

Executive Committee of the High Commissioner's Programme
Standing Committee – 63rd Meeting
Introduction to CRP.12 on Alternatives to Detention

- In these times of unprecedented displacement and mixed migratory flows, about which we heard so eloquently yesterday, **detention of asylum-seekers** has become **too regular** a response to arrivals **in too many countries**, as well as being, in most cases, **too prolonged**. It also often takes place in **conditions that fall far short of international standards**.
- UNHCR has worked for many years on this issue, and notably during the past five years has commissioned and published research, partnered with civil society organizations and produced guidelines, strategies and other tools to address the phenomenon. The results of this work have confirmed UNHCR in the view that detaining asylum-seekers and refugees is **harmful, costly and, ultimately and importantly, less effective than alternatives**.
- **Harmful:**
 - The impact of immigration detention on lives, health and families is widely documented.¹ It can have appalling effects on children and their development. One recently published report, for example, found **that 34 per cent of asylum-seeking children detained had developed a mental health disorder of such severity that they required psychiatric support**, compared with fewer than two per cent in the general population.²
 - Another study, which interviewed 685 detained asylum-seekers and other migrants in 23 European Union Member States in 2010, concluded that **detention itself is a primary determinant influencing a detainee's level of vulnerability** and that three months was the outer period before everyone 'becomes vulnerable' by reason of their detention, regardless of whether they presented any specific vulnerabilities at in-take.³
 - These harmful effects also tend to **hinder long-term integration** for those who are successful in gaining protection.
 - Asylum-seekers – who have committed no crime - are sometimes detained in maximum security prisons, in police cells or on offshore islands without proper separation from criminals and without appropriate access to services, including to claim asylum.
- **Costly:**
 - These very real human costs associated with detention are more than matched by financial costs: keeping asylum-seekers, or indeed any immigration detainee, in

¹ See, e.g. Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, November 2014, available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>

² See, e.g. Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention*, November 2014, available at: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>

³ See Jesuit Refugee Service, *Europe: Becoming Vulnerable in Detention*, June 2011, available at: <http://www.refworld.org/docid/4ec269f62.html>

detention is **consistently more expensive than alternatives**. Research has shown that savings of between USD49 per person per day and USD135 per person per day can be achieved with community based alternatives over detention.

- In summary, alternatives can be **up to 10 times cheaper than traditional detention**.
- **Effectiveness:**
 - **None of the studies** UNHCR or partners have **undertaken have found any evidence that detention deters people from seeking asylum** [this makes sense when you recall what they are fleeing...]
 - **Alternatives to detention** studied by UNHCR and its partners, notably the IDC, show that **cooperation rates with asylum or immigration processes** achieved success rates of **between 80-95%**;
 - For those whose cases are ultimately unsuccessful, alternatives have been able to achieve **voluntary departures of between 65 and 85%**.
- Against that background, we are very pleased that this Standing Committee will discuss the issue of alternatives to detention, which forms an important flank of our **5-year Global Strategy – Beyond Detention**, which we launched at the June Standing Committee last year.
- The background paper, in addition to containing references to the harm, cost and effectiveness issues related to practising detention that I have just outlined, surveys some of the **most effective alternatives to detention currently used by States and identifies elements that contribute to their success**. We are pleased that there are an important number of good examples from which we can all learn a great deal – we were able to compile **over 30 good practices in the two recently released options papers**. This is an impressive list, and one on which we can, and plan to, build.
- At the recent second Global Roundtable on Alternatives to Detention, attended by participants from 24 different countries, held in April this year, in Toronto, Canada, some key ingredients/approaches/characteristics for the successful implementation of alternatives were identified and discussed:
 - **Context-specific:** alternatives to detention need to take into account the specificities of the country situation and the individual's or family's situation. No single alternative to detention will be fully replicable in another context; however, certain elements are consistent across good practices, which I'll summarise shortly.
 - **Done in Partnership**, this is often key to the success of some alternatives, in particular between Government and civil society.
 - A **holistic approach** to alternatives to detention is required, in the sense that they **identify and address individual needs in a comprehensive way**, and they are available **from initial entry through to the departure phases** of the asylum/migration process.
 - And finally, **leadership** of ministers, parliamentarians, local authorities and host communities can be instrumental in the successful design, implementation and sustainability of alternatives to detention. Political will is key.

- The following elements are always present in successfully implemented alternatives:
 - treating asylum-seekers (and migrants) **with dignity, humanity and respect throughout the relevant asylum or migration procedure**;
 - providing **clear, concise and consistent information about rights and duties under the alternative** to detention and the **consequences of non-compliance**;
 - providing asylum-seekers with **legal advice, including on their asylum applications and options available to them should their asylum claim be rejected**. Such advice is most effective when made available at the outset of and continuing throughout relevant procedures;
 - providing access to **adequate material support, accommodation** and other reception conditions; and
 - offering **individualized “coaching” or case management** services

We look forward to having a constructive discussion with you and hearing about any additional good practices in this area. In particular, UNHCR also **invites (in the last paragraph of the paper) the Executive Committee to consider adopting a conclusion on international protection on alternatives to detention, which would reflect current standards and document some elements of good State practices.**

Finally, since one of the main objectives of our Beyond Detention Strategy is **to end the detention of children**, we'd like now to end this presentation by showing a short video on that topic. Please make sure to wear your headphone as I am advised the sound will come only through the headphone and not generally in the hall.

Thank you so much for your attention; I look forward to your comments and suggestions.

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