prison: The health consequences of detention for asylum seekers.”, 2003; Steel, Zachary, Shakeh Momartin, Derrick Silove, Marianio Coello, Jorge Aroche, and Kuo Wei Tay. “Two year psychosocial and mental health outcomes for refugees subjected to restrictive or supportive immigration policies.” 2011, Social Science & Medicine 72 (7):1149-1156; Zwi, Karen, Sarah Mares, Dania Nathanson, Alvin Kuwei Tay, and Derrick Silove. “The impact of detention on the social-emotional wellbeing of children seeking asylum: a comparison with community-based children.” 2017, European Child & Adolescent Psychiatry. doi: 10.1007/s00787-017-1082-z.
- 12 The report does not include subsections of the CAP model for which no information was identified in this mapping project
- 13 Sampson et al., There are Alternatives (Revised edition)
- 14 For information on international legal provision for a presumption against detention, see: International Detention Coalition, “Legal framework and standards relating to the detention of refugees, asylum seekers and migrants”, 2011, <http://www.refworld.org/docid/57d023994.html> [accessed 11 January 2018]
- 15 Organization of African Unity (OAU), African Charter on Human and Peoples’ Rights (“Banjul Charter”), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), <http://www.refworld.org/docid/3ae6b3630.html>

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- 16 Constitution of Zambia. (Amendment) Act, 2016, http://www.parliament.gov.zm/sites/default/files/documents/amendment_act/Constitution%20of%20Zambia%20%20%28Amendment%29%2C%202016-Act%20No.%202_O.pdf
- 17 Subject to limitations for purposes of national security, public order and health or outbreak of disease. Constitution of the Republic of Uganda, 22 September 1995, <https://ulii.org/node/23824>
- 18 Constitution of Zimbabwe Amendment (No. 20) Act, 2013 [Zimbabwe], 22 May 2013, <http://www.refworld.org/docid/51ed09f4.html>
- 19 Lawyers for Human Rights v Minister of Home Affairs and Others (CCT38/16) [2017] ZACC 22, <http://www.polity.org.za/article/lawyers-for-human-rights-v-minister-of-home-affairs-and-others-cct3816-2017-zacc-22-2017-07-07> [accessed 15 January 2018]. As held in Arse v Minister of Home Affairs and others 2010 (7) BCLR 640 (SCA); Constitution of the Republic of South Africa, 10 December 1996, <http://www.refworld.org/docid/3ae6b5de4.html>
- 20 Lesotho: Refugee Act 1983, 15 January 1985, <http://www.lesotholii.org/lis/legislation/act/1983/18>
- 21 Uganda: The Refugee Act 2006 [Uganda], Act 21, 24 May 2006, <http://www.refworld.org/docid/4b-7baba52.html>
- 22 "UN Refugee Chief praises Djibouti New Refugee Laws", Relief Web, December 2017 <http://www.unhcr.org/en-au/news/latest/2017/12/5a3416654/un-refugee-chief-praises-djibouti-new-refugee-laws.html> [accessed on 15/12/17]
- 23 Detention is permissible if (a) an asylum seeker fails to appear, (b) fails to renew his or her temporary residence permit in time, (c) contravenes conditions of that permit, or (d) if the claim is deemed manifestly unfounded or fraudulent. Asylum seekers detained under the Refugees Act of 1998 must appear before a judge of the High Court after 30 days. South Africa: Act No. 130 of 1998, Refugee Act, 1998, 26 November 2008, https://www.gov.za/sites/www.gov.za/files/a130-98_O.pdf
- 24 South African Department of Home Affairs "White Paper on International Migration for South Africa", July 2017, <http://www.dha.gov.za/WhitePaperon-InternationalMigration-20170602.pdf> [accessed on 10/08/17]
- 25 The law protects stateless persons from detention if he or she cannot return to the country of origin or move to a third State.
