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 GlobalDetentionProject

## **Detention at the Borders of Europe:**


Report on the Joint Global Detention Project–  
International Detention Coalition Workshop in Geneva,  
Switzerland, 2-3 October 2010

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The Global Detention Project (GDP) is a research initiative that tracks states' use of detention in response to global migration. Based at the Graduate Institute's Programme for the Study of Global Migration in Geneva, Switzerland, the GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) encouraging scholarship in this field of immigration studies; and (3) facilitating accountability and transparency in the treatment of detainees.

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# Detention at the Borders of Europe

## I. Introduction

On 2-3 October 2010, the Global Detention Project (GDP) held a workshop in Geneva, Switzerland, on migration-related detention that included representatives from organizations in 12 countries in Europe and neighbouring regions, as well as several international migration scholars and advocates. The workshop, which was jointly organized with the International Detention Coalition (IDC), an umbrella group whose membership includes nearly 200 immigrant and human rights organizations in some 50 countries,<sup>1</sup> had several goals: (1) to share experiences working on detention issues in the border areas of Europe and assess factors shaping detention practices in these regions; (2) to encourage the development of a common framework for documenting operations at detention centres; and (3) to build working relations between local organisations and the GDP and IDC.

The workshop, which was made possible by the generous support of Zennström Philanthropies and the Graduate Institute of International and Development Studies, was the first stage of a pilot detention documentation project, the ultimate goal of which is to establish a global information network focused on the phenomenon of immigration detention. The GDP and IDC plan to replicate this workshop in other regions during the coming year.

The workshop represented a first-of-its-kind gathering of advocacy groups, immigration researchers, and legal specialists. By bringing together this diverse set of actors to focus concretely on the phenomenon of immigration detention, workshop organizers hope to develop novel forms of collaboration between advocates and scholars, who stand to benefit from each others' respective expertise and knowledge. Additionally, the workshop and documentation project are part of a larger effort to raise the profile of migration-related detention as a human rights issue that merits concerted global attention. As one participant wrote after the workshop, "The possibility of meeting all of you, of sharing different experiences and common work patterns, has somehow created—in my perception—the feeling of being part of a 'movement' and not isolated in my struggling detention work."

This report highlights key aspects of the workshop, including observations from participants on the GDP's efforts to develop standards for documenting detention situations, the impact of external forces on detention practices, and key national trends and developments.

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<sup>1</sup> For more information about the International Detention Coalition, see: <http://idcoalition.org/>.

## II. Geographic Scope and Backgrounds of Participants

As many observers have noted, there is a clear trend among core immigration destination countries to externalise interdiction efforts to the periphery, and thereby halt flows of immigrants and asylum seekers before they reach the borders of wealthy countries and shift detention burdens.<sup>2</sup> In the European Union (EU), countries on the southern and eastern borders have become the frontline of immigration interdiction. And increasingly, European countries—sometimes in conjunction with international bodies like the International Organization for Migration (IOM)—have worked to shape the detention practices of nations that lie just outside EU frontiers and establish agreements aimed at preventing migrants from transiting these states.

Because of these trends, the GDP decided to focus the initial stages of its documentation project on countries situated on either side of the EU frontier, including in Southern and Eastern Europe, North Africa, and the Middle East. This focus is also intended to draw attention to the situation of detainees along this immigration fault line and enable researchers to better assess relationships between these countries' policies and those of core destination states.

The GDP worked with the IDC to select local actors in the region to participate in the workshop and documentation project. The response to our calls for participation was tremendous, reflecting an apparent desire by many detention-focused organizations to collaborate more closely with counterparts in other countries. Several dozen organizations, including many outside the targeted geographic region, expressed interest in taking part. Additionally, at the request of the IDC, regional offices of the UN High Commissioner for Refugees (UNHCR) provided support to a few groups who otherwise would not have been able to participate.

