



International Detention Coalition

Human rights for detained refugees,
asylum seekers and migrants

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Submission to the Committee on the Rights of the Child: Day of General Discussion on the Rights of All Children in the Context of International Migration 28 September 2012

1. Background

The International Detention Coalition (IDC) welcomes the Committee on the Rights of the Child Day of General Discussion on the Rights of All Children in the Context of International Migration, aimed at improving the protection of the rights of this vulnerable group.

The IDC would like to submit its new report entitled “Captured Childhood”, which summarises stories told by children about their lived detention experiences and outlines a model through which States can manage migrant children in a child friendly way outside of places of detention. This model builds on good practice from various countries but also aims to strengthen existing child protection systems and apply them to all children who are asylum seekers or migrants within a particular territory.

In total, 70 children were interviewed for the IDC’s research in Malta, Greece, Hungary, Turkey, the United States, El Salvador, Mexico, Israel, Egypt, Malaysia and Australia. The children had travelled from Afghanistan, Sudan, the Democratic Republic of Congo, Somalia, Ethiopia, Honduras, Colombia, El Salvador and Guatemala. This document had its genesis in the growing concern on the part of IDC members about the immigration detention of children.

2. Research findings:

States detain children who are refugees, asylum seekers and irregular migrants for a number of reasons. Children are detained for health and security screening, to check their identities and to facilitate their removal from a particular territory.

The detention of children is a denial of their fundamental right to liberty.

Children around the world are detained in a range of physical conditions. Some are kept in purpose-built facilities, the amenity of which is better than what they may have experienced in their countries of origin or on their journeys. Others, however,

are incarcerated in squalor, placing them at risk of illness and disease. Some are kept in jail cells or in facilities that are hurriedly constructed and makeshift. Some are kept in circumstances that seem designed to isolate and humiliate them. Some children are kept with their families; in other instances, families are separated. Children are sometimes detained in facilities specifically designated for children. Others, however, are detained with unrelated adults.

Regardless of the conditions in which they are kept, detention has a profound and negative impact on children. It undermines their psychological and physical health and compromises their development. Children are at risk of suffering depression and anxiety, as well as from symptoms such as insomnia, nightmares and bed-wetting. Feelings of hopelessness and frustration can manifest as acts of violence against the self or others. Further, detention erodes the functioning of families, meaning that children can lose the support and protection of their parents, or take on roles beyond their level of maturity. The detention environment can itself place children's physical and psychological integrity at risk.

The research also found there are effective alternatives to the immigration detention of children and a range of good practices being employed around the world, detailed in the model below.

(Read the report's full executive summary on page six of "Captured Childhood".)

3. The Child-Sensitive Community Assessment & Placement (CCAP) model

At the same time as detention of children has been increasing, there has also been a move, in some countries and regions, away from detaining children. Some governments are seeking innovative ways in which to limit or prevent refugee, asylum seeker and irregular migrant children from being detained.

The IDC policy document concludes with a step-by-step guide on how to avoid detaining children and details some of these good practice examples. It does so while describing a model for States to use to prevent child detention. This involves firstly recognizing three core principles:

- **Undocumented child migrants are, first and foremost, children;**
- **The best interests of the child must be a primary consideration in any action taken in relation to the child and the child's family;**
- **The liberty of the child is a fundamental human right**

The model, which we call the Child-Sensitive Community Assessment & Placement (CCAP) model, involves five distinct steps that governments should take to ensure that children are not detained:

- Step 1. Prevention;**
- Step 2. Assessment & Referral;**
- Step 3. Management & Processing;**
- Step 4. Reviewing and Safeguarding;**
- Step 5. Case Resolution.**

The model points to the effectiveness of ATD in achieving both compliance rates and, where appropriate, high rates of voluntary return. This model presents States with concrete means to manage immigration and their borders but also to implement

legal, policy and practical measures to prevent the immigration detention of children.

We invite the Committee to read chapter six about the model (page 58) and also to look at the list of recommendations (page 96), which we summarise under 4.

4. Key recommendations:

1. The IDC recommends that the following is highlighted in the CRC DGD report:
 - As it is never in the best interests of a child to be detained for immigration purposes, States should ensure that a minimum level of protection and support for children is in place in the community.
 - States should develop legislation, policies and practices to ensure that refugee, asylum seeker and irregular migrant children are free to reside in the community during the resolution of their immigration status. We encourage States to explore the Child-Sensitive Community Assessment and Placement model (CCAP) developed for this by the IDC. (www.idcoalition.org/ccap)
 - States should articulate in their legislation and policies that:
 - 1) Children who are refugees, asylum seekers or irregular migrants are, first and foremost, children.
 - 2) The best interest of the child should be a primary consideration in any action taken in relation to the child.
 - 3) The liberty of the child is a human right.
2. The IDC recommends that the Committee pay special attention to the issue of child immigration detention and requests numbers of children detained from States when conducting country reviews. The Committee can help make visible the extent and impact of immigration detention on children globally as few governments keep or publish disaggregated data at this stage.
3. In accordance with the provisions of article 45(a) of the Convention on the Rights of the Child, the Committee should invite the Special Rapporteur on the Human Rights of Migrants and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography to jointly conduct a Global Study on the transnational cooperation measures necessary to ensure the protection of children on the move and to guarantee their rights independently of their immigration status. Such a study should be guided by the Convention on the Rights of the Child, ILO child labour Conventions, and other relevant international standards and take full account of the recommendations adopted by the Committee at its September 2012 Day of General Discussion on The Rights of All Children in the Context of International Migration. The IDC recommends that the study outlines clear recommendations to States on ensuring the liberty of children affected by immigration detention.

The International Detention Coalition (IDC) is a coalition of over 250 non-governmental groups and individuals working in over 50 countries. Coalition members provide legal, social and other services, undertake research and reporting as well as advocacy and policy work on behalf of refugees, asylum seekers and migrants. The IDC advocates for greater respect for the human rights of detainees; this includes limiting the use of, seeking alternatives to, and using the least restrictive forms of immigration detention. www.idcoalition.org