- 26 Jesuit Refugee Service, "Emmylou Harris tours JRS projects in Ethiopia", June, 2016, http://www.jrsea.org/news_detail?TN=NEWS-20160620084713 [accessed on 12/02/17]; "Somalia: Ethiopia Reaffirms Open Door Policy for Somali Refugees", AllAfrica, September, 2017, <http://allafrica.com/stories/201709040419.html> [accessed on 10/10/17]
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- 31 48 hours for prosecution, 14 days for administrative detention, 90 days for detention pending deportation, Section 18(1), Zambia Immigration and Deportation Act 2010, No. 18, 16 April 2010, <http://www.refworld.org/docid/3ae6b4d64.html>
- 32 14 days for verification, Section 14(1), Malawi: Immigration Act of 1964, 1964, <http://www.refworld.org/docid/3ae6b4f58.html>
- 33 Ibid.
- 34 Southern African Litigation Centre (SALC) and the Centre for Human Rights Education Advice and Assistance (CHREAA), "Immigration Law Audit", May 2016, <https://drive.google.com/file/d/1klz-RWmlaWz7vCoNAWfn8PKx4kFX-liGk/view?usp=sharing>; Southern African Litigation Centre (SALC), "Press Release: Unlawful and expensive - Rights bodies criticize ongoing detention of migrants", 2016: <https://southernafricalitigation-centre.org/2016/05/20/press-release-unlawful-and-expensive-rights-bodies-criticize-ongoing-detention-of-migrants/> [accessed on 10/05/17]. There are plans to create a similar Law Audit for the Trafficking Act 2015 which contains further provisions for presumption against detention for victims of trafficking
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- 38 International Detention Coalition, "Never in a child's best interest", June, 2017, <https://idcoalition.org/wp-content/uploads/2017/06/Briefing-Paper-Never-in-a-childs-best-interests-June-2017.pdf>; In addition, country committees from South Africa, Kenya, Malawi and Zambia are engaged in the Campaign to End the Immigration Detention of Children (<https://endchilddetention.org>)
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- 40 Algeria's Child Protection Code 2015, Article 7, 2015 Child Protection Code: "The Treatment of Non-National Children and Immigration Detention in North African States: Algeria, draft country profile"
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- 42 Tunisia's Child Protection Law 95-92 1995. IDC members report that the Division of the Protection of Children, established through the law, is an active and reliable institution.
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- 44 Lesotho's Children's Protection and Welfare Act 2011, <http://iafbase.fr/docAfrique/Lesotho/children%20act%20lesotho.pdf>
- 45 Botswana's Children's Act [No.8 of 2009] 2009, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=97343
- 46 Mozambique's Law of Promotion and Protection of the Rights of the Child 2008 prohibits the deprivation of liberty of children under 16, http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Mozambique/mozambique_children_2008_pr.pdf
- 47 South Africa's Refugees Act 1998, Section 32 provides for all unaccompanied minors to apply for asylum and thus protects them from detention to a certain extent
- 48 Swaziland's Constitution 2005, Article 16(1)(f) prohibits deprivation of liberty of children except in certain limited cases, Constitution of the Kingdom of Swaziland Act 2005 [Swaziland], 2005, <http://www.refworld.org/docid/4c598cc72.html>
- 49 International Detention Coalition, "Alternatives to Immigration Detention in North Africa", Forthcoming, Cairo: North Africa, Mixed Migration Hub (MHuB)
- 50 Unaccompanied Eritrean children in the Tigray region are paired with an unrelated adult refugee who lives nearby and IOM medical staff provide pre-departure medical screening, "fitness to travel" health assessments before departure and provision of other basic needs. "Unaccompanied Refugee Minors in Ethiopia Find Protection", Refugee-Point, <http://www.refugeepoint.org/lifeline-child-protection-focus/> [accessed on 20/07/16]; IOM, "IOM Ethiopia moves Eritrean refugees to safety", January 2015, <https://www.iom.int/news/iom-ethiopia-moves-eritrean-refugees-safety> [accessed on 20/02/17]; US Committee for Refugees and Immigrants, "Forgotten Refugees: Eritrean Children in Northern Ethiopia", 2015, <http://refugees.org/wp-content/uploads/2016/02/USCRI-Report-Forgotten-Refugees.pdf> [accessed on 20/07/16]
- 51 United States Department of State Trafficking in Persons Report Djibouti, 2015
- 52 Section 3, The Children Act, 2001 [Kenya], No. 8 of 2001
- 53 New Best Interest Determination (BID) guidelines were launched in November, 2017 with accompanying training for the District Social Welfare Officers. UNICEF has trained 160 police officers on issues surrounding child migrants and is developing curriculums for ongoing training. UNICEF is also working with the University of Zambia's School of Social Work to integrate courses on the protection of child migrants into the standard university curriculum. The government and IOM set up child friendly interviewing spaces in seven selected Reception centres at Zambian border areas. IDC Meetings, Zambia, 4 May 2017
- 54 Malawi's Child Care Protection and Justice Act 2010 (No.22 of 2010), Section 23 and 123, http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=90369
- 55 The Zimbabwean government, with support from IOM, have run national workshops on the identification of unaccompanied minors for Provincial Social Welfare Officers, Immigration Officials, and Police from all provinces and also other government ministries related to migrant and child welfare issues.