In total, the workshop counted on the participation of representatives from organizations active in 12 countries (Egypt, Greece, Hungary, Italy, Lebanon, Malta, Morocco, Poland, Spain, Tunisia, Turkey, and Ukraine) as well as several academic researchers based in Germany and Switzerland. Although a diverse collection of groups and individuals—among the participants were immigrant-rights activists, lawyers, social scientists, migration scholars, international advocacy organizations, and church-based agencies—the participants all share in common migration detention as a core focus of their work. Notably, some groups asked that their names not be publicly mentioned in connection with this project because of concerns that this could prompt authorities to limit their access to detention centres and thus prevent them from carrying out their work on behalf of detainees. (For a partial list of workshop attendees, see Appendix: List of Participants, page 16.)

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<sup>2</sup> For a recent account of the trajectory of EU externalisation efforts since the 1990s, see Carl Levy, "Refugees, Europe, Camps/State of Exception: 'Into the Zone,' the European Union and Extraterritorial Processing of Migrants, Refugees, and Asylum-Seekers (Theories and Practice)," *Refugee Survey Quarterly*, Vol. 29, No. 1 (UNHCR 2010).

### III. Externalisation and Diffusion

A key aspect of the workshop was to share perceptions of the impact that external—non-national—forces have had in shaping migration-related detention policies in the region.

Broadly, the phenomenon of the externalisation of detention, as characterized by workshop participants, can be viewed as an interlocking chain of diffusion processes whereby detention pressures and practices are exported from the core to the periphery. Policy developments at the regional level and among major destination countries place pressures on EU border states to serve as gatekeepers for Europe and bolster their detention activities. In turn, these border countries, working with EU partners (and sometimes international organisations), diffuse detention pressures outward to their non-European neighbours—both directly, by funding detention efforts in non-EU countries; and indirectly, by hardening their borders and thus leaving neighbouring countries the task of accommodating increasing numbers of irregular migrants and asylum seekers.

As a result of these diffusion processes, according to experts at the workshop, international migrants are increasingly at risk of being detained in countries where key international norms—especially with respect to the protection of asylum seekers—are often ignored and the rule of law can be tenuous.

On the other hand, some conference participants pointed out that not all external influences have had a negative impact on national policy developments. International and regional institutions have pressured states to improve the treatment of asylum seekers and undocumented migrants. And rulings at the European Court of Human Rights and the work of Council of Europe agencies occasionally have had a limited ameliorating effect on the situation of detainees in the region.

Additionally, for countries that wish to join the EU, like Turkey, there can be contradictory pressures: On the one hand, Europe would like Turkey to block the transit of migrants; however, there is considerable pressure from EU member states for Turkey to improve its human rights record in order to demonstrate that it merits membership. Countries in this situation can be susceptible to “naming and shaming,” which several participants said was a potentially effective strategy for influencing policy developments.

**EU border countries.** Agreements reached at the EU level have served as key mechanisms for diffusing detention pressures and practices to border countries in the region. Two notable policies in this regard are the Dublin II Regulation<sup>3</sup> and the Return Directive.<sup>4</sup>

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<sup>3</sup> Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

<sup>4</sup> Directive 2008/115/EC on common standards and procedures in member states for returning illegally staying third-country nationals.

The Dublin II Regulation, which establishes a process for determining the member state responsible for examining a particular asylum application, has resulted in many asylum seekers being deported—or “transferred”—to periphery EU states. According to the workshop participant from Poland, during the first nine months of 2010 the country received nearly 4,000 Dublin II transfers, who were generally detained upon arrival. Participants from Spain and Hungary also said Dublin II had increased detention pressures in their countries.

However, as the participant from Malta made clear, policies like Dublin II do not effect all countries in the same way. For instance, people deported to Malta under Dublin II are generally not detained because most of these people have previously been detained in Malta and already spent the maximum amount of time in detention under current policy.

The Return Directive has also had a significant—if at times contradictory—impact. Adopted by the EU Parliament in 2008, the directive sets minimum standards for the treatment of unauthorized migrants, including establishing a maximum period of custody (six months, with the possibility of a 12-month extension). While a few EU countries will be forced to shorten the periods of time they allow migrants to remain in detention, many workshop participants have seen their countries increase detention periods since the directive was adopted. Greece, Italy, and Spain have all increased detention times since adopting the Return Directive. A fourth country, Hungary, is set to double maximum detention terms when newly adopted legislation enters into force at the end of 2010.

