**Forum:** General Assembly Third Committee

**Issue:** Re-evaluating the UNHCR’s Global Strategy to support governments to end the detention of asylum-seekers and refugees

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Introduction

The theme of ‘The Complacency Crisis’ can be demonstrated by a need to re-evaluate the UNHCR’s global strategy to end detention of asylum-seekers and refugees by encouraging countries involved (the plan identifies 12 specific focus countries) to be active in accomplishing the strategy’s aims. The initial complacency of the involved countries, when nations were supposed to be engaged in implementing the strategy, has resulted in notable progress for all nations on only one of the strategy’s three aims.

The United Nations High Commission for Refugees (UNHCR) has, since its creation in 1950, worked to protect and ensure the safety of refugees. The detention conditions and treatment of asylum-seekers and refugees have garnered worldwide attention, which led to the UNHCR’s response in promoting its Global Strategy.

The UNHCR has stated that putting refugees into detention centres has become routine, instead of an exception, in response to multiple recent refugee crises in a number of countries. Detention was originally viewed as a way to discourage asylum seekers or refugees from migrating to different counties. Yet, irregular migration presents many financial and economic problems for a country, and the move toward detention is known to have many adverse effects on refugees and asylum seekers. Studies have consistently shown that detention has a severe lasting impact on the mental health of detainees in many different institutional settings. Detention can adversely affect the dignity, anxiety, frustrations, and fear of refugees, while also having the potential to worsen past traumatic experiences. There is a pressing need for improving the psychological and medical health of detainees to be considered when decisions surrounding such detention are to be made.

The UNHCR’s five-year strategy ‘Beyond Detention’ was centered around three main goals: to end the detention of children, to ensure that alternatives to detention were available, and to ensure that when required the conditions of such detention met international standards. The strategy has been seen to have ‘mixed’ progress: there has been an overall decrease in the number of child refugees detained in the 12 focus countries, but there has been little progress in ensuring detention alternatives and improving detention conditions.

Definition of Key Terms

UNHCR

The United Nations High Commissioner for Refugees was established by the General Assembly in 1950 to provide international protection for refugees and to seek permanent solutions to refugee issues. Its primary purpose is to safeguard the wellbeing and rights of refugees, striving to ensure that anyone can exercise the right to seek asylum and find safe refuge in another state.

Refugee

A refugee is someone who is outside their own country and cannot return due to a well-founded fear of persecution because of their race, religion, nationality, social group, or political opinion. A person becomes a refugee under international law once they have crossed an international border in the process of fleeing their previous country of residence.

Asylum Seeker

An asylum seeker is someone who has fled their home country and applies to the government of another country for protection as a refugee. In this instance, the individual’s request has yet to be fully processed, which accounts for the main difference between a refugee and an asylum seeker.

**Focus Country**

There are 12 identified countries in which the Beyond Detention strategy is most concerned: Canada, Hungary, Indonesia, Israel, Lithuania, Malaysia, Malta, Mexico, Thailand, the United Kingdom, the United States, and Zambia.

**Immigration Detention**

Immigration detention is the practice of holding individuals who are subject to immigration control in custody while they wait for permission to enter a country or before they were removed from the country.

**Beyond Detention**

Beyond Detention is the official name of the UNHCR’s global strategy to end detention for refugees and establish viable alternatives to this practice. The UNHCR will work with governments, organizations, and other relevant stakeholders to resolve some of the main issues surrounding government detention policies and practices. The three main goals of the strategy are to end the detention of children, to ensure that alternatives to detention were available in law and implemented in practice, and to ensure that conditions of detention, where detention was necessary and unavoidable, met international standards.

History & Developments

Brief History of the UNHCR

The UNHCR has been working, since 1950, through various refugee crises in Europe, Africa, and Asia.As previously stated, although their work was helping refugees, the detention of thousands of refugees was seen to be unfair and unethical, prompting the UNHCR to develop the global strategy ‘Beyond Detention.’ The principal methodology used by the UNHCR when dealing with mass numbers of refugees and asylum seekers is to, while such individuals are awaiting refugee status in a new country, place them in detention centres. This previous methodology generated a negative public response and had many negative effects on the individuals. The UNHCR is currently responsible for nearly 60 million refugees, with 9,700 staff employed around the world. The largest portion of UNHCR staff are based in Asian and African countries, many in isolated locations where work is difficult, meaning the strategy for ending refugee detention needed to be extremely thorough and offer a range of solutions, suitable for all contexts.



