
Executive Summary

Context and audience of this review

In 2014, and on the occasion of the 60th meeting of the Standing Committee, UNHCR launched its Global Strategy – Beyond Detention (GSBD). The strategy was in response to the increasing challenges and concerns surrounding immigration-related detention that UNHCR was observing around the world. The strategy was anchored in research demonstrating that stringent detention policies do not deter irregular migration. The aim of the GSBD was to support governments to end the detention of asylum-seekers and refugees. It is defined by strong international and human rights frameworks that stipulate that the detention, for immigration-related purposes, of asylum-seekers, refugees and stateless persons should, as far as possible, be avoided and be a measure of last resort.² It forms part of UNHCR's mandate to closely monitor the effective enjoyment of these rights by all persons of concern to UNHCR and to intervene with the relevant authorities where appropriate.

This report presents the findings of an independent desk review³ of UNHCR's Global Strategy – Beyond Detention (GSBD). It is intended to generate an overview of achievements and lessons learned from UNHCR's implementation of the GSBD at global and regional level, with a view to making recommendations for mainstreaming good practices and approaches.⁴

The primary audience of the review is UNHCR's Division of International Protection (DIP), regional bureaux, the Division of External Relations (DER) and the Division of Resilience and Solutions (DRS) at Headquarters (HQ). Secondary audiences are envisaged as UNHCR regional and country offices, and partners engaging in GSBD.

Key findings

In general, the GSBD is seen as useful and highly relevant

Given the global context of widespread and increasing use of immigration detention for asylum-seekers and other persons of concern to UNHCR, the GSBD is considered to be highly relevant. In addition, the link between UNHCR's mandate and the GSBD was evident, allowing the latter to swiftly become an institutional priority. Furthermore, and despite the wide-ranging and complex issues it addresses, its straightforward language and framing were understood by all stakeholders, irrespective of their profile.

The GSBD is broad enough to provide a global guiding framework for legal and operational engagement on detention, yet at the same time was flexible enough to allow for adaptation to national contexts. It recognizes the centrality of the state as the primary duty holder with respect to asylum-seekers and refugees, and civil society as a key driver of accountability. Furthermore, it offered frameworks and tools that were considered useful and relevant to many countries around the globe, and not only for the countries where the strategy was rolled out. Specifically, it was found that the GSBD offered a good entry point for its overall implementation, helped by the emerging international consensus that the detention of children should end. At the same time, and despite this global common understanding, state practice continued to lag behind – with a large number of States continuing to detain children because of their migratory status. UNHCR and its partners employed a

² The GSBD has three goals namely: i) end the detention of children; ii) ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and iii) ensure that conditions of detention – where detention is necessary and unavoidable – meet the international standards by securing access to places of migration detention by UNHCR and/or its partners and by carrying out regular monitoring.

³ The desk review included a literature review; a questionnaire that was sent to UNHCR focal points for the roll-out of the GSBD in the 20 countries where it was implemented; interviews with UNHCR staff involved in the roll-out at global and national level as well as relevant external stakeholders representing the governments of some of the countries where the strategy was implemented, NGOs, other UN organizations and bodies.

⁴ The review does not constitute an evaluation of the commitment and effectiveness of UNHCR offices, governments and other stakeholders in implementing the GSBD at country level.

combination of approaches to change state practice, including judicial engagement, technical support and hands-on operational support to countries with varying levels of impact.

- The strategy's second objective capitalized on the emerging interest by governments in finding alternatives to arbitrary summary detention and the lack of investment or capacity in non-custodial measures. Piloting alternatives to detention (ATDs) therefore offered a safe and manageable way for States to explore alternative solutions. UNHCR and its partners capitalized on these opportunities through providing relevant, hands-on support and expertise, while keeping up pressure through sustained monitoring, judicial engagement and advocacy.
- The third objective of the GSBD, which forms part and parcel of UNHCR's regular protection activities, allowed some offices and their partners to reprioritize the monitoring of detention facilities – shifting their focus to systemic issues (e.g. process conditions and treatment) rather than individual considerations.

Considering the complexity of the issues that the GSBD is tackling and its ambitious agenda, many key informants found the lifespan of the GSBD (five years) to be too short. Some felt that a 10-year framework would have been more realistic.

The value of building a wide alliance of partners has been essential to the GSBD

The GSBD recognized the importance of developing and strengthening partnerships to increase the effectiveness and impact of the strategy. At the global level, UNHCR's drive to foster its partnerships with the plethora of relevant stakeholders, such as the International Detention Coalition (IDC), other civil society actors, UN agencies and the human rights monitoring system, was crucial for the success of the strategy and for creating a ripple effect that was felt throughout the human rights system. Locally, the GSBD prompted UNHCR offices to expand their partnerships to include new and sometimes non-traditional actors. It also put civil society at the forefront of the process. In many instances, this strengthened its relationship with existing NGOs and helped to forge new ones. The impact of the enhanced partnerships was particularly felt in the areas of judicial engagement, piloting ATDs and more regular monitoring of detention facilities.

