

Protecting the Liberty of Migrant Children and Families

Celebrating the 25th Anniversary of the Adoption of the Convention on the Protection on the Rights of All Migrant Workers and Members of Their Families

September 30, 2015

6:00 to 8:00 pm

*Church Center for the United Nations, 777 UN Plaza
at First Avenue, at E 44th St, New York, NY, 2nd floor*

Background Note

Background

Every day, all around the world, migrant children and their families are detained simply because they lack the proper documents. These children and families often undertake perilous journeys and are met with xenophobia, violence and—increasingly—with detention despite having committed no crime and without being a threat to others.

This year marks the 25th Anniversary of the adoption of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW25), and despite a legal framework that is increasingly urgent, ratification is lacking in the majority of countries where most migrants live and work. Article 16 of the Convention enshrines the fundamental right to liberty of all migrant workers and members of their families, both documented and undocumented, and prohibits arbitrary arrest or detention. Furthermore, Article 10 of the Convention prohibits the torture or other cruel, inhuman or degrading treatment or punishment of all migrant workers and members of their families.

There is now overwhelmingly clear guidance from the United Nations system that the immigration detention of children is a violation of rights to liberty and family life. The United Nations Committee on the Rights of the Child has stated that:

Children should not be criminalized or subject to punitive measures because of their or their parents' migration status. The detention of a child because of their or their parents' migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child.¹

Similarly, given the detrimental impacts that immigration detention is known to have on children's mental, physical and developmental well-being, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that child immigration detention "exceeds the requirement of necessity, becomes grossly disproportionate and may constitute cruel, inhuman or degrading treatment of migrant children."² As a result, States have been advised to "expeditiously and

¹ Committee on the Rights of the Child, *Report of the 2012 Day of General Discussion: The Rights of All Children in the Context of International Migration*, 78-79.

² United Nations, Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, *January 2015*, HRC/28/68 (5 March 2015).

completely cease” the immigration detention of children and their family members and to make clear in their legislation, policies and practices that the best interests of the child takes priority over migration policy.

The good news is that there are alternatives. Non-custodial, community-based alternatives to detention (ATD) are increasingly being implemented in a variety of country contexts. These ATD fulfill the best interests of the child and allow children to remain with their family members and/or guardians, respecting the fundamental right to liberty, while their immigration status is being resolved.³

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, in its general comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, stated that “...[a]s a general rule, children and families with children should not be detained and States parties should always give priority to alternatives to detention where children and families are concerned.”⁴

Objectives

Against this background, this collaborative event aims to raise awareness of the need to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and specifically to promote its role in preventing the detention of migrant workers and members of their families.

Location, time and date

This event will take place on the 2nd Floor of the Church Center for the United Nations (CCUN), 777 UN Plaza, New York, NY (located at First Avenue, and E 44th St) from 6:00 to 8:00 pm..

Event

The event will celebrate the 25th Anniversary of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by featuring a discussion of the rights of migrant children and families in the context of international migration. A focus will be on immigration detention, and how state efforts to control cross-border migration are leading to an increasing number of rights violations, especially for vulnerable migrant children and families.

Additionally, two short films will be screened:

- *I Am Not Here* - This film, produced by the Office of the UN High Commissioner for Human Rights (OHCHR), explores the vulnerability of migrant workers and their families.
- *A Tale of Two Children* – This film, produced jointly by the Office of the UN High Commissioner for Refugees (UNHCR) and the Global Campaign to End Child Immigration Detention, explores available child-sensitive alternatives to detention (ATD).

Reception

The discussion will be followed by a reception and art installation:

- *Visions from the Inside* is a series of illustrations based on letters written by women and children in an immigration detention center. Curated by CultureStirke, these visual art interpretations were created by a diverse line-up of 15 visual artists and highlight the realities that migrants experience inside of immigration detention facilities, what led them to migrate away from their home countries, and the resiliency of the human spirit.

Participants

The side event will bring together representatives from States, the United Nations and inter-governmental organizations, as well as NGOs and civil society organizations. For more information or to confirm your attendance, please email: leeanne@endchilddetention.org

³ International Detention Coalition, *There are Alternatives: A handbook for preventing unnecessary immigration detention* (13 May 2011).

⁴ United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *General Comment No. 2 on the Rights of Migrant Workers in an Irregular Situation and Members of Their families*, CMW/C/GC/2 (28 August 2013).

Sponsoring organisations

The following organisations are generously co-sponsoring this event:



International Detention Coalition

Human rights for detained refugees,
asylum seekers and migrants



| Terre des Hommes International Federation

