

## UNHCR Annual NGO Consultations 2016

### Background Note: “Where we live: safe asylum space for youth”

Thursday June 16, 2016, 10h30-12h45 &- 14h30-16h15

Room 2, ICCG

Every day, all around the world, tens of thousands of children and young adults are affected by immigration detention. Putting people in detention has become a routine, rather than exceptional, response to irregular entry or stay of asylum-seekers and migrants in a number of countries. Some governments view detention as a deterrence measure to people seeking protection in their territories; however, while acknowledging the challenges that irregular entry or stay may pose to many States, it is clear that detention and other similarly restrictive measures are not the answer.

Detention and other restrictive policies have a negative impact on the individual’s chance and capacity to have access to protection (territory) and to fair and efficient asylum-procedures if required. Seeking asylum is a lawful act and all persons have the right to seek asylum under international law, irrespective of their status or country of origin. Furthermore, undue respect of this individual right may result in instances of *refoulement*.

Children (whether detained themselves or impacted by the detention of their guardians) and young adults are particularly vulnerable to abuse and neglect. Children that are unaccompanied or separated from their parents or guardians are particularly at risk in places of immigration detention, and because they are minors, are often unable to advocate for their fundamental human rights. The immigration detention of children has been shown to have long-lasting mental and physical health implications for them, even when used for very short periods of time.

In this context, lack of appropriate reception arrangements and access to procedures for determination of refugee status and other protection needs is one of the main challenges faced by children and youth, meaning that novel and creative solutions to these challenges, involving all relevant stakeholders, need to be explored.

The session aims to explore, by engaging in meaningful exchange with participants, the main challenges that youth face in accessing fair and effective asylum procedures, and enjoying appropriate community-based protection, starting from the point of reception. Discussion will focus on challenges and solutions for youth both during and after the asylum process, including: adequate care arrangements; age assessment practices; situations of unaccompanied and separated children; ‘ageing out’ of child protection systems; the need for legal documentation, youth-friendly translators, interpreters, and legal assistance; accessing and navigating youth-friendly protection procedures; particular risks associated with detention; and risks associated with deportation or *refoulement*. The session aims to highlight positive initiatives and ways forward to address these protection gaps facing youth.

When children and youth seek safety—whether accompanied or unaccompanied—they are in a situation of particular vulnerability and face numerous challenges in accessing and enjoying adequate protection space. Child asylum seekers are routinely subjected to discrimination, abuse, detention, and other forms of mistreatment when seeking asylum, and the lack of youth-friendly spaces and asylum procedures may lead to failed asylum claims and even deportation. Reports of torture, disappearances, and deaths of children and youth upon return may mean that the decision to deport constitutes *refoulement*.

Domestic law (for example, relating to child welfare or family violence) should also guide the ways in which situations of vulnerability are identified and the risks of harm associated with that vulnerability

reduced or prevented. Situations of vulnerability are not fixed and will change over time and with changing circumstances. Certain categories of people, such as children, are readily accepted as vulnerable and in need of special care, support and protection; while for other people, their individual circumstances and context are the main determinates of vulnerability. Vulnerability is shaped by personal (internal) factors and environmental (external) factors that may be manifold and intersect. Such factors may entrench and exacerbate risks of harm.

In responding to these challenges, UNHCR and NGOs must seek approaches that view asylum-seeking children first and foremost as children. Child-friendly approaches and procedures must prioritize the best interests of the child, see children and youth as rights holders, and address their particular needs and vulnerabilities from a rights-based perspective. Their situations must be addressed and informed by the principles of international refugee and human rights law, while seeking for these principles to be applied in each individual case.

As part of its initiatives to address these challenges, UNHCR launched in 2014 its *Global Strategy Beyond Detention 2014-2019*, a five-year strategy to support governments to end the detention of asylum-seekers and refugees. One of the main goals of the strategy is to end the detention of children. UNHCR is working closely with a number of States to achieve this goal and will continue to support their efforts and those of organised civil society through the production and dissemination of guidance, research, advocacy and capacity-building initiatives.

UNHCR/IDC, May 2016.