



2014-2019

Beyond Detention

A Global Strategy to support governments to end the detention of asylum-seekers and refugees

UNITED NATIONS HIGH
COMMISSIONER FOR REFUGEES

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The UN Refugee Agency



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The electronic version of this strategy is available at: www.refworld.org/detention.html
Hard copies can be obtained by contacting the Protection Policy and Legal Advice
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Why is a Global Strategy needed?

Putting people in detention has become a routine – rather than exceptional – response to the irregular entry or stay of asylum-seekers and migrants¹ in a number of countries. Some governments view detention as a means to dissuade irregular migration to or applying for asylum in their territories. While acknowledging that irregular entry or stay may present many challenges to States, detention is not the answer.

Research in fact shows that not even the most stringent detention policies deter irregular migration, and further, that there are workable alternatives to detention that can achieve governmental objectives of security, public order and the efficient processing of asylum applications. Importantly, as seeking asylum is not an unlawful act, detaining asylum-seekers for the sole reason of having entered without prior authorisation runs counter to international law. Under international law, individuals have the right to seek asylum, and if they do so, to be treated humanely and with dignity. Access to open reception arrangements and fair and efficient status determination procedures need to be part of the overall State architecture.

Detention also has many negative lasting effects on individuals. It undermines their human dignity and can cause unnecessary suffering, with serious consequences for their health and wellbeing, in particular when they are detained for long periods. Detention increases anxiety, fear and frustrations and can exacerbate past traumatic experiences. It takes place, frequently, in places and in conditions that do not meet human rights standards. Detention of children is particularly serious due to the devastating effect it may have on their physical, emotional and psychological development, even if they are not separated from their families. Children should, in principle, not be detained at all.

Detention removes asylum-seekers from the community, which is sometimes the goal, inhibiting opportunities to benefit from existing support networks (both formal and informal), and diminishing people's capacity to be independent, self-sufficient and fulfilled members of the community after release. All these factors are further aggravated by the uncertainty about its duration and outcome.

In view of the hardship which it entails, and consistent with international refugee and human rights law, the detention of asylum-seekers should normally be avoided and be a measure of last resort.²

UNHCR's Global Strategy – Beyond Detention 2014-2019 aims to make the detention of asylum-seekers an exceptional rather than routine practice.

¹ Persons detained in places of immigration detention may include refugees, asylum-seekers, rejected asylum-seekers, stateless persons, trafficked persons, or irregular migrants. While the mandate of UNHCR covers only some of these categories, it is important that Offices understand the broader migration context. Likewise, action taken on behalf of persons of concern to UNHCR may also bring positive benefits for migrants, and as far as possible a joined-up approach with relevant actors would be recommended. See, *Note on the Mandate of the High Commissioner for Refugees and his Office*, October 2013, available at: <http://www.refworld.org/docid/5268c9474.html>

² See UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* (UNHCR, Detention Guidelines), 2012, paragraph 14, available at: <http://www.refworld.org/docid/503489533b8.html>



What main challenges and concerns are addressed by the Global Strategy?

The Global Strategy will work towards addressing some of the main challenges and concerns around governmental detention policies and practices, including:

- **Misconceptions about detention**, its role and function.
- **Lack of information regarding the availability**, the types and effectiveness of alternatives to detention.
- **The increasing rate and use of detention** in a number of countries and/or its automaticity. Detention is assumed as the default position in immigration laws and State practice.
- **The use of detention as a deterrent**. Not only does detention not work as a deterrent, it is not a legitimate purpose for detention under international law.
- **The lack of reliable statistics** about the number and length of time persons are held in immigration detention, at both national and global levels.³
- **The limited access** (in some countries) to places of immigration detention and limited capacity to carry out systematic monitoring of these places of detention by UNHCR and/or its partners.
- **The often precarious and substandard conditions of detention**, including for persons with special needs or in situation of vulnerability.⁴ Conditions of detention must be humane and dignified.

What are the 3 main goals of the Global Strategy?