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- Zimbabwe member data, 2018; National Action Plan on Irregular and Mixed Migration Zimbabwe, 2016-2018
- 56 A child reception centre opened in Addis Ababa, 2017. It attempts to forge a community-based child protection system that encompasses case management, a child friendly space, education and development. The process is overseen by the Jesuit Refugee Service (JRS) in collaboration with UNCHR and their government counterpart, the Administration for Refugee and Returnee Affairs (ARRA)
- 57 Telephone interview with HAART's Case Management Programme, 25 January 2018
- 58 Malawi member data, 2017; Telephone call with Eye of the Child Malawi, January, 2018
- 59 Zambia member data, 2017; IDC Meetings, Zambia, 4 May, 2017
- 60 Mozambique member data, 2017
- 61 Unaccompanied and separated migrant children enter a case management system that is run by the Department of Child Welfare and Protection Services (DCWPS), regulated by the Children's Act 1972, Section 110(5) a-e and formalised through a Standard Operational Procedure (SOP). While originally designed for the Zimbabwe-South African border, the SOP has been adapted for the Zimbabwe-Zambia border region and is operating in all districts with accompanying training to relevant officials. In 2018, an SOP for managing trafficked children is being developed. IDC/IOM/UNHCR Inter-agency Training on Alternatives to Detention, South Africa, 24-26 April 2017; Zimbabwe member data, January 2018
- 62 IOM, "Addressing Irregular Migration Flows in Southern Africa, Phase VII (US Department of State)", <https://mozambique.iom.int/addressing-irregular-migration-flows-southern-africa-phase-vii-us-department-state> [accessed on 20/12/17]
- 63 Beneficiaries in Zambia have included Ethiopian children charged with "consent to smuggling" with a criminal sentence of up to of fifteen years who were granted a pardon for release by the President of Zambia and repatriated by IOM, Zambian Anti-Trafficking Act No. 11 2008, https://www.unodc.org/cld/document/zmb/the_anti-human_trafficking_act_2008.html; IDC Meetings, Zambia, 4 May 2017
- 64 For more information, see the West Africa Network's website: <https://www.shareweb.ch/site/Migration/sdcs-topics-in-migration/migration-and-development/mainstreaming-migration/the-west-africa-network-for-the-protection-of-children---objectives-results-and-perspectives> or <https://www.ficeinter.net/westafrica> or <http://www.resao.org/en/>
- 65 WAN is convened by the International Social Services (ISS) and targets children and youth with irregular migration status in ECOWAS member states. West Africa Network, "ECOWAS Support Procedures and Standards for the Protection and Reintegration of Vulnerable Children on the Move and Young Migrants", 2016, <http://webcache.googleusercontent.com/search?q=cache:3bl3bpToO-oJ:www.resao.org/wp-content/uploads/2017/08/ECOWAS-standards-children-on-the-move-1.pdf&cd=3&hl=en&ct=clnk&gl=au>; International Social Service, "Children on the move: From protection towards a quality sustainable solution. A practical guide", 2017, http://www.iss-ssi.org/images/Childrenonthemove_Guide.pdf
- 66 Malawi's Child Care, Protection and Justice Act 2010, Section 157 obliges the Minister to establish Safety Homes for children. Section 2 95-96, permits the release on bail of children from detention
- 67 Uganda's Refugees Act 2006 and its 2010 Regulations 6(1) and (3), detail that unaccompanied minors should be placed a special reception centre run by the Government in cooperation with UNHCR
- 68 IOM has supported the Ministry of Gender with a shelter in Lilongwe which will be used as an alternative for migrant children. IDC/IOM/CHREAA/SALC Roundtables on Alternatives to Immigration Detention in Malawi, Lilongwe, 8-9 May, 2017