Other countries have yet to react to the Return Directive, which is supposed to be transposed by EU states by 24 December 2010. According to the participant from Italy, that country’s Interior Ministry has interpreted the directive’s article 2—which states that the directive may not apply in situations where migrants are subject to a criminal law sanction—as making the directive unenforceable because in Italy irregular status is a crime.

Some participants also noted that practices in peripheral EU countries can be influenced by how officials in these countries view themselves in comparison with their EU neighbours. Thus, for instance, the participant from Spain said, “Spain is very sensitive to what is going on in Europe. It often measures itself according to practices and standards elsewhere in the region.”

As detention burdens have shifted to border states, the EU has stepped in to help boost some of these countries detention capacities. Thus, for instance, according to the participant from Hungary, EU money has been used to expand and improve that country’s detention infrastructure.

**Non-EU countries.** The mechanisms of externalisation to non-EU countries include both direct and indirect diffusion processes.

Direct diffusion can include providing money to neighbouring countries to boost and/or improve detention capacities or undertake capacity-building initiatives, establishing repatriation agreements, and making *quid pro quo* arrangements. There are also positive aspects of direct diffusion, especially in situations where pressure can be brought to bare to improve detention practices through rulings in regional courts and the work of human rights bodies.

The most obvious mechanism of direct diffusion is when individual countries and/or the EU directly fund detention efforts in these external states. Many workshop participants highlighted such initiatives. According to participants: Spain has paid for the establishment of a detention center in Mauritania; the Netherlands and the United Kingdom have established Twinning<sup>5</sup> projects in Turkey that have included the construction of reception and return centres; Italy has undertaken detention training projects in Lebanon; and the European Commission has provided funds to support the construction and maintenance of detention facilities in Lebanon and the Ukraine. In some cases, such as in the Ukraine, the EU has worked with the International Organization for Migration to develop national detention capacities.

Another important direct diffusion mechanism is the establishment of bilateral repatriation agreements, which can involve non-EU countries accepting deportees from third-countries. Among the cases highlighted by workshop participants were agreements Spain has made with Mauritania and Senegal. The participant from Italy noted in this regard the Italian-Libyan cooperation agreement—which is not a repatriation agreement per se—to “push back” to Libya migrants interdicted at sea, despite the fact that Libya has not signed the 1951 Convention Relating to the Status of Refugees (the Refugee Convention).

Similarly, Europe diffuses detention pressures to non-EU neighbours through *quid pro quo* arrangements. For instance, according to the participant from Morocco, since 2003, the EU has provided funds to the Interior Ministry to train police and improve border monitoring. In return for this assistance, Morocco is expected to assist in “managing the stock” of migrants by “closing down access points into Morocco in the south and blocking exit points to Europe in the north.”

Experts at the workshop pointed out that various external actors have worked to spread policies and practices that can have a positive impact on the situations of detainees. For example, the participant from Turkey said that because of the failure of national institutions to reform the country’s much criticised detention practices, “the European Court of Human Rights is the only mechanism that exists” to stop imminent deportations of individuals to

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<sup>5</sup> Twinning, or “Jumelage,” is a programme of the European Commission in which EU states partner with new members or candidate or potential candidate states to assist in developing their administrative and bureaucratic structures and processes.

places where they would face persecution. She added that Turkey is particularly susceptible to “shaming” strategies as a result of the pressure it receives from the European Commission as part of the accession process.

However, some participants warned that the diffusion of positive practices to non-EU countries can also have a negative side effect. In the Ukraine, for instance, the European Commission has provided funds to the IOM to pay nongovernmental groups to monitor detention centres. However, according to the Ukraine expert at the workshop, groups are under pressure not to criticise state practices because doing so could ultimately jeopardise their funding. Further, he said that while EU efforts to pressure the government to improve detention operations have served to “humanise” detention in some instances, there may be an ulterior motive, which is to shift detention burdens from Europe by “positioning “the Ukraine as a ‘safe third country’ with an adequate detention capacity for holding asylum seekers deported from Europe.” Similarly, the participant from Morocco argued that efforts by the UN High Commissioner for Refugees (UNHCR) to aid the development of proper asylum policies there are aimed at making it a safe third country. The impact of these efforts could be that Morocco will shoulder more of Europe’s detention burden.