Working with governments and other partners, the three main global goals are to:

- 1 end the detention of children;⁵**
- 2 ensure that alternatives to detention are available in law and implemented in practice;**
- 3 ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards by, inter alia, securing access to places of immigration detention for UNHCR and/or its partners and carrying out regular monitoring.**

Achieving each of these main goals may require a set of objectives or sub-goals developed at the national level in order to set in place the foundation for further progress.⁶ The Global Strategy also acknowledges that there may be different, or additional, goals to be pursued in particular countries or regions, which can be incorporated into national plans of action.

What needs to be done to achieve the global goals?

To achieve each of the global goals, UNHCR offices, together with their partners, are to develop and implement Plans of Action, at the country and/or regional level, as appropriate. Such action plans may contain the following elements:

- problem analysis and diagnosis
- advocacy interventions
- awareness raising and campaigning
- securing access to and monitoring places of immigration detention
- providing/strengthening technical knowledge, cooperation and capacity building for all stakeholders
- strengthening partnerships
- promoting information sharing, data collection and reporting
- investing in, carrying out and disseminating research
- allocating and leveraging resources
- monitoring and evaluation

³ This limitation is not just related to lack of access to appropriate national records by UNHCR but specifically by the lack of reliable and updated statistics produced, shared and/or made public by States. Where immigration detention statistics are available, they may not be disaggregated by those of concern to UNHCR. Further, the way in which States calculate the length of detention varies considerably, making comparisons over time or between countries difficult.

⁴ See UNHCR, Detention Guidelines 8 and 9.

⁵ In pursuing this goal it is important for Offices and partners to take account of UNHCR's *Framework for the Protection of Children*, 26 June 2012, available at: <http://www.refworld.org/docid/4fe875682.html>

⁶ See, 'Achieving the goals' in this document.



The initial roll-out June 2014 - June 2016

The initial roll-out of the Global Strategy will be focused in the coming two years on 10+ “focus” countries, selected on the basis of a range of criteria, including regional and thematic diversity, size and significance of the problem, likelihood of making an impact in the initial roll-out period (albeit without prejudicing long-term impacts), as well as staffing and resources. Each “focus” country will need to take steps to engage the government in the Global Strategy, and wherever possible, in developing national action plans (see below). In the subsequent years, it is intended that additional countries will be added. The focus countries will benefit from additional technical support from the Division of International Protection.

All other country operations where detention is a protection challenge are to be guided by and to follow the Global Strategy and adapt it to their country context.



Further information on the roll-out of the Global Strategy can be found at: <http://www.unhcr.org/detention>

Developing national action plans

National plans of action will need to select which of the global goals they will pursue, and identify specific objectives and actions.⁷ They should be underpinned by an analysis of the current legal and policy migration and asylum frameworks in the country in question. Redaction and implementation of the national action plans should be a transparent and inclusive process, supported by local stakeholders, especially relevant ministries and/or law enforcement agencies.

The outputs and expected impact of the action plans should be measurable under UNHCR's Results Framework matrix in FOCUS.⁸

National (and/or regional) action plans are to be developed to achieve the global goals, guided by the following elements/aspects.

1 Problem analysis and diagnosis

Understanding the *reasons why, who and how* the State detains,⁹ as well as the *legal and policy frameworks and practices* is essential to be able to identify the best ways to respond to the problem. Having access to, collecting and managing *reliable information*¹⁰ is the first step in developing national action plans.

In developing national plans of action, consider the following:

- The overall migration and asylum system.
- The overall immigration detention regime.
- The national child protection system.
- The main challenges of the government.
- Existing resources, stakeholders and information gathering strategies, mechanisms and tools.

Actions taken to tackle detention will usually need to be connected with targeted actions to improve the overall asylum system.¹¹

⁷ Goal-setting involves establishing specific, measurable, achievable, realistic and time-targeted (following the S.M.A.R.T. model) objectives. In the context of the Global Strategy, Offices may select one or more of the global goals. The national plan of action will also need to define/identify a set of sub-goals or objectives [understood as the desirable result expected from the implementation of the actions points] to make progress and to achieve one or more of the three main goals. The specific objectives or sub-goals for each country plan of action are to be identified taking into consideration the national context and the particular protection challenges faced, as well as the opportunities for progress. Examples of sub-goals or objectives are found at "Achieving the goals" in this document.

