

UNHCR Global Strategy

Beyond Detention 2014-2019

A global strategy to support Governments to end the detention of asylum-seekers and refugees



NATIONAL ACTION PLAN

Indonesia

What is the UNHCR Global Strategy - Beyond Detention?

In June 2014, UNHCR launched its Global Strategy - Beyond Detention 2014-2019, which aims to support governments to end the detention of asylum-seekers and refugees. The Strategy lays out three main goals: (1) to end the detention of children; (2) to ensure that alternatives to detention (ATDs) are available in law and implemented in practice; and (3) to improve conditions of detention, where detention is necessary and unavoidable, to meet international standards.

All documents relating to the Global Strategy - Beyond Detention 2014-2019 are available at: <http://www.unhcr.org/detention>

The process of developing the National Action Plan

While UNHCR welcomes the establishment of alternatives to detention in Indonesia, the Government continues to use detention as an immigration tool and a deterrent measure. This policy is mostly applied to persons intercepted attempting to enter or leave the country illegally. The continued use of detention as a deterrent to irregular movement by the Government raises concern over the well-being of refugees and asylum-seekers fleeing persecution in their home countries, especially those with particular vulnerabilities including children and women. While the recently enacted Presidential Regulation on the Handling of Refugees calls for the placement of refugees and asylum-seekers in shelters with periodic reporting conditions as an alternative to detention, it does not discontinue the use of detention for refugees and asylum-seekers. In fact, the Regulation stipulates mandatory temporary detention for persons rescued at sea or found within the territory without indicating any timeframe for release to shelters. Safeguards therefore need to be put in place to guard against arbitrary and prolonged detention and to protect the human rights of asylum-seekers and refugees. UNHCR welcomes to continue working closely with the Government and other partners to address issues related to the immigration detention through various activities including advocacy interventions, partnership, and capacity building. The National Action Plan in Indonesia was developed by the Office in consultation with relevant stakeholders. With the reports of detention monitoring conducted by National Human Right Commission, the Office followed up with discussions that included the Government as well as national and international non-governmental organizations. This led to the formation of Detention Working Group, which includes UNHCR, immigration authorities, the National Human Rights Commission (Komnas HAM), and national and international NGOs, to facilitate the implementation of the National Action Plan in accordance with the Global Strategy Beyond Detention. The National Action Plan has been developed to address immigration detention in a comprehensive manner which will allow UNHCR and other stakeholders to effectively address the three main goals of its Global Strategy.

The actions foreseen

Goal 1. End the detention of children

UNHCR continues to engage with Government and relevant partners to advocate for an end to the detention of children. Activities to achieve this goal include organizing focussed discussions to address concerns related to children and to identify solutions, such as foster care arrangements, undertaking capacity building for Government and other partners on international standards particularly regarding the rights of children, providing support for partners involved in the legal representation of UASC, and raising awareness with Members of Parliament through the preparation of a position paper to gain commitment on ending the detention of children. Other activities that UNHCR looks to pursue is to identify homeless children's shelters run by NGOs that are approved by the Government and gain the Government's consent for the placement of refugee children. To ensure the alternative meets international standards, UNHCR seeks cooperation with various partners to develop referral mechanisms and to provide training for social workers engaged in these shelters. Pending full implementation of the Presidential Regulation and the establishment of shelters, UNHCR will continue to encourage the Government to adopt mechanisms to identify vulnerable individuals for placement in alternatives to detention prior to (rather than after) resorting to detention.

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Goal 2. Ensure that alternatives to detention are available in law and implemented in practice

UNHCR seeks to expand alternatives to detention to implement the Presidential Regulation through advocacy with authorities at both the central and local levels. UNHCR will continue to advocate for safeguards against detention, for example for amendments that would require determining the appropriateness of detention. Activities to achieve this goal include organizing focus group discussions to examine legal and policy frameworks with Government interlocutors, legislators, pro bono and public interest lawyers, and national human right institutions; sensitizing pro bono lawyers and public interest advocates to become engaged in detention advocacy; and consulting with refugee communities to organise their contribution to the management of alternatives to detention. To support UNHCR's advocacy interventions, UNHCR encourages legal aid NGOs, the Indonesian Bar Association, academia, and other partners to conduct advocacy.

Goal 3. Ensure that conditions of detention, where detention is necessary and unavoidable, meet international standards

UNHCR is working with the Government to improve conditions in detention through training, awareness-raising and the development of standard operating procedures that meet international standards. In particular, UNHCR advocates for measures to address recurring overcrowding in detention facilities. Under its MoU with Komnas HAM, UNHCR is planning to conduct joint detention monitoring of detention centres and alternatives to detention throughout Indonesia. With the establishment of a National Preventive Mechanism, of which Komnas HAM is a member, UNHCR continues to advocate for regular visits to detention facilities and offers capacity building and technical assistance. Other activities to achieve this goal include organizing regular meetings and constructive dialogue with authorities and key partners on treating persons in situations of vulnerability or at risk and effective referral mechanisms, as well as organizing training for staff conducting monitoring in detention centres. Such activities are envisioned to be carried out over the course of 5 years (2015-2019).

Detention overview

The Government continues to use detention as tool to help manage the growing problem of irregular movement in the region and the increasing presence of refugees and asylum-seekers in the country. There are 13 detention facilities in Indonesia that house those who have been intercepted, including persons of concern to UNHCR. Overcrowding is a recurring problem in all 13 detention centres, which have a total official capacity of only 1,200 detainees. In total some 3,865 persons of concern were being detained at the end of May 2017. UNHCR's persons of concern who are detained may experience long detention periods due to various factors, including UNHCR's limited resources to undertake refugee status determination, bureaucratic procedures for release, and limited space available in community and children's accommodations. Opposition in some localities also continues to hinder the establishment of new community accommodation centres. In the meantime, the detention of a growing number of unaccompanied minors, as well as other children, is a major concern for UNHCR. While the Government is willing to consider the release of such children from detention, placement in existing UNHCR and Government run shelters is challenging due to limited space available. Over the past year, overcrowding of detention facilities has been exacerbated by an increasing number of asylum-seekers and refugees who have self-reported to immigration authorities to be detained because of their inability to financially support themselves in the community.

Good practices and alternatives to detention

UNHCR is afforded unhindered access to all detained asylum-seekers and refugees, and the Office continues to work with Government and IOM to secure release of detained persons of concern to community accommodation centres. Refugees and women and children and other vulnerable asylum-seekers whose status is confirmed by UNHCR are released to community accommodation centres operated by IOM, or to shelters for unaccompanied minors operated by UNHCR through its partner, CWS. The Government also permits unaccompanied minors to be accommodated in shelters operated by the Ministry of Social Affairs. However, the facilities available to persons of concern in Indonesia are generally at full capacity, and UNHCR and IOM continue to face opposition to the establishment of new facilities by residents in a number of communities. UNHCR continues to work with the Government to expand alternatives to detention and seeks resources to establish additional community accommodation centers and shelters for unaccompanied minors. Until such time as the detention of refugees and asylum-seekers is discontinued, UNHCR advocates for improvements in detention conditions in Indonesia and for measures to address recurring overcrowding in detention facilities.

UNHCR Indonesia, June 2017