

UNHCR Global Strategy

Beyond Detention 2014-2019

A global strategy to support Governments to end the detention of asylum-seekers and refugees



NATIONAL ACTION PLAN

Indonesia

What is the UNHCR Global Strategy - Beyond Detention?

In June 2014, UNHCR launched its Global Strategy - Beyond Detention 2014-2019, which aims to support governments to end the detention of asylum-seekers and refugees. The Strategy lays out three main goals: (1) to end the detention of children; (2) to ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and (3) to improve conditions of detention, where detention is necessary and unavoidable, to meet international standards. To support the implementation of the Global Strategy, focus countries have developed National Action Plans ('NAP'). This document is a summary and public version of the NAP.

All documents relating to the Global Strategy - Beyond Detention 2014-2019 are available at: <http://www.unhcr.org/detention>

The process of developing the National Action Plan

UNHCR welcomes the opportunity to continue working closely with the Government and other partners to address issues related to immigration detention through various activities, including advocacy interventions, partnership, and capacity building. The National Action Plan for Indonesia was developed by UNHCR in consultation with relevant stakeholders. Based on the reports of detention monitoring conducted by the National Human Rights Commission, UNHCR took part in discussions that included the Government as well as national and international NGOs. This led to the formation of a Detention Working Group, which involves UNHCR, immigration authorities, the National Human Rights Commission and national and international NGOs, to facilitate the implementation of the National Action Plan in accordance with the Global Strategy – Beyond Detention. The NAP has been developed to address immigration detention in a comprehensive manner which will allow UNHCR and other stakeholders to effectively address the three main goals of the Global Strategy.

The actions foreseen

Goal 1. End the detention of children

UNHCR continues to engage with Government and relevant partners to advocate for an end to the detention of children. Activities to achieve this goal include organizing focussed discussions to address concerns related to children and to identify solutions, such as foster care arrangements, placement in children's shelters, undertaking capacity building for Government and other partners on international standards, particularly regarding the rights of children, providing financial support and technical guidance to partners involved in the legal representation of children, and raising awareness with Members of Parliament. In relation to the latter, it is expected that a position paper on ending the detention of children will be prepared by UNHCR and shared with MPs to gain their commitment. Other activities that UNHCR has been pursuing includes identifying homeless children's shelters run by NGOs that are approved by the Government and gaining the Government's consent for the placement of refugee children in these facilities. To ensure such alternatives to detention meet international standards, UNHCR will cooperate with various partners to develop referral mechanisms and to provide training for social workers working in or with individuals residing in these shelters.

Goal 2. Ensure that alternatives to detention are available in law and implemented in practice

In pursuing Goal 2 of the Global Strategy, UNHCR continues to work with the Government to expand the type and number of available alternatives to detention and seeks resources to establish additional community accommodation centers and shelters for unaccompanied children. UNHCR also advocates for key amendments to the Immigration Law 2011 and the Immigration Regulation 2010 to give effect to this goal, through various interventions at both the central and regional level. UNHCR advocates, for example, for amendments that would require determining the appropriateness and necessity of detention for each individual detained vis-à-vis other alternatives. Activities to achieve this goal include organizing focus groups in Jakarta and the 13 locations where detention centers are situated to examine legal and policy frameworks at the national and regional level, together with Government interlocutors, legislators and national human rights institutions, with the aim of identifying elements that can be incorporated into the strategy for advocacy with the Government on the establishment of new

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alternatives to detention, such as community release and foster care for unaccompanied children. These efforts will be strengthened through consultation with local leaders and refugee communities to encourage their contributions to the identification and management of alternatives to detention. To support UNHCR's advocacy efforts, UNHCR encourages the National Human Rights Commission, legal aid NGOs, the Indonesian Bar Association, academia, and other partners to actively engage in these interventions.

Goal 3. Ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards

UNHCR is working with the Government to improve conditions in detention through training, awareness-raising and the development of standard operating procedures that meet international standards. In particular, UNHCR advocates for measures to address recurring overcrowding in detention facilities, including through expanding available living space, providing separate facilities for women, children, and families, and increasing the use of alternatives to detention to facilitate the release of more detainees. In collaboration with the Government, UNHCR organizes trainings for immigration officials as well as participatory assessments relating to detention and alternatives to detention. Other activities to achieve this goal will include organizing regular consultations with authorities and key partners on the treatment of persons in situations of vulnerability, and developing effective referral mechanisms to address their needs. UNHCR will provide comprehensive training for staff involved in detention monitoring, a process that will be strengthened in 2016 and expanded to include joint monitoring by UNHCR, Government, NGOs, and the National Human Rights Commission.

Detention overview

UNHCR is concerned that detention continues to be used in a routine manner. This policy is mostly applied to persons intercepted attempting to enter or leave the country in an irregular manner. The continued use of detention as a deterrent to irregular movement and by consequence, to deter the movement of asylum-seekers and refugees, raises concern over the well-being of refugees and asylum-seekers fleeing persecution in their home countries, especially those with particular vulnerabilities including children and women. While there are indications the Government may implement a Presidential Regulation that could eventually discontinue the use of detention for refugees and asylum-seekers, no formal laws governing detention of asylum-seekers and refugees currently exist. Safeguards therefore need to be put in place to guard against arbitrary and prolonged detention and to protect the human rights of asylum-seekers and refugees.

There are 13 recognized detention centers and 20 temporary detention facilities in Indonesia that accommodate those who have been intercepted, including persons of concern to UNHCR. Overcrowding is a recurring problem in all detention facilities, and in total some 5,782 refugees and asylum-seekers were detained over the course of 2014. UNHCR's persons of concern who are detained often experience long periods of detention due to various factors, including UNHCR's limited resources to undertake refugee status determination in a more timely manner (which is generally a pre-condition for release), bureaucratic procedures for release, and limited space available in community accommodation centers and children's shelters. Opposition in some localities also continues to hinder the establishment of new community accommodation centers. In the meantime, the detention of a growing number of unaccompanied minors, as well as other children, is a major concern for UNHCR. While the Government is willing to consider the release of such children from detention, placement in existing UNHCR and Government run shelters is challenging due to limited space available. Over the past year overcrowding of detention facilities has been exacerbated by an increasing number of refugees and asylum-seekers who have self-reported to immigration authorities to be detained because of their inability to financially support themselves. This has also led to growing concerns about the increasing presence of persons of concern in communities across the country.

Good practices and alternatives to detention

UNHCR is afforded unhindered access to all detained asylum-seekers and refugees, and the Office continues to work with Government and the International Organization for Migration (IOM) to secure release of detained persons of concern to community accommodation centers. UNHCR welcomes the establishment of a number of alternatives to detention in Indonesia. Refugees and women and children and other vulnerable asylum-seekers whose status is confirmed by UNHCR are released to community accommodation centers operated by IOM, or to shelters for unaccompanied children operated by UNHCR through its partner, CWS. The Government also permits unaccompanied children to be accommodated in shelters operated by the Ministry of Social Affairs with support from IOM. However, the facilities available to persons of concern in Indonesia are generally at full capacity, and UNHCR and IOM face opposition to the establishment of new facilities by residents in a number of communities. UNHCR is working with the Government, IOM, and other partners to sensitize refugee hosting communities as to the plight of refugees, and is expanding activities that bring refugees and local residents together to improve mutual understanding and facilitate acceptance. UNHCR is also developing quick-impact projects that benefit both refugees and the communities in which they live to counter negative perceptions and further encourage integration.

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UNHCR Indonesia, November 2015