⁸ Further advice on monitoring and reporting on implementation of the Global Strategy goals under FOCUS will be provided.

⁹ For example, the reasons for detention may relate to political, economic, security or other dynamics.

¹⁰ Information can be obtained from a multitude of sources. National authorities would normally be the first source, yet information gathered through partnerships, research, monitoring, or from persons of concern themselves remain extremely important. Information should as far as possible be triangulated and verified to contrast what is known from what is presumed to be known. Where this information is not readily available or accessible to UNHCR or its partners, developing a monitoring strategy and other information gathering activities would become a first step. For a good source of information on national laws and practices, see Global Detention Project, <http://www.globaldetentionproject.org>

¹¹ For example, many persons are in prolonged detention because of inefficiencies in the asylum system. Likewise, delays in return and readmission to countries of origin can prolong detention for rejected asylum-seekers. In both cases, exploring alternatives to detention would be appropriate.

When planning advocacy interventions, consider the following:

- Promote the use and disseminate available protection tools: in particular UNHCR's *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*.¹²
- Comment on national legislation and policies, participate in parliamentary or government inquiries or commissions, or make submissions to international, regional or national human rights bodies.¹³
- Build dialogue with governments including by sharing good practices with other governments, and by the development of working groups.¹⁴
- Speak to the interests of and use pragmatic messages in advocacy with governments, and not only rights-based arguments.¹⁵
- Prepare and disseminate immigration detention-related reports¹⁶ (also linked to monitoring and research).
- Reach out to a range of stakeholders, including non-traditional partners, such as national human rights institutions.¹⁷ Establish national or local/provincial consultative or advocacy groups.
- Find opportunities for regional advocacy and establishment of regional networks.
- Engage with the judicial and legal community. Consider if and/or how litigation may feature in the national action plan. Activities could include keeping track of relevant case law, identifying precedent-setting cases for court interventions (whether direct interventions by UNHCR or assistance to NGO or other partners) and more broadly encouraging involvement of the legal community in the detention issue, at national, regional and/or international level, as appropriate.

2 Advocacy interventions

Advocacy is an essential element of any national plan of action. Advocacy means influencing decision-making processes at the local, national, regional and international levels.¹⁸ Advocacy may be pursued through many forms such as the development of coalitions and alliances; research and publications; conferences and events; communications and media work; public campaigning, common messaging, and social mobilization; and litigation. Well-planned advocacy interventions can produce a change in attitudes, leading to positive changes in policy and/or practice.

The type of advocacy activities to be developed is crucial, however, to this end. They would need to be tailored specifically to the audience and contexts they need to address (for example, members of parliament, execu-

¹² Additional tools and materials are found in the Annex. A first step would be to translate the Guidelines into the national language(s). It would also be useful to translate the Guidelines into the main languages of persons of concern.

¹³ Offices may consider engaging various United Nations' or other human rights mechanisms, such as the Universal Periodic Review (UPR) process, the visits or reports of Special Rapporteurs, such as the Special Rapporteur on the Human Rights of Migrants, the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the Special Rapporteur on Solitary Confinement, or other special procedures, such as the Working Group on Arbitrary Detention. Regional human rights mechanisms, where available, can also be engaged.

¹⁴ See, for example, UNHCR's sponsored, Canada/USA Bi-National Roundtable on Alternatives to Detention of Asylum Seekers, Refugees, Migrants and Stateless Persons, February 2013, available at: <http://goo.gl/PWNDhk> and UNHCR, Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions, July 2011, available at: <http://www.refworld.org/docid/4e315b882.html>

¹⁵ Such messaging could focus on, for example, the ineffectiveness of detention as deterrent, the cost of detention versus the cost of alternatives to detention, etc.

