

Statement by Abdul Aziz Muhamat (Global Detention Project)

Human Rights Council 57th Session Side Event: Toward Ending Immigration Detention for Asylum Seekers and Refugees

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I would like to thank UNHCR for inviting me to participate in this important event aimed at rolling back use of immigration detention across the globe. As a refugee who spent many years in immigration detention, I have experienced firsthand the harms – physical, psychological, and emotional -- that this practice has on people who are subjected to it. My experiences have fomented in me a commitment to work towards ensuring that no one else endures the pain and anguish that me and millions of others have suffered when being placed in jail cells merely because of our need to flee violence and hardship and to find a better life.

I would like to briefly address three issues: (1) the harmful impact of detention, (2) the urgent reforms that states must take to prevent harms, and (3) strategies we can pursue at the international level to encourage these reforms.

1. The destructive impacts of immigration detention include:

1. **Psychological Harm:** The evidence documented by experts and attested to by former detainees like myself concerning the psychological impact of immigration detention leaves little room for doubt: immigration detention, and particularly prolonged immigration detention, causes severe and long-lasting mental anguish, including excruciating bouts of anxiety, depression, and PTSD. People who arrive in detention more often than not have already suffered severe trauma before and during their migration journeys. For these people, immigration detention is absolutely devastating and soul-crushing.
2. **Physical Health Risks:** Compounding the harms of detention is the fact that once inside detention centres, refugees, asylum seekers, and migrants typically are not screened for health needs and do not receive necessary medical care. My colleagues at the Global Detention Project have worked over the last two years with the World Health Organization to develop a deep trove of evidence covering nearly every country in the globe about the endemic failures of healthcare in immigration detention settings, which impacts everyone – men and women, adults and children, migrants and refugees—though with particularly pronounced impacts on vulnerable groups such as children, the elderly, trafficking victims, and pregnant women.
3. **Social and Family Disruption:** Immigration detention isolates people, separates them from family members and from the rest of society, which – as I myself experienced – leads to long-term emotional suffering (bother for themselves and their loved ones) and can have lasting impacts on the ability of people to re-integrate back in to society after being released.
4. **Legal and Procedural Barriers:** Detention creates significant barriers to accessing legal representation and information. Asylum-seekers often lack the necessary resources and support to navigate complex asylum procedures, leading to unfair outcomes or prolonged detention.

What should states do?

1. **Arbitrary immigration detention must be stopped:** For immigration detention not to be arbitrary, governments must be held to a very high standard in proving that every decision to employ detention is somehow absolutely necessary. The inherent harms of immigration detention underscore just how high this bar must be. The key question in every case must be: Are the alleged needs of a detention measure sufficient to justify the inevitable harms it will cause the individual? There are many people whose detention is by definition arbitrary and for whom no necessity argument can be made: refugees, asylum seekers, children, trafficking victims, among others. States stop their detention, full stop.
2. **Adopt Community-Based Reception Measures:** Community-based programs that support asylum-seekers and other at-risk people must become the default policy for all countries, emphasizing both the needs of these individuals as well as their inherent right to liberty. Additionally, states must reject their current emphasis on enforcement procedures and instead adopt non-coercive measures for all people arriving irregularly at their borders, which are both more cost-effective, and less harmful, including case management programs and community housing.
3. **Ensure Access to Legal Aid and Information:** Asylum-seekers must have access to adequate legal representation and clear information about their rights and the asylum process. This ensures fair procedures and reduces the risk of unlawful detention or deportation.
4. **Improve Health and Mental Health Services:** Governments and organizations should provide comprehensive health care, including trauma-informed mental health services, to all asylum-seekers. This is particularly important for vulnerable individuals, such as survivors of torture or violence.
5. **Promote a Human Rights-Based Approach:** Policies and practices should align with international human rights standards, ensuring that asylum-seekers and others in need are treated with dignity, respect, and compassion, and are not subjected to inhumane treatment.
6. **Encourage and Enable Better Oversight:** There are three key parts to this: (1) States must do a better job creating and/or supporting independent detention monitoring bodies. (2) they must systemically collect and make publicly available detailed data and statistics about the all immigration enforcement procedures, including details about how many people are detained, where, and in what conditions. It is worth noting in this regard that the Global Detention Project has spent more than 15 years employing access to information laws in several dozen countries across the globe asking for access to this kind of information; sadly, only a handful of states have responded positively to such requests. (3) Government must grant access to civil society advocates supporting detainees.

How can we encourage these reforms?

- **Improving knowledge:** For change to occur, we must have better knowledge about the full scope and extent of the problem. This has been the emphasis of the Global Detention Project's work since it began operating nearly two decades ago, in the process developed a state of the art database on immigration detention that serves as the world's premier source of data and analyses on this issue. We need states to allow better access to needed information so that these documentation efforts can continue to grow and improve.
- **Re-energizing the human rights system:** We have a saying at the Global Detention Project: *You cannot achieve human rights without speaking human rights.* For these reasons the GDP has focused on building data and info that is directly relevant to human rights treaties and conventions, and we have developed a methodology for employing this data in ways that can assist the efforts of UN human rights Special Procedures – like the Working Group on Arbitrary Detention – and UN treaty bodies – like the Committee on the Rights of the Child and the Committee on Migrant Workers.

We work closely with partners across the globe to effectively address these mechanisms, and we invite anyone here today to reach out to us should they wish to explore collaborations at this level.

- **Increase Investments in reducing harmful detention policies:** At the international level, it is critical that human rights foundations and other funding bodies re-focus their attention on supporting civil society efforts to engage the human rights system; at the domestic level, governments must provide resources to expand legal aid, healthcare, housing, and community-based support programs to ensure their well-being and rights are upheld.
- **Foster International Cooperation and Knowledge Sharing:** Countries should collaborate to share best practices and successful models for managing asylum processes without detention.