- 69 The Beitbridge and Plumtree centres cater for migrants broadly. The Beitbridge reception centre was established by IOM in 2006 to cater for migrants being returned from South Africa, and the Plumtree one in 2008 to cater for returnees from Botswana. The centres have since been handed over to government: IOM "The Official Handover of Beitbridge Reception and Support Centre to Government of Zimbabwe", May, 2015, <https://zimbabwe.iom.int/news/official-handover-beitbridge-reception-and-support-center-government-zimbabwe> [accessed on 10/12/17]; Mahove, C. "Zimbabwe Needs Migration Policy", 2016, <http://www.iol.co.za/news/africa/zimbabwe-needs-migration-policy---swedish-envoy-2090082> [accessed on 15/02/17]; Zimbabwe member data, 2017
- 70 South Africa member data, 2017
- 71 The government of Mozambique is collaborating with non-state actors so that migrant children may be referred to shelters run by NGO partners. Mozambique member data, 2018
- 72 United States Department of State Human Rights Report Tunisia, 2016, <https://www.state.gov/documents/organization/265734.pdf> [accessed on 15/02/17]
- 73 Six homes were recommended for closure in 2017 demonstrating the existence of on-going monitoring

- efforts. Zambia member data, 2017; IDC Meetings, Zambia, 4 May 2017
- 74 IDC/IOM Roundtables on Alternatives to Detention in Botswana, Gaborone, 11-12 May, 2017; Telephone with IDC member NGO, 16 January 2018
- 75 Kenya member data, 2017
- 76 Caritas (<https://www.caritas.org/where-caritas-work/middle-east-and-north-africa/morocco/>) runs a shelter for unaccompanied minor boys and a social work program
- 77 Minors are housed in local church institutions. At the time of writing, NGO Eye of the Child was constructing shelters for children. IDC/IOM/CHREAA/SALC Roundtables on Alternatives to Detention in Malawi, Lilongwe, 8-8 May 2017; Telephone interview with Eye of the Child, January, 2018
- 78 The Zambian government is working to place migrant children in local Zambian families with ties to the child's country of nationality. IOM Zambia is currently developing foster care guidelines. Fostering of unaccompanied minors is done in close collaboration with the Ministry of Community Development. UNHCR and its implementing partner AAH make recommendations to the department then the department makes an application to the Magistrate Courts seeking the grant of legal guardianship to applicants (Caregivers) outlined in Juveniles Act CAP 53. Zambia member data, 2017; IDC Meeting, Zambia, 4 May 2017
- 79 Refugees Act 2006 and its 2010 Regulations 6(1) and (3). Uganda member data, 2017
- 80 Children's Act 2001, Section 102 permits guardianship of non-national children
- 81 Children aged 7 years old or younger will be placed in a foster home. Tanzania member data, 2015
- 82 Zimbabwe member data, 2018
- 83 A 2018 High Court decision has ruled that all children, including non-nationals, are eligible for foster care. Napier-Jameson and Makoto v Presiding Officer of Children's Court Johannesburg, 2018, 2184/18, 6 February 2018, ZAGPHC, High Courts - Gauteng, South Africa
- 84 Article 34 of Libya's Regulation of the Situation of Minors, 1992 [Law No. 17 of 1992], Article 34, Reunite International Child Abduction Centre, "Libya", <http://www.reunite.org/edit/files/islamic%20Resource/Libya%20Text.pdf> [accessed on 20/07/17]
- 85 Enshrined in domestic law, Kafala allows for migrant children to be placed with a family who acts as a long-term guardian. In Moroccan law, Kafala is defined as "the commitment to take responsibility for the protection, education and maintenance of an abandoned child in the same manner as a parent would for his own child." Child Notice of Morocco, UNICEF, <https://www.unicef.be/content/uploads/2016/06/cn-marokko-eng-def.pdf> p.80-81 [accessed on 10/01/18]
- 86 Around 45,000 Gambian refugees (75% children) fled to Senegal in 2017. UNHCR, "Senegal: Around 45,000 have fled political uncertainty in The Gambia", January, 2017, <http://www.unhcr.org/en-us/news/briefing/2017/1/5881deb74/senegal-around-45000-fled-political-uncertainty-gambia.html> [accessed on 01/02/18]
