

Promising Practices and Peer Learning: Alternatives to Immigration Detention in the Asia-Pacific within the Framework of the GCM and GCR

The side event on “Promising Practices and Peer Learning: Alternatives to Immigration Detention in the Asia-Pacific within the Framework of the Global Compact for Safe, Orderly and Regular Migration (GCM) and the Global Compact on Refugees (GCR)”, held on 6 February 2025, was hosted within the auspices of the Second Asia-Pacific Regional Review of Implementation of the GCM.

This hybrid event, co-hosted by the Ministry of Foreign Affairs of Thailand, the International Detention Coalition (IDC), the International Organisation for Migration (IOM), the Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Children’s Fund (UNICEF), convened policymakers, practitioners, academics, and civil society actors to share and evaluate regional strategies on alternatives to immigration detention (ATD). The session highlighted issues concerning the rights and welfare of migrants, refugees, asylum-seekers and stateless populations in the Asia-Pacific region.



Key Facts and Figures

1. As of end-2023, Asia-Pacific hosted **15.7 million forcibly displaced and stateless persons** out of which **49% were children**.
2. In 2020, the Association of Southeast Asian Nations (ASEAN) had **1.3 million child migrants** and over **2.5 million internally displaced children** due to disasters and conflict.
3. Globally, at least **330,000 children are detained annually** for migration-related reasons (United Nations (UN) Global Study 2019).
4. Community-based care is **7 times more cost-effective** than shelters.



Regional Learnings and Promising Practices

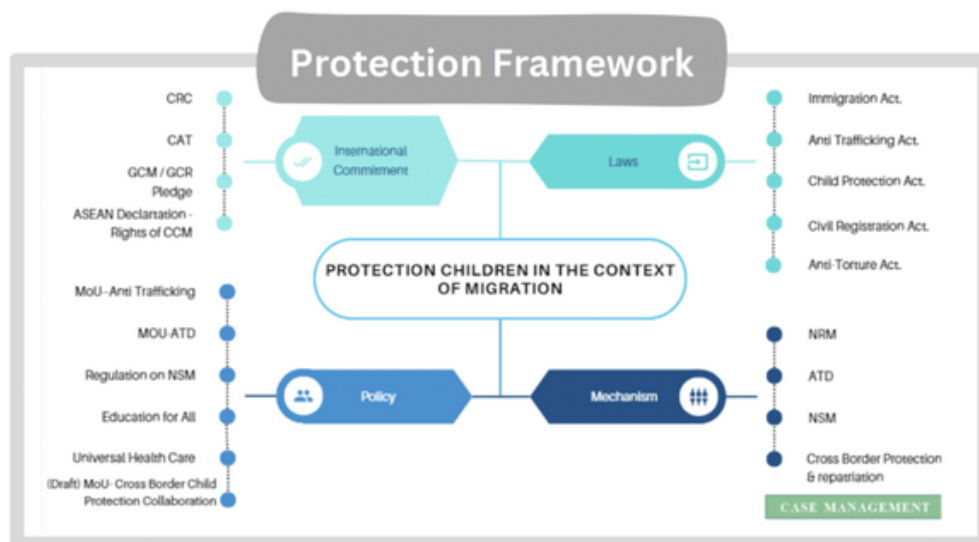
Thailand’s Policy Reform for ATD Implementation

1. In 2019, in Thailand, a **Memorandum of Understanding (MoU) on ATD for children** was introduced, involving 7 Ministries and coordinated child protection efforts; continue to strengthen the implementation by connecting and coordinating with national screening and referral mechanisms.

2. At the end of 2024, according to the Ministry of Social Development and Human Security, approximately **2,000 children and their caregivers benefited** from Thailand's MoU-ATD programme.
3. Thailand is using **evidence-based information** and strengthening collaboration to increase the efficiency and effectiveness of the MoU on ATD implementation.
4. Thailand withdrew its reservation to Article 22 of the Convention on the Rights of the Child (CRC), **aligning national policy** to ensure the rights of all children within its border, including those seeking asylum.
5. Moving forward, Thailand plans to **increase community-based placement and explore new options** to expand ATD in a more comprehensive manner



DEPARTMENT OF CHILDREN AND YOUTH
MINISTRY OF SOCIAL DEVELOPMENT AND HUMAN SECURITY



ASEAN Commitments to Alternatives to Child Immigration Detention

1. The **ASEAN Declaration on the Rights of Children in the Context of Migration** and corresponding Regional Plan of Action emphasize ATD and non-custodial family unity.
2. **ASEAN Guidelines on ATD for children** are currently under development.