¹⁶ See, for example, UNHCR's *Position on the Detention of Asylum-seekers in Malta*, 18 September 2013, available at: <http://www.refworld.org/docid/52498c424.html>

¹⁷ Including National Preventive Mechanisms in States parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002), see <http://goo.gl/qwfkIr>

¹⁸ See UNHCR's *Guidance Note on Partnership in Advocacy for Protection*, Background Paper prepared for the UNHCR Annual Consultation with NGOs 2013, June 2013, available at: <http://goo.gl/Px8kiQ>

tive, judiciary, general public, or others).¹⁹ Partnerships in this context are essential, as maximum use should be made of the complementary roles, mandates, expertise and relationships/networks of participating partners and stakeholders.

Advocacy needs to be evidence based, hence the importance of providing a sound legal and practical analysis of the detention context, understanding the reasons for detention and the relevant actors involved, as well as having a monitoring and evaluation progress mechanism in place (see point 10, Monitoring and evaluation, below).

③ Awareness raising and campaigning

Garnering public support for the global goals can lead to changes in public opinion and in turn to legislative and other needed changes. In many contexts, it may become the most important part of the national action plan. A communications strategy linked to the Global Strategy at the national and/or regional level could be appropriate. The messaging needs to be clear, regular and reach its target audience.

Decisions would need to be taken about the approach of any communications; for example, whether to focus on the negative impact of detention practices for persons of concern, or identify good policy reasons for not detaining, or a combination of both negative and positive messaging. Detention may be only one part of broader communications on the general protection environment. The objective of a public awareness campaign is to inform and to promote a change. This can be achieved through a number of media (print, radio, television, web, social-networking, etc.). It may be effective to include persons of concern in the campaign. Maintaining visibility on the issue is very important.

When developing awareness raising and campaigning, consider the following:

- Develop and implement a communications strategy / media campaign, or incorporate detention messaging into broader protection communications.
- Develop consistent messages.
- Plan for high-level visits of prominent persons that include visits to places of detention or alternatives to detention.
- Join or instigate local and/or national campaigns, including national campaign launches of the Global Strategy, albeit ensuring that risks are weighted.²⁰

¹⁹ For example, where detention is the result of specific laws or policies, advocacy would aim at changing systemic problems, whether it requires amendments of law or regulations, or changes to administrative practice.

²⁰ See, for example, the Global Campaign to End the Immigration Detention of Children, being coordinated by the International Detention Coalition, <http://www.endchilddetention.org>



4 Securing access to and monitoring places of immigration detention

Monitoring places of detention is an essential activity and part of UNHCR's supervisory responsibility.²¹ Monitoring describes the process, over time, of periodic or regular examination, whether announced in advance or spontaneous, through on-site visits, of places of immigration detention.

Monitoring can help prevent human rights violations at either an individual or systemic level, and improve detention conditions. Monitoring can also play a role in sensitising governments to UNHCR's protection mandate.

Monitoring is a tool to open dialogue with relevant authorities. Offices are encouraged to develop a monitoring programme, applying the techniques and methodologies contained in *Monitoring Immigration Detention: Practical Manual*.²²

When developing a monitoring programme, consider the following:

- Where access has not yet been agreed with the government, negotiate unhindered access to places of immigration detention.
- Set a schedule; define an overall time-frame for the monitoring programme.
- Be constructive.
- Plan for and carry out monitoring visits; define clear monitoring goals and objectives.
- Identify and support monitoring visits of other bodies.
- Define follow-up activities to the monitoring visits.

²¹ See, UNHCR, *Note on the Mandate of the High Commissioner for Refugees and his Office*, October 2013, available at: <http://www.refworld.org/docid/5268c9474.html>

²² UNHCR, the Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), *Monitoring Immigration Detention: Practical Manual*, 2014, available at: <http://www.refworld.org/docid/53706e354.html>

5 Providing/strengthening technical knowledge, cooperation and capacity-building for all stakeholders (including training)

Capacity-building activities are an essential component of national plans of action. They can focus on technical aspects, such as strengthening the government's capacity to manage detention facilities, or support the introduction of alternatives to detention. They can also focus on knowledge development around, for example, international refugee and human rights standards relevant to immigration detention. The main purpose of these activities is to create or support the capacities needed to achieve the global goals. This may involve the development of shorter or longer term initiatives geared towards knowledge acquisition, skills development, or management expertise, for example.