*Figure #1: UNHCR logo*

UNHCR prior to 2014

Before the publication of ‘Beyond Detention,’ recent refugee crises had put the UNHCR’s actions in the media spotlight. Some detention centres — the Jalozai refugee camp in Pakistan's North West Frontier Province, for example — had been described as having ‘terrible’ conditions for its refugees, with little water or protection from harsh weather. There have also been reports in Sudan and Egypt of ‘rampant corruption’ among UNHCR staff, soliciting bribes and mistreating refugees under the provision of the UN. Poor conditions, as well as the detention of children separated from their families, made it clear the need for recall in the UNHCR’s processes.

Beyond Detention progress

2014-2016

As of mid-2016, in regards to the first goal of the strategy, there had been an overall drop in the number of refugee children detained in the focus countries, with Israel and Lithuania stopping the detention of children altogether. However, there had been little progress in ensuring viable alternatives to detention in all focus countries except Lithuania, although alternatives to detention are rarely granted due to various financial and social challenges. The UNHCR stated that “decision making with regards to detention and referrals to alternatives to detention (ATDs) remain a challenge in a majority of the focus countries… ATDs are rarely or never considered in each case before resorting to detention.” Finally, the goal of ensuring detention conditions meet international

standards has been only moderately achieved, and major concerns remain in ensuring rights and safeguards in detention, such as how such detention will be monitored and what rules will be in place if detention is inadequate. In 2013, asylum-seekers and refugees accounted for 12 percent of people detained for immigration-related purposes; in 2017, they accounted for 17 percent. This increase demonstrates that, although there was encouraging progress in regards to child detention, the strategy is yet to make a significant difference in the overall number of detained people.

Geopolitics

When considering the geopolitics of ‘Beyond Detention,’ it is essential to look at the strategy’s main focus countries and their stance. Canada, Hungary, Indonesia, Israel, Lithuania, Malaysia, Malta, Mexico, Thailand, the United Kingdom, the United States, and Zambia all have differing stances on detention, and all have made different types of progress in pursuing ‘Beyond detention.’

Canada

All countries have made positive developments; however, it is the different starting points of each country and the culture surrounding refugees which has determined how successful the strategy has been in each country. For example, the immigration detention regime in Canada was built on the principle that detention is to be used as a last resort, considering ATDs even before Beyond Detention. This has enabled them to begin incorporating mental health screening tools into detention to be used by front line officers in order to improve the mental health conditions in detention centers. Canada can be seen as an example of success resulting from the ‘Beyond Detention’ strategy; no further regulations or monitoring was needed for the implementation of the strategy, and Canada, being a developed country, meant it could execute and develop alternatives to detention relatively easily. However, when re-evaluating ‘Beyond Detention’, countries with less success must be examined to discover why and what went wrong in the strategy.

**Zambia**

Conversely, in Zambia the instability of neighboring countries Burundi and the Democratic Republic of Congo resulted in nearly 3000 people applying for asylum. The UNHCR discovered the country’s reservations to article 26 of the 1951 Refugee Convention, which restricts the rights of refugee’s freedom of movement and residence. Zambia’s inferior human rights for refugees has meant that the most significant development, as of mid-2016, was the creation of a national conference on detention, with a focus on children, refugees, migrants, disabled people, and other vulnerable societal groups. However, apart from this, there were no improvements in detention conditions or progress towards creating alternatives to detention, and there were still large numbers of children being detained. Due to the circumstances in Zambia, ‘Beyond Detention’ had little success, conveying the holes in the strategy’s methods and frictions in being implemented in countries which are less developed, or with less established infrastructure. Therefore, when looking to re-evaluate the strategy, delegates should look to diversify the strategy’s aims and methods for each country, depending on how developed and free each country is in regards to refugees and asylum seekers.

Previous Attempts to Solve the Issue

Prior to ‘Beyond Detention,’ the UNHCR was always working towards creating better detention environments and having fewer people detained. They continuously revised guidelines on the necessary criteria and standards for detention and worked with countries to monitor detention conditions. However, despite wanting to control and monitor detention, events such as the Syrian Civil War, which has resulted in an estimated 12 million people requiring humanitarian aid, made it increasingly difficult for the UNHCR to work towards new goals. There have been ever increasing numbers of migrants and the UNHCR has been unable to deal with the numbers in a way which didn’t result in detention. Hence, it is important for delegates to consider crisis situations and fluctuations in refugee populations into their solutions.