- 87 IDC/IOM/CHREAA/SALC Roundtables on Alternatives to Detention in Malawi, Lilongwe, 8-9 May, 2017
- 88 Trafficked children are referred to HAART Kenya by the police or District Children's Officers and HAART acquires an approval letter to formalise the NGO's custody of the child. Telephone interview with HAART's Case Management Programme, 25 January 2018
- 89 Zimbabwe member data, 2018
- 90 Article 5(2)(c) of the Child Law 2010 states that all children in Sudan should enjoy non-discriminatory access to education, health and social care
- 91 Educational rights for all children are outlined in the South African Constitution 1996
- 92 Educational rights for all in Botswana's Children's Act 2009, Section 18
- 93 Under a Memorandum of Understanding (MoU) between UNHCR and the Ministry of Education and Vocational Training (MENFOP). The Djiboutian curriculum will be translated into English when needed. UNHCR, "Djibouti: Applying the Comprehensive Refugee Response Framework (CRRF)", <http://www.unhcr.org/en-au/djibouti-592fde724.html>
- 94 Zimbabwe member data, 2018
- 95 In line with Ethiopia's Comprehensive Refugee Response Framework (CRRF) commitments, birth certificates were issued from September 2017 as part of the new Vital Events and Registration Procurement. "New York Declaration spurs reforms to help refugees and their hosts as new framework is rolled-out", Relief Web, September, 2017 <https://reliefweb.int/report/world/new-york-declaration-spurs-reforms-help-refugees-and-their-hosts-new-framework-rolled> [accessed on 16/10/17]; UNHCR, "Ethiopia begins civil registration for refugees", October, 2017 <http://www.un.org/apps/news/story.asp?NewsID=57980#WfaSExOCwWo> [accessed on 30/10/17]
- 96 UNHCR, "UNHCR welcomes launch of birth certification for Malian refugees in Mbera camp", February, 2018, <http://www.unhcr.org/news/>

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- [briefing/2018/2/5a8fdda34/unhcr-welcomes-launch-birth-certification-malian-refugees-mbera-camp.html](#) [accessed on 23/02/18]
- 97 High fees of fifty dollars that prevented many children from being registered will be removed. Citizenship Rights in Africa Initiative (CRAI), "Free Birth Certificates for Kids Born Outside Zimbabwe" October, 2017 <http://citizenshiprightsafrika.org/free-birth-certificates-for-kids-born-outside-zimbabwe/> [Accessed on 30/10/17]
- 98 Kenya's Children Act 2001, Section 11 (2), for children under 8 years old
- 99 Tanzania member data, 2015
- 100 Zambia member data, 2017
- 101 Swaziland Constitution 2007, Article 47, for children under 7 years old
- 102 UNHCR and IDC, "Vulnerability Screening Tool - Identifying and addressing vulnerability: a tool for asylum and migration systems", 2016, <http://www.refworld.org/docid/57f21f6b4.html>
- 103 Anti-Human-Trafficking Act 32 of Botswana, 2014, <http://www.osall.org.za/docs/2011/03/Botswana-Anti-Human-Trafficking-Act-32-of-2014.pdf>
- 104 "National Referral Mechanism for the Protection of Vulnerable Migrants in Zambia" <https://www.iom.int/files/live/sites/iom/files/Country/docs/National-Referral-Mechanism-NRM-for-the-Protection-of-Vulnerable-Migrants-in-Zambia.pdf>. The NRM includes a "Profiling Form" and accompanying "Guidelines Document, 2014"
- 105 Counter Trafficking Service Provider Directory, UNJPHT, 2012, <https://www.iom.int/files/live/sites/iom/files/Country/docs/Counter-Trafficking-Service-Provider-Directory.pdf>
- 106 Zambian member data, 2018
- 107 Mozambique member data, 2017
- 108 S State Department, Trafficking report, 2016; US State Department, Human Rights Report Senegal, 2015
- 109 NGOs can use their monitoring visits in detention to screen out migrants. A useful guide: UNHCR, Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), Monitoring Immigration Detention: Practical Manual, 2014, <http://www.refworld.org/docid/53706e354.html>