Training and capacity-building activities and tools²³ can be directed to a wide range of actors, including governments as well as partners and other stakeholders (NGOs, civil society, academia, legal aid providers, etc.). Also, NGO partners, such as the International Detention Coalition (IDC) and the Association for the Prevention of Torture (APT), could be requested separately or jointly to conduct training events. Further, State experts from other countries may be willing to exchange good practices. Offices are encouraged to explore existing capacity-building initiatives or projects and to develop synergies in this field.²⁴

When planning for capacity-building initiatives, consider the following:

- Tailor activities based on the analysis of capacities and needs.
- Develop joint training and capacity-building initiatives wherever possible, with government interlocutors or other partners.
- Promote government-to-government dialogues/roundtables/projects on detention and alternatives to detention.²⁵
- Share good/positive practices, statistics, effective detention strategies, monitoring tools, etc.
- Support through technical expertise the development of pilot programmes on alternatives to detention.
- Organise country workshops with key stakeholders.
- Consider seconding staff to work with the authorities directly.²⁶

²³ See Annex for a review of existing tools and frameworks that can support the development and implementation of capacity-building activities.

²⁴ See, for example, *Making Alternatives to Detention in Europe a Reality by Exchanges, Advocacy and Learning* (Made Real), Odysseus Network, at: <http://www.ulb.ac.be/assoc/odysseus/MADEREALuk.html>

²⁵ See for further reference, Roundtables on Alternatives to Detention at <http://www.refworld.org/detention.html>

²⁶ Such secondments could, for example, be co-located with the government authorities, including in detention facilities.

6 Strengthening partnerships

Developing and strengthening partnerships is fundamental to achieve the global goals.²⁷ Partnerships multiply the effectiveness and impact of the various planned activities, by providing additional or different expertise, diversifying skills, enhancing resources, and increasing political awareness.

Selecting suitable partners is a critical step in the process. Partners may include civil society actors, national and international NGOs, national human rights commissions or institutions (and other human rights monitoring mechanisms), and academia, as well as State authorities. It is important to identify the particular expertise that each partner can bring to the achievement of the goals. These will be defined by their respective mandates, missions and agendas. Mutual understanding of mandates, objectives and specific roles, and the implications these have for relationships with host governments, affected populations and communities, will also be key to ensure complementarity of each other's skills, experience and particular roles.

When strengthening partnerships, consider the following:

- Reach out and map existing partners and their particular expertise at the national, regional and global levels. Include stakeholders in the mapping exercise.²⁸
- Identify critical areas of joint interventions.
- Consult and share information between relevant actors, subject to data protection principles.
- Acknowledge the complementarities in roles, expertise and relationships between stakeholders in responding to the particular needs of asylum-seekers.

7 Promoting information sharing, data collection and reporting

Accurate and up-to-date information on policies and practices, including statistical data, is key to being able to engage with States. Transparent mechanisms for requesting data, as well as collecting and sharing such data should be established.

Sources of information will vary depending on the context. Official sources, including statistics and reports where available, are particularly important. However, these will need to be cross-checked with other sources available to ensure consistency and reliability.

²⁷ See for further reference, UNHCR, *The High Commissioner's Structured Dialogue on NGO-IFRC-UNHCR Partnership - An initiative to improve partnership between UNHCR and NGOs in 2012 and beyond*, January 2013, available at: <http://www.refworld.org/docid/51751fb14.html>

²⁸ Partners with particular expertise in the field of detention such as the International Detention Coalition (IDC), with whom UNHCR signed a Memorandum of Understanding in 2013 (see Annex for further reference), the Association for the Prevention of Torture (APT), the International Committee of the Red Cross (ICRC), the International Organisation for Migration (IOM) as well as other UN agencies such as OHCHR, UNICEF or UNODC, for example, could be approached. Relevant NGOs at national or regional level and regional or national human rights institutions could also be included when planning interventions.

