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DETENTION AND RETURN

Detention and return are commonly used as policy tools to address irregular migration in many parts of the world. While common, they often cause immense harm for the individual whose freedom is robbed, left homeless, with broken family ties, and left stranded with little means for recourse or legal assistance. This brief presents some of the main topics that were discussed in two webinars regarding these twin migration governance practices. These two webinars were part of the People's Migration Challenge (PMC), a series of webinars organized by civil society organizations to address the most current issues on migrants' rights.

DETENTION CENTRE OR PRISON?

Immigration detention is a practice where a migrant is held for misdemeanour migration law infractions such as lack of proper entry documents, visa overstay etc., commonly before they are deported. Detention centres are often compared to prisons. One speaker noted that in parts of Africa, detention is arranged in actual prisons. Another growing concern is the externalization of migration control and the role of private companies. The funding of private companies in the EU is increasing, and detention centres in the US are an extremely profitable industry, as the cost of keeping people in detention is very low, yet the price per bed per night for a detainee is not. Such companies are then incentivized to detain as many migrants as long as possible. Alternatives to detentions, such as regular reporting systems, can also be un motivating for stakeholders that benefit economically from the detention model.

LACK OF JUDICIAL OVERSIGHT

One of the primary issues with detention centres that was raised several times was the lack of judicial oversight. If some detaining centres are in prisons, visits from counsellors or humanitarian NGOs are nearly impossible to arrange. When detention centres are unregulated, migrants do not have any safeguards to redress issues related to their detention.

It was recommended that courts and judicial systems could be more robust, as many cases would probably not lead to detention. Litigation has been a particularly successful strategy in South Africa, where cases have uncovered significant evidence of the need for legal reform, leading to a significant drop in detentions and deportations. However, litigation has its limits; detainees in Malaysia have been tried in courts in groups, which excludes different circumstances and individual rights.

CONCLUSION AND WAY FORWARD

As the laws, structures and realities for detention and deportations are specific for each country, it is unlikely that there could be a global solution that fits all. However, a rights-based approach with a focus on the right to freedom and regularization, must be at the centre of our strategies. As civil society, we must aim ultimately for the abolition of detention, as part and parcel of struggles against racism and racialized oppression, xenophobia, discriminatory policing, and mass incarceration. We need a paradigm shift in migration policy from an emphasis on punishment and deportation, to one that promotes dignity, rights, family unity and freedom.