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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Joint written statement* submitted by the Association
Bharathi Centre Culturel Franco-Tamoul, Alliance Creative
Community Project, ANAJA (L'Eternel a répondu),
Association Burkinabé pour la Survie de l'Enfance,
Association des étudiants tamouls de France, Association
Mauritanienne pour la promotion du droit, Association pour
les Victimes Du Monde, Association Solidarité Internationale
pour l'Afrique (SIA), Association Thendral, Le Pont,
L'Observatoire Mauritanien des Droits de l'Homme et de la
Démocratie, Society for Development and Community
Empowerment, Tamil Uzhagam, Tourner la page, non-
governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 August 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-14950(E)



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Criminalisation and Detention of Asylum Seekers in Australia*

The Brigidine Asylum Seekers Project (BASP) in Partnership with Association Bharathi Centre Culturel Franco-Tamoul and 12 other ECOSOC accredited NGOs, submit this written statement on Australian Refugee procedure.

We are a community based organisation sponsored by the Brigidine Sisters, a religious congregation of women in the Catholic Church. We were established in 2001. We are situated in Melbourne, Victoria, Australia.

Our aims are to:

- provide hospitality and practical support for people seeking asylum
- actively network with like-minded individuals and groups who are working for justice for asylum seekers
- promote advocacy for the rights of asylum seekers
- raise awareness of asylum seeker issues and concerns through a range of activities

Part of our work is to visit immigration detention centres – mainly the two in Melbourne but on occasion many of the others that are in Australia, including Christmas Island.

For a long time we have argued that asylum seekers should not be put into detention—and definitely not for indefinite periods. Our biggest concern at present is for the people who are detained on Manus Island and Nauru and for those in the Australian community who have been brought to the mainland for medical treatment and who are threatened with being sent back to these two off-shore places.

In our work we have had long term contact with many people who are suffering because of this policy of detention.

There are incredible stories of trauma where separation is causing anguish to families.

In May 2015 an asylum seeker who, with her mother and brother, arrived at Christmas Island a short time before the rest of her family wrote this to BASP:

I'm writing to you as an asylum seeker, as a human, as a desperate person who is losing her family in Australia, in a country that has human rights is one of its highest values.

I have been here with my mother and brother in Australia for about 2 years, and the rest of my family including my father, my sister, and my brother have been in the Nauru's detention centre for 13 months having been in Christmas Island for about 6 months. We hadn't seen them for more than 2 years!

We were just hopeful that we will see them one day and live happily together as a family, but unfortunately we seem to be dreaming! Since the new government sent them to Nauru we have been losing our hope and think that we won't ever see each other again!

But this is not the whole situation, the worst thing is my father is really sick there and the officers and nurses are watching him because of his mental health. It is not a good situation!

My mother is sick, she is crying all the time and she is too old to tolerate this situation, because it is hard for her to be apart from her husband and children, and worse than this she can't see them suffering there, and she can't help them.

My brother also got skin infection and there is no medical facilities and no specialist to do treatment for him. My sister is very bad mental health and it's hard to her to cope with government's decision which they can't never come to Australia to see and join their family.

Please help her...please help my father...please help my family to live peacefully and in a good health situation.

I'm writing to you because I have no one else to ask for help. I'm writing to you because I'm really desperate. I know you can help us, and I know you will, and I really appreciate that. These are my family names and boat ID: (available but not included).

This young woman and her mother and brother (who is a twin to the brother in Nauru) are still on Bridging Visas in Melbourne and the rest of the family are still languishing in Nauru.

Another instance is of a family who arrived as a unit and because a small child had epilepsy, the rest of the family were kept in Australia and a young brother was sent to Manus Island. He is in a very bad situation mentally and his sister (mother of the child) feels guilty about his being the one sent to Manus and extremely worried about his mental health; she has attempted to take her own life.

In our work we have had a lot of contact with families and individuals who have been on Nauru and Manus and are in the Australian community with no idea of what will happen next. One woman who had a traumatic history in a refugee camp in Tamil Nadu and was badly burned when she returned with her husband to her own country, was able to get a place on a boat with her three boys to find a safer life. This was the boat that the Australian Government held for one month and attempted to return it to India. For all this time they were trapped inside the boat with no contact to their family. After everything else, this too was a very traumatic experience. Then this woman and her sons were taken to Nauru. This woman suffered immeasurably in such a hot climate and with minimal treatment possible for her burns. Eventually she was brought to Australia for treatment but was still detained in Melbourne for months before being put in community detention where she and her children still live, with no idea of what will happen to them next.

The human rights of all these people seem to be being totally disregarded. We plead that any influence possible be exerted to bring some justice to bear and a level of humanity extended to families and individuals who have suffered terribly.

The UN's special rapporteur on the human rights of migrants, François Crépeau, says asylum seekers on Nauru were subjected to 'degrading treatment' in June 2017. Australia has "clear and undeniable" responsibility for the physical and psychological damage its illegal offshore detention regime has caused to asylum seekers and refugees.

Crépeau said the regime of offshore detention – on Papua New Guinea's Manus Island and the Pacific state of Nauru – was unjustifiably punitive and unlawful "cruel, inhuman and degrading treatment". He said Australia knew the dangerous and helpless situations on Manus and Nauru were damaging those held there.

Mental health issues are rife, with post-traumatic stress disorder, anxiety and depression being the most common ailments. Many refugees and asylum seekers are on a constant diet of sleeping tablets and antidepressants. Children also show signs of mental distress ... many adolescents are themselves already on antidepressants.

While migrants who arrive in countries of destination without documents may be in an 'irregular' or 'undocumented' or 'unauthorised' situation, they have not committed a criminal act. A human being cannot be intrinsically 'illegal' and naming anyone as such dehumanises that person. The conceptualisation of irregular migrants as 'illegals' has undoubtedly played into the criminalisation of migrants and thus into the use of immigration detention.

Australia takes its international obligations seriously. Immigration detention is an important part of strong border control and supports Australia's migration system. It assists in managing potential risks to the Australian community – including national security, health and character risks – and ensures people are available for removal.

The department has implemented an enhanced mental health strategy in Nauru to improve the provision of mental health services to transferees and refugees.

The office of the special rapporteur on human rights of migrants is a subsidiary body of the human rights council, the powerful UN body to which Australia is seeking election at the end of this year. Australia is competing against Spain and France for two positions on the council. Elections will take place in November 2017.

Recommendations:

- the government's practice of detaining asylum seekers should be abolished;
 - detention should only be used under special defined circumstances such as to establish the identity of the claimant or if the claimant is found by a magistrate to be a risk to the community;
 - minors should not be detained under any circumstances;
 - there should be regular judicial review of a decision to detain an asylum seeker;
 - conditions of detention should meet certain standards;
 - no detainees should be held in penal institutions.
- We also notes that under article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), Australia has an obligation to ensure that there is a minimum right of access to employment, especially for disadvantaged and marginalised individuals and groups.

Brigid Arthur
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10/8/2017

* Brigidine Asylum Seekers Project (BASP) International Tamil Refugee Advocacy Network (I-TRAN), NGOs without consultative status, also share the views expressed in this statement.