When promoting information sharing, data collection and reporting, consider the following:

- Collect, analyse, share and disseminate information (including press releases and social media, as appropriate) related to detention, alternatives to detention and freedom of movement with partners and stakeholders.
- Establish a network of detention focal point persons at country and/or regional level, in coordination with the networks developed by partners and other stakeholders.
- Gather and keep updated information on detention practices and alternatives to detention at country and/or regional level.²⁹
- Explore opportunities for partnerships with academic institutions, in particular in the field of research.
- Support local monitoring organisations/bodies/networks, as appropriate.

8 Investing in, carrying out and disseminating research

Research can help identify some of the main protection gaps and challenges, as well as creative policy and practical solutions to them. Particularly in respect of alternatives to detention, research has been instrumental in building the empirical evidence base for them.

Research can be carried out by a wide range of actors, governmental and non-governmental, including academia and national and international NGOs. UNHCR also carries out research, and otherwise can promote and disseminate it.³⁰

When investing in, carrying out and disseminating research, consider the following:

- Identify, promote and support (including through funding) research initiatives and opportunities at global, regional and/or country levels that provide for a better understanding of the detention context, practices and case law, and that help to identify creative solutions to detention problems and challenges.
- Partner with academic and other research institutions (including national/governmental institutions such as National Human Rights Commissions, Ombudspersons or equivalent) carrying out such studies.
- Promote the conclusion of memoranda of understanding or similar agreements to institutionalise long-term research collaboration; or otherwise support academic research projects (through funding but also through participating in steering committees and/or writing letters of support).
- Disseminate research to achieve the widest possible impact.

²⁹ See, for example, the Global Detention Project, <http://www.globaldetentionproject.org> and International Detention Coalition, <http://www.idcoalition.org> See also, UNHCR's Refworld special features page on Detention, <http://www.refworld.org/detention.html>

³⁰ See, for example, *Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants*, by Alice Edwards, April 2011, PPLA/2011/01.Rev.1, available at: <http://www.refworld.org/docid/4dc935fd2.html> and *Building Empirical Research into Alternatives to Detention: Perceptions of Asylum-Seekers and Refugees in Toronto and Geneva*, by Cathryn Costello and Esra Kaytaz, June 2013, PPLA/2013/02, available at: <http://www.refworld.org/docid/51a6fec84.html>

9 Allocating and leveraging resources

For the successful implementation of the Global Strategy, adequate levels of funding and dedicated staff (country and office focal points) need to be identified. Some of these resources will already be available to UNHCR, as part of country operations plans, or can be identified through partnerships. These initiatives will help to absorb part of the costs of implementation of the Global Strategy, but other sources –including private or public sector funds– may need to be explored.

10 Monitoring and evaluation

Measures to monitor the implementation and progress in achieving the global goals need to be set in place by Offices when developing their national plans of action. Continuous evaluation enables feedback necessary for continuous improvement and achievement of the goals.

When planning for monitoring and evaluation, consider the following:

- Setting benchmarks/baseline data against which progress will be measured.
- Explore the possibility of establishing local working groups (through partnerships) to monitor progress.
- Promote periodic meetings with partners and stakeholders to discuss progress and/or assess alternative means to achieving the goals.
- Develop reports, tools and other reporting mechanisms, as appropriate.
- Promote the dissemination of progress reports with other Offices to identify and share good practices and provide feedback as needed.

The 10+ focus countries will be required to produce a progress report after two years and a final report after five years, both to be consolidated into a single global report at both stages.

Achieving the goals

Goal 1: End the detention of children

In pursuing Goal 1, it is important that Offices and partners take account of UNHCR's *Framework for the Protection of Children*.³¹

What needs to be addressed?

Sub-goals or objectives would include the following:

- 1 **Legal and policy frameworks ensure that children are not detained.**
- 2 **Best interests of the child³² prevail:** prioritisation of asylum processing and/or family tracing/reunification; access to age-appropriate information (e.g. picture books) on asylum procedures (including how to contact UNHCR); guardians and/or legal representatives for children are appointed, in particular when unaccompanied or separated.
- 3 **Alternative reception/care arrangements (including for families) are available and appropriate:** examples include foster care, community supervision/support, age-appropriate open reception centres with proper supervision, etc.
- 4 **Child sensitive screening and referral procedures are in place** in order to refer them to relevant child protection institutions or organisations without delay and ensure they receive necessary services and assistance (e.g. through Best Interests Assessment or Determination Procedures and care arrangements).
- 5 **Immediate release of children from detention** and their placement in other forms of appropriate accommodation is coordinated amongst national agencies and, as appropriate, with UNHCR.