Diffusion of detention to non-EU countries is also facilitated through several indirect mechanisms related to the hardening of Europe’s external borders. The effort to strengthen borders forces neighbouring countries to shoulder the burden of responding to migratory flows. A case in point, according to workshop participants, is the work of FRONTEX, the Warsaw-based EU body that is tasked with coordinating operational cooperation between member states in the field of border security.

A workshop participant from the University of Munich pointed out that FRONTEX has both a direct and indirect role in influencing detention practices in the region. On the one hand, FRONTEX’s growing role in coordinating EU efforts to interdict migrants at sea—including its operations off the coast of West Africa as well as in various parts of the Mediterranean—includes sending interdicted migrants back to third countries. FRONTEX has also chartered dozens of flights for deporting migrants from Europe back to their countries of origin.

Indirectly, the work of FRONTEX and that of individual states to shut down migratory routes have forced migrants to continually adapt and change routes. As migratory patterns change, so do detention practices, often with unpredictable consequences. In some instances, countries that had previously not experienced significant migratory flows have found themselves forced to cope with large numbers of migrants and under pressure from Europe to interdict these migrants—a phenomenon that occurred in various West African countries when the route through Morocco was shut down in the early 2000s.

Evolving migration patterns resulting from stepped up interdiction have also had an impact within Europe. For instance, since late 2009, Malta, at one time



a detention hotspot in the Mediterranean, has seen only a few dozen unauthorized arrivals and its detention population has dropped dramatically. This has come about as a result of agreements established between Rome and Tripoli to shut off the migratory route across the Mediterranean and “push” migrants back to Libya.

FRONTEX operations in the Aegean Sea have led to a different outcome, according to the workshop participant from Greece. FRONTEX, which opened an office in Greece this October, was fully operational in Greek coastal waters last year, and as a result of its operations there have been very few recent arrivals on the Greek islands off the coast of Turkey. However, by early 2010, migratory flows had shifted to Greece’s Evros region (near the eastern border with Turkey), where migrants have been detained in large numbers in poorly maintained facilities whose operational capacity is severely inadequate. Border guard stations that are meant to hold between 20-40 people now routinely confine more than a 100 per day, according to the Greek participant, and several dozen people have drowned trying to cross the Evros River. The Greek government invited FRONTEX to deploy “Rapid Border Intervention Teams” in the region to assist in managing the situation.

After a visit to the Evros region in October 2010, UNHCR reported that it observed a severe deterioration of the detention situation “due to overcrowding of existing detention centres. Men, women, and children are crammed together with little space, in dire hygiene conditions and without access to yards. Essential services such as information to persons in detention, interpretation in a language they can communicate, and legal counseling on the asylum procedure, are totally absent. This situation is particularly serious for persons with special needs, such as unaccompanied and separated children or single women with small children.”<sup>6</sup>

#### **IV. Key National Trends**

Workshop participants highlighted a number of important trends in their countries with respect to the detention of non-nationals, in addition to the concerns raised in the preceding section.

Not surprisingly, situations differ considerably between many EU and non-EU countries. For example, in border countries within the EU, the treatment of vulnerable groups—including women, children, and asylum seekers—appears to be generally consistent with international norms, even if serious concerns remain in some countries. In contrast, non-EU countries suffer from a severe lack of respect for international norms regarding the treatment of detainees, raising serious normative and policy questions about efforts to shift detention pressures to these countries.

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<sup>6</sup> UN High Commissioner for Refugee, “UNHCR recommends urgent measures to address the serious humanitarian needs in the Evros region,” 15 October 2010.

Workshop participants from EU countries generally characterised trends in their countries as mixed. “Detainees have more rights, but they are detained for longer periods of time.” This statement from one of the EU participants succinctly reflects the diverse characterisations provided by experts from the region. At the same time that some regional policy developments have emphasized the rights of immigrants and asylum seekers within the EU, there are growing pressures—both internal and external—on border countries to detain more people for longer periods of time.