In implementing the GSBD, UNHCR and its partners relied primarily on building a relationship of trust with the host governments: offering technical expertise while at the same time monitoring state practice with the purpose of holding the state accountable. Furthermore, they developed context-specific menus of options that involved multiple tracks of action such as monitoring state practice, gathering data, judicial engagement, quiet diplomacy, public advocacy and reporting.

At a more strategic level, however, although it was anchored in the international human rights law framework, the GSBD did not sufficiently capitalize on this to draw attention to the relevance of its tools and findings in efforts to address the detention of both migrants and refugees.

The political context in countries where the GSBD was rolled out is central to policy reform and improved practice

In some roll-out countries, policy and practical advances in the area of immigration detention pre-date the GSBD and were already set in motion by the political climate, coupled with the intense advocacy of civil society. Where the implementation of the GSBD experienced significant setbacks, UNHCR was generally unable to reverse these. The country offices engaged in these roll-outs, however, appreciated that the GSBD was broad enough to provide direction, yet flexible enough to allow for adaptation to national contexts including the gaps they had identified and the areas open to potential political influence.

While the selection of the focus countries for the GSBD was based on a set of objective criteria, more thinking could have gone into the strategy that UNHCR would adopt with governments of countries that would not cooperate with the roll-out process or that would actively oppose it.

Good engagement across the different levels of the organization but with scope for strengthening linkages

Role of DIP in the GSB D: Much of the progress made was owed to active and strong leadership by the Division of International Protection (DIP), which provided direction and support to UNHCR offices in the field as well as their partners. DIP provided much-appreciated support in the design and implementation of national strategies, advocacy at all levels, building capacity and mobilizing resources. It also developed a range of tools that were appreciated for their relevance and usefulness. As the small team in DIP was balancing multiple competing responsibilities, it was not always possible to fully support regional bureaux and country offices by analysing situations in such a way as to see the “bigger picture”. Some argue that regional bureaux should have assumed that responsibility in the first place. In addition, and while the issuance of a tool dedicated to the detention of stateless persons was appreciated, it was not used as regularly as it could have been.

Role of country offices: UNHCR country offices were found to have played a pivotal role in rolling out the GSB D. Implementation was strongly influenced by the degree to which UNHCR offices as a whole invested in the roll-out, particularly at the level of senior management. In some roll-out countries, pushback by the respective governments led some UNHCR country offices either to deprioritize the strategy or to pursue more “behind-the-scenes” and lower-profile approaches.

Role of bureaux: Regional bureaux, on the other hand, seemed to have been less engaged. This was a lost opportunity, as a more active engagement by the bureaux could have positively streamlined and harmonized the implementation of the GSB D in the respective regions.

Further resourcing required to maintain momentum around the GSB D and related capacity-building

The GSB D provided a much-needed opportunity for UNHCR to increase the knowledge of its staff and its partners on key issues pertaining to the strategy, through the launch of specific learning programmes and training opportunities. The impact of these capacity-building events went beyond learning, as different actors often went on to forge concrete joint action plans, having gained a better understanding of their potential roles and functions.

The additional resources that UNHCR managed to obtain for the GSB D were vital for its implementation, particularly at country level. Even with these resources, the roll-out of the GSB D often put an additional strain on the limited human resources. Country offices and regional bureaux will need to sustain the momentum by identifying resources within their envelopes or will risk losing opportunities to leverage the GSB D.

| Recommendations | UNHCR Entity responsible | Anticipated timeline |
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| <p>1. UNHCR should continue to integrate the GSB D goals at global, regional and national levels.</p> <p>1.1 UNHCR country operations are encouraged to:</p> <ul style="list-style-type: none"> a) mainstream the goals of the GSB D in protection planning and activities; b) identify detention focal points and make these known to relevant national partners; c) carry out a comprehensive analysis of their political and operational context as relevant to detention and alternatives, including existing governmental practices, protection gaps and opportunities for progress; d) continue to provide tangible support to ATDs, notably those that are set up in some countries where governments have dedicated few or no resources; e) undertake intensified work on the detention of stateless persons in relevant contexts, in particular on data collection and advocacy. | UNHCR country operations, in coordination with DIP and the regional bureaux | 1–12 months |
| <p>1.2. To this end, UNHCR’s regional bureaux are encouraged to assume a more active role in shaping and implementing protection work around detention from 2020. This requires ongoing assessment of</p> | UNHCR’s regional bureaux in coordination | 1–3 months |