Unlawfulness of Indefinite Detention under Australian Domestic Law

1. Landmark High Court decisions (e.g., NZYQ v. Minister for Immigration, Citizenship and Multicultural Affairs, 2023) reaffirmed that **administrative detention must serve a legitimate, non-punitive purpose and cannot be indefinite.**

2. Distinction between **non-cooperation and incapacity to cooperate** (Minister for Immigration vs. ASF17 & AZC20, 2023). If a person is incapable to make a decision to cooperate, continued detention cannot be justified.
3. Executive detention of non-citizens is **unlawful if based solely on status**. If the only reason for detention is the person's immigration status, and no removal is possible or planned, then the detention is arbitrary and unconstitutional under Australian law.

Mental Health Harm Linked to Immigration Detention

1. Recent studies have elicited data regarding **psychiatric disorder rates** among detained migrants, refugees, asylum-seekers and stateless persons on Manus Island, Papua New Guinea:
 - A. **88% depression, 79% PTSD.**
 - B. Mental health symptoms persist even **5+ years post-release** and there is **no minimum safe duration** of immigration detention.
 - C. Self-harm rates **200x higher** than the general population.
2. Long-term detention causes **irreversible psychological trauma**, especially in children.

Towards Data-Driven Accountability in Ending Child Immigration Detention

1. UN Global Study on Children Deprived of Liberty (2019) calls for complete prohibition of child immigration detention under Article 37(b) CRC, yet conservative estimates indicate that **330,000 children are detained** for migration-related reasons annually.
2. **Harmonized, disaggregated, and anonymized data** collection is needed to monitor ATD implementation and effectiveness.

Peer learning as a catalyst for ATD reform in the region

1. IDC and Asia Dialogue on Forced Migration (ADFM) run a **peer-learning platform** involving Thailand, Malaysia, Indonesia, Australia, and New Zealand.
 - A. Four key outcomes: **national reform momentum, policy champions, government-CSO cooperation, and regional collaboration.**
2. Some ASEAN countries have expressed intent to replicate **Thailand's ATD model**.
3. UNMN ATD Workstream produced an **Asia Pacific Mapping Report** on detention and ATD.



Recommendations and Way Forward

1. Prohibit immigration detention of children and integrate ATD in national systems

- A.** States must enact and implement legal prohibitions on immigration detention for children.
- B.** In line with their international human rights and refugee law obligations, States should ensure that, if applied, immigration detention of adult individuals is only used as a last resort, when it is found reasonable, necessary, and proportionate to achieve a legitimate aim and for the shortest period possible. Detention for immigration purposes should never be arbitrary but prescribed by law and subject to due process safeguards, while promoting the implementation of ATD.
- C.** States should ensure ATD mechanisms are integrated with broader protection frameworks, noting the impact of detention on the mental health of all individuals.
- D.** States should reform laws and policies that criminalize irregular migration and treat it as an administrative offense. Furthermore, individuals seeking international protection should not be penalized for their irregular entry or presence.

2. Invest in ATD frameworks and data protocols

- A.** Allocate sustainable funding for ATD infrastructure and institutionalize annual disaggregated data collection.

3. Leverage GCM/GCR mechanisms

- A.** Use the 2025 GCM Review and Global Refugee Forum Progress Review 2025 to make concrete pledges and measure progress against Objective 13 of the GCM and Paragraph 60 of the GCR.



Acknowledgements

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Their contributions offered diverse and complementary insights, reaffirming the importance of cross-sectoral collaboration in advancing rights-based and child-sensitive approaches to ATD across the Asia-Pacific region.



Resources

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