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- 111 UNHCR, Action Africa Help and the Office of the Commissioner for Refugees conduct joint detention visits. A detention working group comprising of UNHCR, the Human Rights Commission, UNICEF, Child Justice Forum, UNDOC and IOM conduct joint monitoring visits. Zambia member data, 2018
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- 113 UNHCR and Senegalese authorities trained border officials on refugee rights and the new harmonised registration system in 2017. UNHCR, "Senegal: Around 45,000 have fled political uncertainty in The Gambia", January, 2017, <http://www.unhcr.org/en-us/news/briefing/2017/1/5881deb74/senegal-around-45000-fled-political-uncertainty-gambia.html> [accessed on 05/03/17]
- 114 US State Department, Trafficking in Persons Report Botswana, 2016, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258730.htm> [accessed on 10/10/17]
- 115 UN Migration Agency Holds Training on Trafficking and Irregular Migration in Somaliland, IOM, January 2018, <https://www.iom.int/news/un-migration-agency-holds-training-trafficking-and-irregular-migration-somaliland> [accessed on 22/01/18]
- 116 A team of law enforcement officials had, since its establishment in 2015, managed to rescue 20 victims of trafficking and had secured 17 cases of which 10 were before the courts and 7 were still pending investigation. "Committee on the Protection of the Rights of Migrant Workers examines initial report of Lesotho" OHCHR, April, 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19813&LangID=E> [accessed on 20/03/17]
- 117 OM News, 2015 <https://www.iom.int/news/ethiopian-officials-study-international-migration-law> [accessed on 20/07/16]
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- 119 IDC Meetings, Zambia, 4 May 2017
- 120 Telephone interview with HAART's Case Management Programme, 25 January 2018
- 121 Uganda member data, 2017
- 122 For more information, see p.47 - 53 of Sampson et al., There are Alternatives (Revised edition)
- 123 Tunisia member data, 2017; Alternatives to Detention Implementers Meeting, Zambia, 2-3 May 2017; Telephone interview with Sana Bousbih, Terre d'Asile Tunisie, 17 January, 2018; Terre d'Asile Tunisie News-

- letter, December 2017, http://www.maison-migrations.tn/images/Newsletter/newsletter_Decembre_finale.pdf [accessed on 20/01/18]
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- 125 Kenya member data, 2017; Telephone interview with HAART's Case Management Programme, 25 January 2018
- 126 St Andrews Refugee Service (<http://stars-egypt.org>)
- 127 Email correspondence with StARS, February, 2018
- 128 The school fees amounted to three million Algerian Dinar. A. Alger, "L'action de 'Rencontre et Développement' pour l'Accueil et l'Accompagnement des Migrants" HuffPost Algérie, September 2015, http://www.huffpostmaghreb.com/2015/09/05/migration-migrant-accueil_n_8093714.html [accessed on 20/01/18]
- 129 Tunisia member data, 2017; Alternatives to Detention Implementers Meeting, Zambia 2-3 May 2017; Telephone interview with Terre d'Asile Tunisie, 17 January, 2018
- 130 IDC Meetings, Zambia, 4 May 2017
- 131 It should be noted that involuntary or coerced return can be harmful and unproductive to overall government goals, as returnees may choose to re-migrate if adequate preparation and reintegration is not available. See e.g. International Organization for Migration. 2017. Community Study on the Needs of Returned Migrants Following the Andaman Sea Crisis Dhaka, Bangladesh: IOM. https://publications.iom.int/system/files/pdf/community_study_andaman_sea_crisis.pdf; Majidi, Nassim. 2017. From forced migration to forced returns in Afghanistan: Policy and program implications. Transatlantic Council on Migration and Migration Policy Institute. <https://www.migrationpolicy.org/research/forced-migration-forced-returns-afghanistan>
- 132 IOM, "Addressing Irregular Migration Flows in Southern Africa, Phase VII (US Department of State)", <https://mozambique.iom.int/addressing-irregular-migration-flows-southern-africa-phase-vii-us-department-state> [accessed on 20/12/17]