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| <p>the protection environment and concerns on detention; the assignation of clear focal points in the bureaux and, where appropriate and possible, dedication of additional human resource and financial resources. Specific ways in which they could lead this work could include:</p> <ul style="list-style-type: none"> a) maintaining a comprehensive overview of the practices, challenges and opportunities, including potentially by organizing regular stock-taking exercises with partners and UNHCR detention focal points in the region; b) encouraging and supporting country operations to focus on detention of stateless persons as a priority; c) facilitating discussions; exchange of good practices; and organization of study visits between States in one or more regions; d) conducting regional stock-taking exercises of the achievements, challenges and future opportunities for implementing detention-related actions; e) identifying and allocating resources where relevant and needed to the regional and national levels to improve the implementation of the strategy; f) encouraging and supporting country operations to use strategic judicial engagement on detention, with the focus on ensuring respect for refugee rights, access to asylum and the provision of ATDs. | <p>with DIP and country operations</p> | |
| <p>1.3. In this context, and pursuant to its role of providing support and guidance to bureaux and field operations, DIP should continue to:</p> <ul style="list-style-type: none"> a) lead in setting relevant standards and providing advice to UNHCR and relevant stakeholders, including States; b) keep updating and disseminating good practices and analysis among UNHCR staff and their partners potentially through a user-friendly community of practice; such a community of practice could also facilitate discussions between colleagues in different operations as well as cooperation between countries that face different challenges; c) provide further normative and operational guidance to UNHCR offices, as required, including potentially on how to better navigate the potential pitfalls of working on the third objective of improving detention conditions, without unintentionally compromising the overall objective of ending detention for asylum-seekers and refugees because of their migratory status; d) provide targeted support in particular to judicial engagement, and the use of international, regional and national human rights frameworks, including by intensified capacity-building efforts, for UNHCR staff and partners; e) where feasible, continue to undertake, support or encourage research on detention issues that are priorities for States, including potentially the relationship between detention and absconding; detention and return of failed asylum-seekers; determining identity and nationality, and others; f) support intensified work on the detention of stateless persons in relevant contexts, in particular in data collection and advocacy. | <p>DIP in coordination with the regional bureaux, country operations and key partners</p> | <p>1–12 months</p> |
| <p>2. UNHCR should continue to support States in implementing the goals of the GSBD, particularly in the areas of sharing experiences, good practices and information between States, notably through:</p> | <p>UNHCR leadership, in coordination with key partners and regional bureaux</p> | <p>1–12 months</p> |

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| <ul style="list-style-type: none"> a) connecting more effectively States that are facing common challenges; b) encouraging or undertaking research on important detention-related issues of concern to states, e.g. the relationship between ATDs and absconding; successful ATD models; protection-sensitive case management; the return of failed asylum-seekers; identity and nationality determination; and how to involve host communities more closely in the design and implementation of ATDs; c) giving visibility to good State practice and achievements around detention and alternatives detention, especially from the Global South; d) engaging governments constructively on pilots and arrangements on the ATD spectrum (even if outside the ATD definition); e) continuing to provide tangible support to ATDs set up in some countries where governments have dedicated few or no resources. | <p>and with support of DIP</p> | |
| <p>3. UNHCR should develop a robust global communication strategy on detention, including to support UNHCR operations in identifying communication audiences and objectives; defining key messages and media relations. Key messages can focus also on progress made, solutions adopted by governments and their positive impact, while highlighting that detention often does not work.</p> | <p>DER in coordination with DIP, regional bureaux, national offices and key partners</p> | |
| <p>4. UNHCR should continue to build the capacity of staff and partners, particularly through:</p> <ul style="list-style-type: none"> a) supporting the roll-out of GSBBD training tools in interested regions/operations (including the Fundamentals of Immigration Detention e-Learning Course; Alternatives to Detention Self-Study Modules and the Immigration Detention Monitoring Self-Study Modules), including through translation and online options; b) organizing Training of Trainers (TOT) courses to maintain and build in-house expertise. | <p>DIP and the GLDC in coordination with the regional bureaux and UNHCR national offices</p> | <p>1–12 months</p> |
| <p>5. UNHCR should expand and strengthen partnerships on detention, including with:</p> <ul style="list-style-type: none"> a) civil society – building on their involvement in the GSBBD or general detention work, working closely to review and develop strategies where the context becomes more challenging; b) human rights mechanisms, including national and UN mechanisms responsible for human rights and with relevant mandates, including the Working Group on Arbitrary Detention; c) stakeholders with broader mandates relating to migration, development and human rights, to address common realities and risks facing migrants, asylum-seekers, refugees and stateless persons, including potentially through mixed movement coordination arrangements, the UN Migration Network and activities under the Migration Fund. | <p>UNHCR leadership, DIP in coordination with DER; regional bureau and UNHCR national offices (at regional and country level respectively)</p> | <p>1–12 months</p> |
| <p>6. UNHCR should consider ways to measure and track impact of detention-related protection work, potentially through using standards and</p> | <p>DIP and DSPR in coordination with regional bureaux and UNHCR national offices</p> | <p>1–12 months</p> |

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| indicators (which could be adapted from the GSBD) and linked to UNHCR's RBM Framework. | | |
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