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**SEEKING ALTERNATIVES TO THE IMMIGRATION DETENTION**

**OF CHILDREN AND FAMILIES**

Migration and human rights: towards the 2013 High-Level Dialogue on

International Migration and Development

“Roundtable 2 of the High-Level Dialogue:

Protecting and promoting the human rights of migrants.”

Geneva, 4 September 2013

10.00 – 13.00, Room IX, Palais des Nations

INTRODUCTION

Thank you very much for the opportunity to speak today

The International Detention Coalition is a global network of non-governmental organizations in 67 countries working together to uphold the human rights of people affected by immigration detention.

The IDC agrees with the High Commissioner for Human Rights, the Special Rapporteur, and the other distinguished panellists that human rights must be a cross cutting issue that informs all discussions at the HLD.

Through our research and work with our members, States and UN partners around the world we know that in the context of migration, upholding human rights is not just an obligation, but can also be beneficial for States, communities and individual migrants themselves.

The issue of children and families is an important example and a useful reminder and point of entry to explore the need for more rights-based approaches to migration as a solution to complex issues of migration and development. So today, I will be focusing on the IDC’s work in protecting the rights of child migrants at risk of immigration detention by exploring and assisting States to implement practical and beneficial solutions which help drive development in host and sending communities.

CHILDREN IN IMMIGRATION DETENTION

In response to the thousands of children detained every day simply because they do not have the right documents, the IDC has undertaken international research interviewing children detained across all regions of the globe.

We found, first of all, that it is never in the best interests of a child to be detained for migration-related reasons. Evidence shows that detention is seriously damaging to the mental health and development of children and young people. Even very short periods of detention can undermine child psychological and physical well-being and compromise their cognitive development.

As the Committee on the Rights of the Child has recently clarified, the detention of a child due to their or their parents’ migration status constitutes a child rights violation. The associated risks of physical and sexual abuse and lasting psychological damage means that it can never be in the best interests of a child to detain them simply for migration-related purposes.

As we saw in our film the Invisible Picture Show, children are suffering in immigration detention, and they are doing so needlessly because there are alternatives.

Our research found that there are international good practices used by States that effectively manage irregular migrants and undocumented asylum seekers in the community without the need for damaging, unnecessary and costly detention. We found that these mechanisms are effective, less-costly, and better meet the rights and needs of children and their families, while still addressing important government migration objectives.

We have compiled these good practices into a 5-step model, called the Child-sensitive Community Assessment and Placement model or CCAP. This model is aimed at outlining the various tools available to States to ensure that child migrants and their families are effectively managed in the community while awaiting a final decision in their case without the need for detention.

From guardianship to shelters and case management models, we found many examples of alternatives to detention across the globe, which allow States to act in the best interests of the child while still addressing legitimate State concerns around migration management.

We have found that a number of States are already reassessing their migration management strategies, and moving away from the detention of children through the successful implementation of alternatives to immigration detention.

For example:

* In 2008 Panama introduced a law that prohibits the immigration detention of children
* In 2009 Belgium ended the immigration detention of children and implemented a community-based alternative in its place
* In 2010, Japan ended the detention of children following an exploration of good practices internationally
* In 2011, Mexico introduced a new immigration law that allows for unaccompanied migrant children to be referred to the child welfare agency or specialist organization instead of being held in detention
* And most recently last month we saw China introduce a law that prohibits the detention of children under 16 for migration-related purposes.

Mechanisms to end and limit the use of detention and implement alternatives are expanding globally across all regions, and we have found that these alternatives not only respect human rights, but also enhance cooperation and compliance, are more cost-effective and are beneficial to the government, community and individuals.

Alternatives to immigration detention have been found to be on average 80% cheaper than detention and can ensure compliance with immigration requirements including integration and return outcomes while addressing concerns related to security and absconding.

With these mechanisms available we know that no child should be imprisoned for not having valid documents. Consistent with international human rights principles, alternatives to detention help States seek community-based, rights-based solutions first.

In response to the worldwide movement calling for an end to the Immigration Detention of Children, the IDC launch a global campaign on March 21st 2012 at the 19th Session of the UN Human Rights Council in Geneva together with OHCHR.

The Campaign hosted a side-event on child detention at the UN Committee on the Rights of the Child in September last year, which highlighted the experience of administratively detained children around the world.

The resulting CRC report included the strongest recommendation to State parties to the CRC that we have seen to date, stating that *“States should expeditiously and completely cease the detention of children and their parents on the basis of their immigration status . . . [and] adopt alternatives to detention that fulfill the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved”.*

This recommendation is a timely reminder as we approach the HLD, and we call upon States to ensure that the rights of child migrants are upheld and that they are not detained.

CONCLUSION

Ensuring respect for the rights and development of migrant children and their families at risk of immigration detention, and indeed all migrants, should be central to the HLD conversation.

Ensuring the rights and developing and upholding a normative framework for migrants is beneficial for states, the community and the individuals affected. When migration is inclusive, equitable and rights-based, it is more often a sustainable process where migrants are able to contribute not only to their own personal development, but to the development of host countries and countries of origin.

We hope that this positive area of development in the space of children affected by immigration detention may be useful reminder and point of entry for ensuring rights-based dialogue is central to the HLD, and that we may together take a fresh look at how upholding human rights can ensure effective approaches to migration and be in the interest of all.

Thank you.