³¹ UNHCR, *Framework for the Protection of Children*, 26 June 2012, available at: <http://www.refworld.org/docid/4fe875682.html>

³² See, in particular, the United Nations Convention on the Rights of the Child (CRC), Articles 3 and 22; see also, UNHCR *Guidelines on Determining the Best Interests of the Child*, May 2008, available at: <http://www.refworld.org/docid/48480c342.html> and UNHCR *Field Handbook for the Implementation of UNHCR BID Guidelines*, November 2011, available at: <http://www.refworld.org/docid/4e4a57d02.html>



What actions can be taken?

- Map the situation of child detention.
- Identify the reasons for this practice, and identify what would work instead.
- Identify the most relevant stakeholders to engage with.
- Ensure access to detained children.
- Ensure access to legal assistance.
- Monitor the conditions of detention.
- Identify existing legal frameworks, initiatives or strategies supporting child rights.
- Develop a set of advocacy interventions.
- Raise awareness on the detrimental consequences of detention for their well-being and health.
- Raise awareness, develop media campaign and overall communications strategy - ensure consistent corporate communications messages.
- Provide/support training and capacity-building activities.
- Identify and promote alternative reception and care arrangements. The identification of family-based care arrangements should be prioritised.
- Promote and disseminate research, studies and reports on alternatives to detention for children.
- Host roundtable/dialogue with governments and share good practices. Explore how these may be of interest/ adaptable in the national context.

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

What needs to be addressed?

Sub-goals or objectives would include the following:

- 1 **Legal and policy frameworks include alternatives to immigration detention.**
- 2 **Procedures are in place** to assess and review the necessity, reasonableness and proportionality of detention in each individual case before resorting to detention.
- 3 **Screening and referral mechanisms exist** to ensure that asylum-seekers are referred to alternatives to detention.
- 4 **A variety of alternatives to detention are available** (e.g. from reporting conditions to community placement).
- 5 Alternatives to detention **take into consideration the needs of persons with special needs or vulnerabilities**. Community reception arrangements, in particular for children and families, are prioritised.

What actions can be undertaken?

- Research, document and map good practices on alternatives to detention.
- Share information with stakeholders and the broader public, as appropriate, on alternatives to detention.
- Carry out, invest in or identify evidence-based reasons for supporting alternatives to detention.
- Engage with the most relevant stakeholders working on alternatives to detention.
- Map the capacity of stakeholders to collaborate on alternative to detention projects.
- Provide training; develop working groups and other capacity-building activities on alternatives to detention.
- Organise or facilitate training for carers and case workers implementing alternatives to detention.
- Raise awareness on the use of alternatives to detention through media campaigns, civil society sensitization, workshops and academic interventions.
- Develop guidelines/standard operating procedures for government authorities on the use of alternatives to detention.
- Assist in the development of proposals for pilot projects, shelters and other community-based reception alternatives, including fundraising opportunities.



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

In pursuing Goal 3, offices and partners need to take into consideration UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* and UNHCR, APT and IDC, *Monitoring Immigration Detention: Practical Manual*.³³

What needs to be addressed?

Sub-goals or objectives would include the following:

- 1** **Legal and policy frameworks related to detention are in accordance with international standards** and in particular provide for access to places of immigration detention to UNHCR and other independent national or international monitoring bodies.
- 2** **In practice**, UNHCR and other independent national and international monitoring bodies **are granted access to places of immigration detention** for the purpose of regular monitoring.
- 3** Authorities responsible for places of immigration detention **are aware of and implement international standards regarding conditions of detention and treatment of detainees**.
- 4** **Detainees are treated in a humane and dignified manner**, in accordance with these international standards.
- 5** **Specific measures are taken to address the needs of persons in situation of vulnerability or at risk**.

