



Promoting alternatives for
immigration detention of children

UNICEF positioning and Programming on Child Migrants



Child Migrants should have equal access to education, social assistance and healthcare.

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The Best Interests of
the Child to be the
primary consideration
in all decision making
processes for migrant
children and their
families

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Child Migrants
should never be
detained – whether
they are with their
families or
unaccompanied.

Normative Prohibitions on Child Immigration Detention

- Article 37 of the Convention on the Rights of the Child (CRC) states that detention of any type should only be used against children as “a measure of last resort and for the shortest appropriate period of time.”
- Article 37 of the CRC mandates that all children deprived of their liberty (including children in immigration detention) have the right to “prompt access to legal and other appropriate assistance” and to challenge the legality of the deprivation of their liberty before a court.
- The Commissioner for Human Rights for the Council of Europe has stated that “as a principle, migrant children should not be subjected to detention.”
- The Committee on the Rights of the Child in General Comment No.6 states that “unaccompanied or separated children should not, as a general rule, be detained,” and “detention cannot be justified solely on... their migratory or residence status, or lack thereof.”

The Effects of Immigration Detention on Children

- Higher Suicide rates
- Self Harm
- Depression and anxiety
- Frequently exhibit symptoms consistent with post-traumatic stress disorder (PTSD) such as insomnia, nightmares and bedwetting
- Increased risk of exposure to violence and abuse
- Separation from family

Alternatives : Community Assessment and Placement Framework

Step 1.

Presume detention is not necessary: CAP operates on the basis of a presumption against detention, and is a safeguard against arbitrary detention and ensures that detention is applied only as a last resort. This includes a presumption against detention, detention as a last resort and a mandate to explore alternatives.

Step 2.

Screen and assess each case individually: Understanding population's subject to or at risk of immigration detention through individual screening and assessment assists in the identification of needs, strengths, risks and vulnerabilities in each case. Screening includes legal obligations, identity, health and security checks, vulnerability and individual case factors, including community ties.

Step 3.

Assess the community context: Assessment of the community context in order to understand the individual's placement in the community and to identify any support mechanisms needed so that the person remains engaged in immigration proceedings. This includes ability to meet basic needs, legal advice, documentation and case management.

Step 4.

Apply conditions to release if necessary: Further conditions such as reporting requirements or supervision may be introduced to strengthen the community setting and mitigate identified concerns. This includes individual undertakings, monitoring, supervision, intensive case resolution and negative consequences for non-compliance.

Step 5.

Detain only as the last resort in exceptional cases: If conditions are shown to be inadequate in the individual case, detention in line with international standards including judicial review and of limited duration may be the last resort.

Alternatives to detention; Cheap as well as Humane

The USA and Canada as an example of the cost of Immigration detention compared to alternatives:

USA

Current immigration detention costs taxpayers approximately **\$123.54** per person per day for adults and **\$342.73** per person per day for families

Current ATDs range in cost from under a dollar, to **\$8.49** per person per day depending on the type of monitoring involved. For FY 2016, ICE estimates that the average cost per ATD participant will be **\$5.16**

Canada

Current immigration detention costs taxpayers approximately **\$210 USD** a night per person

The Toronto Bail Scheme costs just over **\$9** a day

No Significant Increase in Rate of Absconding

- **Compliance rates at about of 95 percent on average**
- Alternatives increase independent departure and voluntary return rates for refused cases; Examples in Canada, Australia and the US of both refused asylum seekers and irregular migrants had return rates of between 60% and 69%, while Sweden reported an 82% rate of return from the community among refused asylum seekers.

A Range of Alternatives and Tools

- Bail Programmes
- Reporting requirements – Social Services or Court
- Host Community Supervision
- Social Services Support and Supervision combined
- Sponsorship
- Case Management
- Risk Assessment
- Negative Consequences