Key concerns expressed by EU participants included lengthening periods of detention, increasing pressures to detain asylum seekers during initial stages of the asylum procedures, erratic treatment of detainees at the hands of police and border guards, and—as highlighted in the previous section—stepped up efforts to block undocumented migrants and asylum seekers from entering their countries. Additionally, some participants said that detention conditions, while generally improving in most countries in Europe, remain paltry in many cases. Overcrowding, lack of access to legal and medical professionals, and difficulties by NGOs and other rights actors to gain access to detainees characterise the situation in many detention centres in the region. The participant from Greece provided arguably the most striking accounts with respect to these types of problems.

Despite the difficulties detainees face in Europe, the situation outside the EU appears to be dramatically worse. One of the key contrasts between EU and non-EU countries is the treatment of asylum seekers. While EU-wide policies—like the 2003 Reception Directive,<sup>7</sup> which establishes minimum standards for the treatment of asylum seekers—have led member states to de-emphasize the detention of asylum claimants, there has been no such trend in neighbouring non-EU countries.

Despite efforts by institutions like the European Union and UNHCR to pressure these countries to improve their asylum policies and practices, according to workshop participants the treatment of refugees and asylum seekers remains deeply problematic across the region. Among the cases mentioned by workshop participants: In Lebanon, the only non-EU country represented at the workshop that has not ratified the 1951 Refugee Convention, asylum seekers are subject to arrest and criminal prosecution; Turkey, which retains the geographical limitations of the 1951 convention, regularly detains and *refouls* asylum seekers from countries like Iraq and Afghanistan; Morocco has yet to establish refugee determination procedures and refuses to grant residence permits to people who have received UNHCR certification; Tunisia, which like Morocco has yet to establish determination measures, prevents asylum seekers from accessing UNHCR procedures while in detention; and in Egypt, asylum seekers have in the past been subjected to criminal detention for unauthorized entry, although currently those arrested for illegal entry are detained indefinitely without charge in administrative detention (and, as one participant pointed out, when asylum

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<sup>7</sup> Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

seekers try to leave the country and enter Israel in an unauthorized manner, they risk being shot by Egyptian security forces at the border, a practice that has been widely condemned by the international community).

Nearly all the non-EU participants highlighted conditions in detention centres as a major concern. According to participants: in the Ukraine, which has been heavily criticized for the poor state of repair of some of its detention centres, authorities on the eastern border have used large shipping containers as “screening centres” as part of an EU-funded initiative aimed at separating irregular migrants from potential asylum seekers; in the main detention centre in Lebanon, hundreds of detainees have been held at a single time in severely cramped quarters located underground without any natural light; and many countries, including Egypt, Morocco, and Lebanon, make use of common prisons to hold immigration detainees. Additionally, nearly all the non-EU participants said that detainees often face severe abuses—including physical violence and deprivation—while in confinement.

Another key concern in the region is the treatment of civil society actors who work with detainees. Underscoring this problem is the fact that the representatives from several countries asked that their names not be mentioned in connection to this workshop because of security concerns. Additionally, participants from Egypt, Tunisia, and Morocco reported that NGOs have little or no access to detainees. And according to the participant from Tunisia, NGOs face particularly serious challenges there as they are generally not allowed to work freely and openly.

Finally, many participants from non-EU countries highlighted legal issues as an ongoing problem. In some countries—most notably Turkey—migrants are detained without a proper legal framework providing for such detention. The participant from Turkey pointed to rulings at the European Court of Human Rights that have condemned this state of affairs in her country. In addition, Egypt, Morocco, and Lebanon have criminalised unauthorized entry and stay (a phenomenon that has also been seen in Europe, namely in Italy). Compounding problems, migrant detainees generally do not have access to legal representation in most of these countries, according to workshop participants.

## **V. Documenting Detention**

A final agenda item for the workshop was to assess efforts by the Global Detention Project to establish a methodology for systematically documenting operations at detention centres, which is a key focus of the GDP’s work. To date, the GDP has generated data on some 1,200 facilities in more than 80 countries. Much of this data has been published on the GDP’s website ([www.globaldetentionproject.org](http://www.globaldetentionproject.org)), which as of November 2010 contained reports on the detention policies and infrastructures of some 45 countries from across the globe. During 2011-2012, the project intends to launch an interactive online database that will make all its data publicly available.