Additionally, although the UNHCR was improving detention guidelines and criteria, they often had problems enforcing and monitoring nations in implementing their detention guidelines. As previously discussed, progress on improving detention conditions was mixed across different countries. This is most likely the result of a lack of control, communication and coordination from both the UNHCR and the involved countries. Therefore, it is important that when reevaluating the UNHCR’s strategy, delegates must ensure there are thorough methods to implement policies and regulations, and furthermore that they are specific to each country and involve regular monitoring and progress checks.

The strategy ‘Beyond Detention’ has been successful in some aspects and unsuccessful in others in supporting governments to end the detention of asylum-seekers and refugees. As previously stated, the diversity of the focus countries means that the strategy needs to be amended and more suited to each individual country. Ending detention in each country requires a solution unique to that country; delegates should note being complacent is associated with trying to attach a broad solution to a very intricate issue.

‘Beyond Detention’ saw positive progress in all focus countries, especially in regards to goal one: to end the detention of children. Moving forward however, as regional conflicts continue to smolder or flare anew, and climate change continues to threaten previously stable communities, with the possibility of continuing streams of refugees worldwide governments must work with the UNHCR to ensure there are viable alternatives to detention.

Relevant UN Treaties and Events

* 1951 Refugee Convention (July 28th 1951) The convention relating to the status of refugees defines the term refugee, outlines the rights of displaced peoples, and the legal obligation of States to protect them.
* 1954 Convention relating to the Status of Stateless Persons (September 28th 1954). The convention was designed to ensure that stateless people had a minimum set of human rights.
* **1961 Convention on the Reduction of Statelessness (**December 13th 1975). It aimed to establish an international framework to ensure the right of a person to a nationality; calling for states to establish safeguards in their nationality laws to prevent statelessness.
* Protocol Relating to the Status of Refugees (January 31st 1967) The mandate of this protocol was to remove the restrictions, both geographical and temporal, present in the refugee convention. The 1951 convention intended to minimise the aftermath of World War II in Europe; therefore the protocol was to be used for ‘new refugee situations that have arisen since the Convention was adopted and the refugees concerned.’
* In 2012, the UNHCR revised the Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-seekers and Alternatives to Detention, and in 2014, Monitoring Immigration Detention: Practical Manual. Both guides draw on international human rights law and standards, applying them to the context of asylum seekers and refugees.
* 2014-2019 ‘Beyond Detention’ strategy to end the detention of refugees and asylum seekers.

Possible Solutions

The most prominent issue left unsolved by ‘Beyond Detention’ was the strategy’s failure to establish viable alternatives to detention in each of the focus countries. It is therefore crucial for delegates to consider the situation and laws in each of the focus countries, and to ensure that these laws are abiding by international law when a country is ratified to a certain treaty or strategy. The most prominent issues around ‘Beyond Detention’ were the non-context-specific solutions it offered. It is that encouraged delegates look over the strategy and amend its proposed solutions to be more catered to specific countries and situations.

**Alternatives to detention (ATDs)** are a humane and cost-effective way to manage the asylum and migration of asylum seekers. **ATDs need to be developed and applied in a context-specific way,** considering the particular needs of each situation and country context. ATDs should identify and address the individual needs of a country in a comprehensive way, exploring all available options to resolve individual cases, and be made available from the initial entry through to the end of the migration process. Fairness, efficiency, and transparency are essential for the establishment of trust between the asylum seekers and the government, and are also key for compliance with any conditions imposed on asylum-seekers or migrants.

Alternatives to detention should also **encourage asylum-seekers to develop and strengthen links with the local community and preserve family life.** Therefore, it is important that these areas are considered when developing ATDs. Community-based ATD models should be characterized by case management and other forms of support, which would allow asylum-seekers to live freely: support in finding accommodation, accessing education and health services, referrals to legal representation and finding work or other career opportunities.

**Case management** is a collaborative process of assessment, facilitation, care, evaluation, and advocacy to meet an individual’s and family’s needs through communication and available resources. Case management for asylum-seekers can operate differently in different contexts. **It helps support individuals to navigate the asylum/migration system**, while also responding to their individual needs to allow them to engage fully with those processes.

Ensuring there is a healthy amount of community based ATDs in place will help nations to prevent and reduce cases of wrongful detention, therefore reducing the number of refugees detained in each country.

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