



Ending child detention

UNHCR's Global Detention Strategy
"Beyond Detention" 2014-2019

PACE hearing
Strasbourg
24 June 2015

Policy and legal Support Unit
UNHCR Bureau for Europe



Outline

1. Negative effects of detention on well-being and mental health of children including on their longer term development

2. Opportunities in the EU MS
 - New asylum acquis (Artt. 8 – 11)
 - Caselaw of the ECtHR
 - Report of the UN Special Rapporteur on Torture

3. UNHCR's Global Detention Strategy "Beyond Detention" and Goal 1 – Ending detention of children
Some recommendations
(UNHCR's 2012 Detention Guidelines)

Effects of the Detention Experience (Hicks)

241 former detainees (Steel et al., 2006)

Detention *itself* increases:

- PTSD
- Depression
- MH-related Disability

Independent of other factors
(e.g. pre-detention
trauma).

Longer detention \Rightarrow worse
mental health

Detention-specific PTSD
symptoms:

- 74% extremely sad and hopeless thinking about detention.
- 41% with nightmares of things that happened during detention.

Effects persist 3 years later

10 families after 2 years of detention (Steel et al, 2004)

Adult rate of psychiatric disorder ↑ by 3 times

Child rate of psychiatric disorder ↑ by 10 times

Exposure to trauma in detention common

PTSD from *detention-specific* trauma:

- 100% in adults
- **93% in children**

After detention, 92% of parents felt (newly) unable to care for their children.

Impact on Child Mental Health

- Loss of skills (e.g. language)
- Delayed development
- Separation anxiety, disrupted conduct
- Social withdrawal, loss of normal play, mutism
- Sleeplessness, nightmares
- Eating poorly, weight loss
- Suicidal thoughts, self-harm, suicide attempts

Suicide in Detention

Child detainees reported high distress (Steel et al. 2004):

- 100% from seeing people self-harm
- 100% from seeing people attempt suicide

Prevalence of trauma in children seeking asylum

An extensive review of studies conducted in industrialized countries found that PTSD was *10x higher among refugee children* than among their non-refugee peers

One study suggests that unaccompanied migrant children are *5x more likely* to have emotional difficulties than accompanied children

Summary Points

Children in immigration situations especially children seeking asylum alone but also with their parents are already vulnerable

Detention *itself*:

- Traumatizes
- Causes & worsens mental illness
- Impairs later social function and social integration

Longer detention ⇒ worse mental health

Impairment often long-term, even if detention brief.

Children & Adults ⇒ Depression, PTSD, Suicidality

Children ⇒ impaired cognitive & physical development.



Recent EctHR case law

Recent case law of the ECtHR on the undesirability of detention of children in families has repeatedly found that detention of children, including with their parent(s) may amount to inhuman and degrading treatment

Popov v. France; Application nos. 39472/07 and 39474/07, J 19 January 2012 (French only)

Kanagaratnam and others v. Belgium, Application no. 15297/09, 13 December 2011).

Thematic report of the Special Rapporteur on Torture on Children deprived of their liberty (A/HRC/28/68)

- Detention of children based on their or their parents' migration status never in BIC
- Exceeds requirement of necessity
- Grossly disproportionate
- May constitute cruel, inhuman or degrading treatment of migrant children (§ 80)
- Measure not absolutely essential to ensure appearance of children at immigration proceedings or to implement a deportation order (§ 80)
- Preserving family unity not sufficient to legitimize/justify detention (effects emotional development and physical well-being)



UNHCR 2012 Guidelines on Detention and Alternatives to Detention for Asylum Seekers

- Seeking asylum is not an unlawful act (non-penalisation)
- Detention has negative lasting effects
- Undermines human dignity and can cause unnecessary suffering
- Potentially serious consequences for health and well-being
- Devastating effect on physical emotional and psychological development
- **Children should, in principle, not be detained**
- ***CRC Article 37, recast Reception Conditions Directive (recast) Article 11 and the Returns Directive Article 17* establish that no child is to be deprived of his or her liberty unlawfully or arbitrarily**
- Detention as exception, last resort for the shortest appropriate time
- Child-sensitive screening and referral services

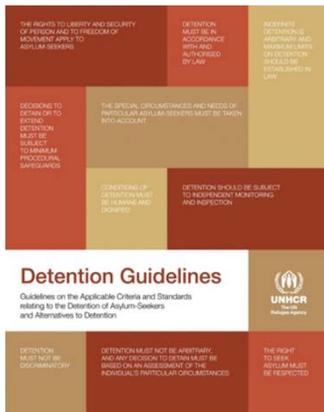


- Alternative care arrangements e.g. family-based care, and, when not possible, accommodation in institutions, foster care, or supervised group care with trained personnel and facilities which take into account the needs of children their age
- *Exceptions: safe houses for child victims of human trafficking (restriction on freedom of movement)*
- Regular independent reviews of alternatives including stay in safe houses which restrict freedom of movement
- Apply a presumption of minority in age assessment to prevent detention of unaccompanied children and apply the benefit of the doubt (outcomes)

UNHCR's Global Detention Strategy “ Beyond Detention ” 2014-2019

Goal 1: End child detention

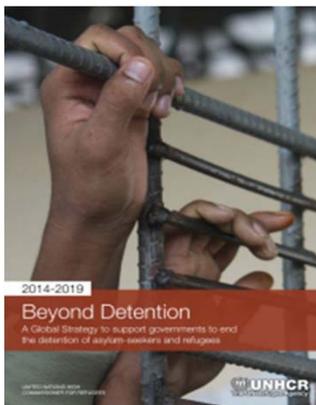




- The UNHCR Detention Guidelines
<http://www.unhcr.org/refworld/docid/503489533b8.html>



- The APT, UNHCR, IDC Monitoring Manual
<http://www.refworld.org/docid/53706e354.html>



- The UNHCR beyond detention strategy,
<http://www.refworld.org/docid/536b564d4.html>