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- 135 "Migration Trends across the Mediterranean", Altai Consulting, 2015, p.94, <https://www.altaiconsulting.com/insights/migration-trends-across-the-mediterranean-connecting-the-dots/>
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- 138 Every individual that arrives as a result of an influx therefore does not go through individual status determination and is automatically given a Refugee Attestation Form or a Refugee Identification Card, according to the "Group Recognition" provisions (Refugees Act 2006, Section 25). Uganda member data, 2017
- 139 However, Migrants from Eritrea, Ethiopia and other countries undergo individual Refugee Status Determination (RSD) by UNHCR and its Government counterpart, ONARS (Office National pour l'Assistance aux Réfugiés et Sinistrés). UNHCR, "Djibouti: Fact Sheet", 2017, http://reporting.unhcr.org/sites/default/files/UNHCR%20Djibouti%20Fact%20Sheet%20-%20October%202017%20%5BEENG%5D_0.pdf [accessed 01/11/17]
- 140 United States Department Trafficking in Persons Report Djibouti, 2015, <https://www.state.gov/documents/organization/243559.pdf> p. 144 [accessed 02/06/17]
- 141 UNHCR, "Refugees can be a driver of development in Morocco says UNHCR", October, 2017 <http://www.unhcr.org/news/latest/2017/10/59f1d50a4.html> [accessed on 30/10/17]; IRIN, "Morocco: The Forgotten Frontline of the Migrant Crisis", July, 2015, <http://allafrica.com/stories/201507301776.html> [accessed on 01/02/18]
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- 144 It should also be mentioned that the vast majority of undocumented migrants living in Libya are in fact living in the community without conditions, meeting their own basic needs and contrib-

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- 146 The MMWG is co-led by IOM and UNHCR and chaired by the same agencies on a six-month rotational basis
- 147 At the time of writing, the draft law was being proposed to stakeholders including the Ministry of Justice and the Presidential Council. IOCEA can be contacted for copies of the latest draft (ioprngo@yahoo.com)
- 148 The Director of Passports and Nationality has the authority to restrict a non-national who is subject to an expulsion decision to a particular area of residence or may require the person to report periodically to a police station until the date of expulsion. Law No. 6 (1987) Regulating Entry, Residence and Exit of Foreign Nationals to/from Libya as amended by Law No. 2 (2004) <https://security-legislation.ly/node/33686>
- 149 Although at the time of writing this initiative has been interrupted due to conflict in the region
- 150 For more information, see p.59 - 74 of Sampson et al., There are Alternatives (Revised edition)
- 151 United States Department of State Trafficking in Persons Report, Algeria, 2016, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258710.htm> [accessed on 20/01/18]
- 152 Section 44(1)(a)(b) & (2) of the Refugees Act; Uganda member data, 2017
- 153 Uganda member data, 2017
- 154 "New York Declaration spurs reforms to help refugees and their hosts as new framework is rolled out" Relief Web, September, 2017, <https://reliefweb.int/report/world/new-york-declaration-spurs-reforms-help-refugees-and-their-hosts-new-framework-rolled> [accessed on 10/10/17]; Eritrean refugees who are able to show that they can sustain themselves are allowed to reside out of the camps in an "out-of-camp" policy. "Monthly Summary", RMMS, March, 2016, <http://regionalmms.org/monthlysummary/RMMS%20Mixed%20Migration%20Monthly%20Summary%20August%2020> [accessed on 10/10/17]
- 155 In 2016, the Ginddi Center housed 142 victims and the government provided FCFA 85.7 million (\$145,000) to the center for legal counseling, medical and psychological care, familial mediation and reconciliation services. United States Department of State Human Rights Report Senegal, 2015, <https://www.state.gov/documents/organization/252933.pdf> [accessed on 15/02/17]
