

Concept Note

Launch Event

Promoting Alternatives to Immigration Detention in the Asia Pacific Region

15h00 – 17h00 (UTC+7), 26 October 2022

Athenee Hotel, 61 Wireless Road (Witthayu), Lumpini, Pathumwan,
Bangkok, Thailand, 10330

1. Introduction

The use of immigration detention remains prevalent in the Asia Pacific region. It is used in many countries in the region in arbitrary and discriminatory manners and without necessary safeguards, such as the legal limit on the period of detention and guarantee of the procedural right to challenge the decision of immigration detention. Migrant children and other migrants in vulnerable situations, such as pregnant women, older persons, persons with disabilities, LGBTQI+ individuals and stateless persons, continue to be held in immigration detention across the region. At the same time, promising practices in adopting certain measures such as alternatives to detention (ATDs) of migrants are emerging in the region, especially for children and there is some momentum in some countries in terms of reducing and taking steps towards ending child immigration detention. Moreover, the COVID-19 pandemic has led to the release of an unprecedented number of people from immigration detention in a number of Asia Pacific countries.

The new report “[Immigration Detention and Alternatives to Detention in the Asia-Pacific Region](#)” was published on the occasion of the first International Migration Review Forum (IMRF) in May 2022. It captures the use of immigration detention and ATDs in 19 countries across the five sub-regions in the Asia-Pacific region. It was authored by the International Detention Coalition (IDC) with the support of the Office of the UN High Commissioner for Human Rights (OHCHR) as a publication of the Alternatives to Detention Thematic Workstream of the Regional UN Network on Migration for Asia and the Pacific and the Alternatives to Detention Working Group of the UN Network on Migration¹. The report is intended to serve as a useful resource for post-IMRF efforts in adopting and implementing ATDs in the region.

2. Background

In December 2018, UN Member States adopted the [Global Compact for Safe, Orderly and Regular Migration \(GCM\)](#), the first-ever inter-governmentally negotiated UN agreement on a common approach to international migration. The GCM sets out 23 Objectives with specific actions for States to take. Efforts to implement the GCM are spearheaded by a group of Member States that declared themselves as

¹ The work stream is co-led by the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the United Nations Children’s Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the International Detention Coalition (IDC). UN Network on Migration was established in 2018 to support the implementation, follow-up and review of the Global Compact for Safe, Orderly and Regular Migration (GCM). The Regional UN Network on Migration for Asia and the Pacific promotes migration policies that support the well-being and realisation of the human rights of migrants and their communities in a coherent, holistic and balanced manner. See its Terms of Reference: https://migrationnetwork.un.org/sites/g/files/tmzbd416/files/docs/ap_regional_migration_nw_tor_march_2020.pdf

“Champion countries”. Bangladesh, Cambodia, Indonesia, Nepal, the Philippines and Thailand are Champion countries in the Asia Pacific region (as of September 2022).

In the GCM Objective 13, States committed to “[u]se migration detention only as a measure of last resort and work towards alternatives”. They committed to ensure due process, non-arbitrariness, lawfulness, necessity, proportionality and individual assessments for any immigration detention, which is limited for the shortest possible period of time regardless of places of detention. Furthermore, States committed to prioritize non-custodial ATDs in line with international law, and to take a human rights-based approach to any immigration detention.

In parallel, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) adopted the [General Comment No.5 on “Migrants’ rights to liberty, freedom from arbitrary detention and their connection with other human rights”](#) in September 2021. This authoritative interpretation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families clarifies the scope of the prohibition of arbitrary detention in the context of migration and other human rights obligations of States concerning immigration detention including on ATDs. It provides useful guidance to States² and other stakeholders on the implementation of the GCM, particularly its Objective 13. In 2019, the CMW and the Committee on the Rights of the Child (CRC) adopted the [Joint General Comment on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return](#), which reaffirms the prohibition of immigration detention of children and provides guidance on ATDs. Similarly, other UN human rights mechanisms have issued a number of recommendations concerning immigration detention such as the [General Comment No. 35 on Article 9 \(liberty and security of person\)](#) of the Human Rights Committee, the [revised deliberation No.5 on deprivation of liberty of migrants](#) of the Working Group on Arbitrary Detention, and in the [report on migration-related torture and other cruel, inhuman or degrading treatment](#) of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

At the sub-regional level, Member States of the Association of Southeast Asian Nations adopted the [ASEAN Declaration on the Rights of Children in the Context of Migration](#) in 2019 in which they agreed to develop alternatives to immigration detention in order to promote the best interests of the child and reaffirmed their commitment to the Convention on the Rights of the Child.

3. Objectives

The public event will serve to disseminate the report “Immigration Detention and Alternatives to Detention in the Asia-Pacific Region” and discuss its findings and recommendations. It will also provide an opportunity to promote understanding and awareness of the CMW General Comment No.5 as well as other relevant guidance from the international human rights mechanisms among stakeholders in the Asia-Pacific region. The event will also discuss the way forward for promoting the implementation of GCM Objective 13 which focuses enhancing alternatives to immigration detention in the region.

² Among Asia Pacific States, Bangladesh, Fiji, Indonesia, the Philippines, Sri Lanka and Timor Leste have ratified the Convention. Cambodia and Palau have signed the Convention but have not ratified it as of 11 March 2022.

4. Date and Time

The event will be held from 15h00 – 17h00 Bangkok time (UTC+7) on 26 October 2022. The applicable hours for the event in different time zones are indicated below.

- Geneva, Belgrade (UTC+2): 10h00 – 12h00
- Colombo, New Delhi (UTC+5:30): 13h30 – 15h30
- Seoul, Tokyo (UTC+9): 17h00 – 19h00
- Auckland, Suva (UTC +12): 20h00 – 22h00

5. Format

The event will take place in Bangkok, Thailand, in a hybrid format. It will be broadcast via a video link (platform to be confirmed).

6. Speakers

- Dr. Jasminka Dzumhur, Vice-Chair, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (via video link)
- International Detention Coalition
- Migrant leader
- UN agency
- Member State representative

7. Organizer

- Regional UN Network on Migration for Asia and the Pacific