

Concept Note

Expert Meeting on Alternatives to the Immigration Detention of Children

*Organised by the International Detention Coalition (IDC) with the support of the
Office of the High Commissioner for Human Rights (OHCHR)
and the Government of Liechtenstein*

2 October 2013

1.15 - 2.30, Room 7 (NLB), New York

Background

Every day, all around the world, tens of thousands of children are affected by immigration detention. Whether detained themselves or impacted by the detention of their guardians, children 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, often they are 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 children, even when used for very short periods of time.

The Convention on the Rights of the Child provides that children should be protected against all forms of discrimination and punishment on the basis of the status, activities, expressed opinions, or beliefs of their parents, legal guardians, or family members. In all actions concerning children, the best interests of the child should be the primary consideration. Given the detrimental effects that detention can have on children, these obligations imply that states should never detain children based on the migration status of they or their parents. And children should never be separated from their parents or guardians unless it is considered in the child's best interests to do so.

Accordingly, States have been called upon to expeditiously and completely cease the immigration detention of children and their parents, and to adopt alternatives to detention (ATD) that fulfill the best interests of the child and allow children to remain with their family members and/or guardians in non-custodial, community-based contexts while their immigration status is being resolved. Some governments have implemented community release or bail programs across the board for all types of migrants; while other ATD models have been specifically tailored to meet the protection needs of children and families. A variety of countries have legislated for at least some form of alternative to detention, such as reporting requirements, bail or designated residence. Others have piloted or systematized more comprehensive case management and community supervision models with individuals living freely in the community.

The latest research indicates that implementing ATD models can result in significant benefits for the efficient functioning of migration policies. In addition, ATD present significant cost savings to governments, and ATD programs that offer advice on the full spectrum of possible legal avenues to remain - as well as to leave - also enjoy higher voluntary return rates than those that do not.

The human rights and social benefits of alternatives to detention are also significant. It is well documented that incarceration, particularly when it is prolonged, can cause severe psychological and physical health problems, which have long-term costs - both for individuals and for communities. In the long-term, practices of detention can also have a high social cost, in terms of increasing the difficulty for those ultimately accepted to remain to adapt to their new country, as well as in terms of increasing resistance to voluntary return for those not granted asylum or other legal residence status.

The Expert Meeting is intended to build on the recent High-Level Meeting on Migration

and Human Rights held in Geneva by the Office of the High Commissioner for Human Rights, and an Expert Meeting on alternatives to the immigration detention of children held during the 19th Session of the Human Rights Council.

Objectives

Against this background, the International Detention Coalition (IDC) and the Office of the High Commissioner for Human Rights (OHCHR) are hosting a side-event at the 2nd UN High-Level Dialogue on International Migration and Development (HLD) to explore issues related to alternatives to detention of child migrants and their families. The principal objectives of the Expert Meeting are to:

- Situate the search for alternatives to immigration detention in the contemporary context, and discuss the human rights impacts of such measures.
- Draw lessons from State practice and empirical research in order to encourage the exploration and establishment of ATD models.
- Exchange practical advice on issues such as screening, assessment, community and case management, legal provision, return assistance, and documentation.
- Identify areas for cooperation and the establishment of specialized partnerships.

Participants

The Expert Meeting will bring together representatives from States, OHCHR, UNHCR and other international organizations, human rights mechanisms, national human rights institutions, and national and international non-governmental organizations.

Location and date

The Expert Meeting will take place from 1.15 – 2.30 on 2 October 2013, in Room 7 (NLB) at the United Nations headquarters in New York. An agenda and background documentation will be shared in due course with confirmed participants.