To construct data on operations at detention centres, the project has proposed a preliminary coding methodology that characterizes detention facilities along some two dozen categories of information. These categories are organised under four main headings: **general characteristics** (including, for example, the official name of a facility, the facility type, and its location); **operational characteristics** (such as security level, average length of detention, management structure, and official facility capacity); **bureaucratic characteristics** (including custodial authority, budgets, and ownership); and **normative characteristics** (measuring compliance with relevant international norms).<sup>8</sup>

There are several reasons why the GDP has developed this coding methodology. First, when looked at globally, the phenomenon of immigration detention is difficult to characterise, in part because of the extraordinarily diverse range of detention sites that are in use and operational regimes in place at these facilities. Also, when immigration detention is compared to the related phenomenon of criminal incarceration, it becomes immediately apparent that this form of detention has yet to be subjected to the same sort of careful classification schemes that can guide national policy-making. Lastly, there is the simple fact that in many countries, there is little or no information available about where detention centres are located or how these facilities operate. Because of these gaps, there is an obvious need to develop objective criteria for assessing state practices and enabling comparative study across a range of cases. Such a system would also help raise the profile of immigration detention beyond the confines of national or regional discourse, enabling advocates, scholars, and policy-makers to apprehend the phenomenon from a global perspective.

Despite the significant steps GDP researchers have taken to develop a framework to fill these gaps, there has been a need to get feedback from actors who work in detention facilities and with detainees. To what extent does the GDP methodology capture the realities of detention centres? In what ways can this work be useful to rights workers and policy-makers? And what are the challenges to constructing the kinds of data inputs proposed by the GDP? The workshop, with its broad representation from civil society groups, served as an initial step in trying to address these questions. This report details a few of the more salient aspects of this discussion.

The issues raised during this part of the workshop fell into two main categories: (1) the challenges in undertaking this kind of research and (2) its applicability to the work of local actors working on detention issues.

**Challenges.** Workshop participants discussed at length various challenges in undertaking this kind of project, including potential conceptual and pragmatic pitfalls. Participants pointed out, for instance, that in some countries, especially those outside Europe, detention centres are often ad hoc and very

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<sup>8</sup> For a detailed description of the GDP's methodology, see "Coding Migration-Related Detention: A Global Detention Project Working Paper," forthcoming 2010/2011.

difficult to identify. Further, even when one can identify detention centres, non-official actors are often not granted access to facilities and authorities do not maintain or make publicly accessible statistics regarding operations at facilities, making it nearly impossible to develop reliable, comprehensive data.

GDP researchers responded that while these difficulties are intrinsic to this kind of research, it is nevertheless critical to establish a framework of information inputs to guide research. We (GDP researchers) also noted that such an endeavour could be used to identify gaps in our understanding of detention systems, which could then be brought to the attention of both national authorities and international actors. While we recognized that in many cases—especially in the developing world—some data inputs (such as official capacity, security level, and budget) will be difficult if not impossible to get, it is important to include these types of data in the overall research framework. To the extent that these kinds of inputs are available in some countries, they can serve to increase transparency about the treatment of detainees and the resources states devote to this activity.

Participants also raised a number of questions about particular formulations used by GDP researchers in the documentation project. For instance, some participants expressed concerns regarding the **definition of migration-related detention** used by the Global Detention Project—“the deprivation of liberty of non-citizens because of their status”—to circumscribe the phenomenon investigated by project researchers. According to the participant from Morocco, most immigration detainees in that country are held in a form of preventive detention that is not justified on status considerations. Rather, they are held on grounds of “disturbing the peace,” which potentially could make them fall outside the cohort covered by the GDP’s definition. We noted, however, that based on the GDP’s experience assessing detention situations in dozens of countries, the Moroccan case is clearly anomalous. Nevertheless, in such cases, there is an evident need to carefully explain why certain detention centres are included in data.

A number of questions were raised about specific data inputs, particularly with respect to security level and facility type.