- 156 Zimbabwe member data, 2018; National Action Plan on Irregular and Mixed Migration Zimbabwe, 2016-2018
- 157 United States Department of State Trafficking in Persons Report, The Gambia, 2016, <https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258770.htm> [accessed on 15/02/17]
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- 159 Internal IDC Staff Communication 2017
- 160 United States Department of State Trafficking in Persons Report, Lesotho, 2017 <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271226.htm> [accessed on 15/01/18]
- 161 Egypt member data, 2015
- 162 Uganda member data, 2017
- 163 People under expulsion orders must regularly report to the local police station or the National Guard until they are able to leave the country. Failure to arrive at a residence assigned by the Ministry of

- Interior within the prescribed deadline, or leaving the residence without authorization, can lead to prosecution and up to three years imprisonment (Article 27).
- 164 Sampson et al., *There Are Alternatives* (Revised edition), 56
- 165 Zambian Immigration Department Presentation, Alternatives to Detention Implementers Meeting, Zambia 2-3 May 2017
- 166 Botswana member data, 2017
- 167 For more information on the four Regional Economic Communities (RECs) in the Sub-Saharan region, see the Scalabrini Institute for Human Mobility in Africa's report, "The African approach to regional migration", December 2017, http://sihma.org.za/wp-content/uploads/2017/12/SIHMA_African-Approach-to-Regional-Integration-Migration-WEB.pdf
- 168 SADC member countries aim to enhance labour migration management capacities through a rights-focused framework and to strengthen regional labour migration plans and policies. Reference tools being drafted include Regional Guidelines on Bilateral Labour Agreements; a Regional Labour Exporting Framework; a model intra-SADC Circular Migration Programme and a Regional Guide to complement the SADC Labour Migration Action Plan. IOM "Newsletter", 2016, https://www.iom.int/sites/default/files/mission_newsletter/file/IOM-NEWSLETTER-FOR-THE-WESTERN-INDIAN-OCEAN-Jan-Jun-2016.pdf [accessed on 10/10/17]
- 169 The 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment (Protocol A/P.1/5/79) allows for free movement of citizens of ECOWAS member states, which includes provision for local integration through the right of "residence and establishment" The right of entry and the abolition of visa requirements for a 90-day stay has been implemented in all ECOWAS member countries. See more analysis through ICMPD and IOM's Survey on Migration Polices in West Africa, 2016 https://fmmwestafrica.org/wp-content/uploads/2017/02/en-A_Survey_on_Migration_Policies_in_West_Africa_EN_SOFT2nd.pdf
- 170 The IGAD policy, implemented from June 2018, will pave the way for harmonised laws to allow free movement of people across borders between its member countries - Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. Article 7 of IGAD's Agreement establishes the promotion of free movement of goods, services, and people and the establishment of residence. Mugalu, M, "IGAD Consults Uganda on Migration Policy", 2017, <http://allafrica.com/stories/201708230133.html> [accessed on 09/09/17]; IOM, "IGAD Assist East African States Strengthen Migration Governance, Migrants Protection Capacities", 2017, <https://reliefweb.int/report/united-republic-tanzania/iom-igad-assist-east-african-states-strengthen-migration-governance> [accessed on 03/10/17]
- 171 CENSAD, comprised of 29-member countries, aims to remove barriers to the freedom of movement, residence, work, and economic activity within all member states including the same access to rights. <https://www.uneca.org/pages/cen-sad-free-movement-persons>
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Human rights for detained refugees,
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