What actions can be undertaken?

- Map the places where immigration detention takes place and get to know the responsible authorities.
- Engage in dialogue with the authorities on UNHCR's mandate and supervisory role in order to secure access to places of immigration detention.
- Identify and engage with stakeholders that are present in the country and have a mandate to access places of immigration detention.
- Develop identification and referral mechanisms so that UNHCR is informed of persons of concern in detention.
- Undertake, support or promote research into conditions of detention.
- Develop a detention monitoring programme.
- Raise national, regional and/or international awareness on conditions of detention.
- Develop advocacy interventions to address the main challenges identified.
- Identify and support initiatives to ameliorate conditions of detention, in coordination with relevant stakeholders.³⁴
- Support training for detention facility staff on refugee rights and the specific needs of persons in situation of vulnerability or at risk.
- Support training activities for other stakeholders on monitoring methodologies.

Division of International Protection
 UNHCR
 June 2014

³³ UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html> and UNHCR, Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), *Monitoring Immigration Detention: Practical Manual*, 2014, available at: <http://www.refworld.org/docid/53706e354.html>

³⁴ The number and extent of these initiatives will vary depending on the context and could include: providing legal assistance to detainees; promoting alternatives to detention; providing training on international standards to detention centre staff; providing material assistance to persons in situation of vulnerability or at risk, on exceptional basis; sharing findings and reports on gaps in standards of treatment and detention conditions with relevant authorities; and work with governments to address some of the shortcomings in the detention regime.

Annex

Existing tools and materials

A number of tools and guidelines have been developed by UNHCR and its partners to inform and guide the work on detention and alternatives to detention. The list below highlights some of these. Please also refer to Refworld's Special Features page on detention.

- UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html>
- UNHCR, Association for the Prevention of Torture (APT) and the International Detention Coalition (IDC), *Monitoring Immigration Detention: Practical Manual*, 2014, available at: <http://www.refworld.org/docid/53706e354.html>
- UNHCR, *Memorandum of Understanding between the International Detention Coalition and The Office of the United Nations High Commissioner for Refugees*, 13 June 2013, available at: <http://www.refworld.org/docid/51b86f344.html>
- UNHCR, *Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions*, July 2011, available at: <http://www.refworld.org/docid/4e315b882.html>
- UNHCR, *Protection Training Manual for European Border and Entry Officials*, 1 April 2011, available at: <http://www.refworld.org/docid/4ddf40d12.html>
- UNHCR, *Framework for the Protection of Children*, 26 June 2012, available at: <http://www.refworld.org/docid/4fe875682.html>
- *Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants*, by Alice Edwards, April 2011, PPLA/2011/01. Rev.1, available at: <http://www.refworld.org/docid/4dc935fd2.html>
- *Building Empirical Research into Alternatives to Detention: Perceptions of Asylum-Seekers and Refugees in Toronto and Geneva*, by Cathryn Costello and Esra Kaytaz, June 2013, PPLA/2013/02, available at: <http://www.refworld.org/docid/51a6fec84.html>
- IDC, *There are Alternatives: A handbook for preventing unnecessary immigration detention*, 13 May 2011, ISBN 978-0-9871129-1-0, available at: <http://www.refworld.org/docid/4f0c14252.html>
- IDC, *Captured Childhood: Introducing a new model to ensure the rights and liberty of refugee, asylum seeker and Irregular migrant children affected by Immigration detention*, 2012, available at: <http://www.refworld.org/docid/510a604c2.html>
- IDC, *Toolkit for Legal Providers Working with Refugees and Asylum Seekers in Places of Detention*, 8 December 2009, available at: <http://goo.gl/Q2TVOV>
- APT and the Parliamentary Assembly of the Council of Europe (CoE), *Visiting Immigration Detention Centres: A Guide for Parliamentarians*, September 2013, available at: <http://goo.gl/pWE8Xy>

³⁵ <http://www.refworld.org/detention.html>



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The electronic version of
this strategy is available at:
www.refworld.org/detention.html