On **security level**, the GDP proposes replacing the “open”/“closed” distinction widely used in European discourse to describe immigration detention centres with a more nuanced system that rates facilities along a sliding scale more closely related to prison classification schemes. In its research, the GDP has found that situations within detention centres vary greatly, from high-security regimes (in which detainees are confined to a cell nearly 24 hours a day) to semi-secure regimes (which include facilities that allow limited freedom of movement outside the facility). Thus, the project proposes coding facilities as one of the following:

- **High-security** (deprivation of liberty, confinement to cell)
- **Secure** (deprivation of liberty)
- **Semi-secure** (partial deprivation of liberty)
- **Non-secure** (no deprivation of liberty, or “open”)

- **Mixed regime** (facilities that have secure and non-secure sections)

The main rationale for this coding system is that it provides a much clearer picture of the types of situations detainees face while in confinement. It also can give advocates and researchers tools for comparing the relative treatment of detainees from one country to the next.

However, while participants generally acknowledged that this coding scheme could contribute to our understanding of detention operations, there was concern that publicising this kind of information would provide authorities with a justification for continuing the practice of immigration detention. One participant said that a goal of her organisation is to eliminate the practice of immigration detention altogether, not improve it. She said that if authorities were able to point out that their centres were more humane than those of another country, they would feel less pressure to stop detaining migrants and asylum seekers.

Another participant responded to this argument saying that it was important to be realistic about goals. “Countries are not going to stop detaining migrants, but we might be able to get them to reform their practices and improve the treatment of detainees.” She added that developing data along the lines proposed in this documentation project could assist advocates in identifying examples of best practices and bringing them to the attention of relevant authorities.

Participants also raised a number of questions about the GDP’s **facility typology**. The GDP has proposed categorising facilities as either one of three main types: **criminal** (prisons, jails, police cells, etc.), **administrative** (dedicated immigration detention centres, transit centres, secure reception centres, etc), or **ad hoc**.

The main concerns were with respect to the “ad hoc” category, which was developed by the GDP to communicate the improvised nature of many detention centres. In our original formulation, a facility would be coded “ad hoc” if it met at least one of the following conditions: (1) either it was not legally sanctioned to hold immigration detainees; and/or (2) it was not intended or designed to confine people. Hotels and open air camps are two prominent examples of the second type of ad hoc facility.

The questions centred on the first type of ad hoc facilities, those that operate without a clear legal mandate. A key example of this kind of facility are Turkey’s so-called guesthouses, which the Turkish government has refused to acknowledge detain people despite contrary rulings by the European Court of Human Rights and the conclusions of various rights agencies. According to these bodies, Turkey has not developed an appropriate legal framework to hold people in administrative detention in these facilities. Thus, we had coded these “guesthouses” ad hoc in order to underscore the precarious legal situation of detainees in these centres. However, workshop participants pointed out that in many countries, migrants are detained without appropriate legal grounds, but that nevertheless the facilities that are used—as in

Turkey—are sanctioned in policy documents for detention purposes. Participants argued that it would be more useful to have a narrowly defined ad hoc category, which focuses only on the material conditions of the facility, and not the legal framework—or lack thereof—of immigration-related detention. The GDP intends to adopt this narrower definition of ad hoc.

Finally, there was an extended discussion about the GDP’s proposal to devise **normative characteristics** for detention facilities, which would measure the degree to which facilities abide by internationally recognized norms with respect to deprivation of liberty and the rights of non-citizens. Of the four categories of characteristics proposed by the GDP (general, operational, bureaucratic, and normative), this one has been the most difficult to develop because of inherent challenges in quantitatively measuring abuses.

One proposal discussed during the workshop was to develop a list of human rights norms based on standards developed by institutions like the European Committee for the Prevention of Torture (CPT) to assess facility conditions during visits. Instead of trying to measure specific individual abuses of these norms, the project could provide a comprehensive list of reports from independent observers like the CPT and the UN Working Group on Arbitrary Detention that allege violations of these of norms.

While this approach would limit data gathering to the few facilities reported on by these human rights mechanisms, it could nevertheless serve as a source of preliminary empirical evidence for assessing states’ treatment of migrant detainees. The ability to correlate other categories of information—such as whether facilities are managed by private companies, or the types of facilities used to confine immigration detainees—with this limited source of normative evidence could have obvious relevance to advocates and policy-makers.

Participants also discussed the possibility of assessing only those norms for which there is at least the potential to make clear measurements, such as the amount of space afforded detainees, food and water provisions, and access to medical assistance. Such an approach could be an organic outgrowth of efforts to assess a facility’s operational characteristics and thus would not necessarily merit a unique, stand-alone category.

**Potential uses.** Although workshop participants readily acknowledged the usefulness that the documentation project could have for scholarship on the phenomenon of immigration detention, they raised questions with respect to its everyday applicability. Thus, while some participants questioned whether efforts to precisely define and categorise detention situations could be used by advocates, others countered by saying that to the extent the GDP was in a position to bring this information to a larger audience, it could serve to bring attention to problems that otherwise do not reach beyond national borders, which in some instances could increase pressure on authorities to make reforms.

Additionally, some participants stressed that data published by an institution like the Global Detention Project—a research initiative that does not advocate

particular policies—could be a valuable resource for their advocacy work because authorities would not be able to disregard its findings as being driven by a political agenda. One participant added that officials might be more willing to share data with a research institution than they would an advocacy group, which could benefit efforts by local groups to develop better information about detention centres.

Also, there was general agreement that a mechanism for readily comparing detention centres in different countries—which would be facilitated by having data on multiple countries available in a single online dataset—could serve as a tool for bringing to the attention of authorities comparative shortcomings in national practices as well as best practices elsewhere.

Similarly, one participant argued that developing global criteria for documenting detention practices could help advocacy of alternatives to detention: “This project could be great for seeing similarities and differences globally. Advocates for alternatives need to develop universal standards, and this tool would aid that effort.” She added, “It is important to build a global consciousness on this issue because it is nearly universal. Very few states do not detain migrants based on status. Yet, how can we compare practices if we are not using the same vocabulary?”

## **VI. Follow Up**

The workshop represented the first stage of a larger documentation project proposed by the Global Detention Project. Ultimately, the GDP would like to establish a network of knowledge providers across the globe who share a common framework for documenting detention situations. To this end, the GDP and the International Detention Coalition will hold similar workshops in other regions of the world during 2011.

Part of the challenge in establishing such a network is the need to follow up on workshops and develop individually with partners concrete data that can be included in the GDP’s database. To do this, participants of the European region workshop, which has been discussed in this report, have agreed to complete a detailed questionnaire about their countries’ detention policies and practices in early 2011, which will then be used to update the GDP’s data on the countries represented at the workshop.

Looking ahead, the GDP plans to launch an online database that will be publicly available through its website. This database will combine information about specific detention centres with state-level inputs, such as details about the legal framework for detention as well as the status of relevant international and regional treaties. The GDP intends to develop this online database into a regularly updated tool that will track detention practices across the globe and provide policy-relevant information for scholars and migrant-rights actors.



## APPENDIX: List of Participants

<b>Name</b>	<b>Country</b>	<b>Organization</b>
Amor Boubakri	Tunisia	University of Sousse
Lucy Bowring	Australia	International Detention Coalition
Cecilia Cannon	Switzerland	Global Detention Project
Jerome Elie	Switzerland	Programme for the Study of Global Migration
Maciej Fagasinski	Poland	Helsinki Foundation for Human Rights
Michael Flynn	Switzerland	Global Detention Project
Raúl González Fabre	Spain	Pueblos Unidos
Seta Hadeshian	Lebanon	Middle East Council of Churches
Bernd Kasperek	Germany	University of Munich
Grusa Metavzic	Hungary	Hungarian Helsinki Committee
Efthalia Pappa	Greece	Ecumenical Refugee Program
Claudia Pretto	Italy	Association for Juridical Studies on Immigration
Marc Speer	Ukraine	Border Monitoring Ukraine
Céline Warnier de Wailly	Malta	Jesuit Refugee Services-Malta
Irem Arf	Turkey	Helsinki Citizens Assembly-Turkey
<i>Undisclosed</i>	Morocco	
<i>Undisclosed</i>	Egypt	