

Submission to a Senate Enquiry – Migration Amendment (Health Care for Asylum Seekers) Bill 2012

1. Introduction

CARAD is a Perth based non-government agency established twelve years ago to provide settlement and related services to refugees who held a Temporary Protection Visa. We have provided advocacy and services for asylum seekers and rely on a strong network of trained volunteers. Since 2000 CARAD volunteers have also visited Immigration Detention Centres (IDCs) to provide support, friendship and advocacy. Over that period the agency has developed a good idea of the conditions in which asylum seekers are detained. CARAD now holds a sizeable archive of documents, letters and reports related to IDCs throughout Australia as well as Nauru.

The current functions of CARAD include:

- agency of last resort for persons who have applied for protection and hold a bridging visa;
- home tuition 'Opening Doors' program for school-children and for parents (State Government funded and supported);
- a range of practical supports for people with a refugee background;
- a volunteer visiting, advocacy and referral service for asylum seekers in IDCs;
- accommodation assistance for vulnerable asylum seekers.

Besides advocacy for individuals in IDCs, CARAD has made submissions to the following relevant/related enquiries:

- 2000: Flood Enquiry
- 2001: Human Rights and Equal Opportunity Commission (HREOC) Enquiry re: children in detention
- 2003: the Select Committee on Ministerial Discretion in Migration Matters,
- 2009: Inquiry into the Australian Citizenship Amendment (Citizenship Test Review and Other Measures) Bill 2009
- 2012: Submission to the Joint Select Committee on Australia's Immigration Detention Network

CARAD welcomes the opportunity to respond to the proposed *Migration Amendment (Health Care for Asylum Seekers) Bill 2012* (hereafter the *Health Care Bill 2012*), the stated purpose of which is to 'safeguard the health and wellbeing of asylum seekers under the care of the Commonwealth'.¹

It should be noted one of CARAD's consistently stated values is to oppose the mandatory detention of asylum seekers. CARAD also opposes the excision of various islands/waters in Australian territory, for the purpose of excluding asylum seekers, even when their lives are threatened. It is an ongoing disappointment that Australia remains the only Western signatory to the Refugee Convention that has a policy of indefinite mandatory detention for so-called 'irregular maritime arrivals'.

It is every person's right to ask for asylum if outside their country and if that country is unable to provide protection, the Refugee Convention obliges signatories to test that claim for protection. In Australia asylum seekers are divided into two groups; those who arrive by boat are detained whilst those who arrive by air can live in the community during the time their claim is determined. This is particularly absurd given the fact that people arriving by plane are less likely to be recognised as refugees compared with people who arrive by boat.

CARAD knows many individual men, women and children who suffered mental health and other problems while in detention centres since the practice of detaining asylum seekers in this way began in 1999. Many of these continue to bear the scars of that experience. Detention breaches the rights of individuals and harms their mental and physical health as well as imposing unnecessary costs on

¹ Explanatory Memorandum - Migration Amendment (Health Care for Asylum Seekers) Bill 2012.p2

Australian tax payers. It is clear, as stated in the Explanatory Memoranda of this proposed Bill that 'asylum seekers who are detained in immigration detention facilities, particularly those in remote and offshore locations, suffer adverse physical and mental health effects as a direct consequence of their detention.'

In light of the human cost of mandatory detention, and the Commonwealth's current policy toward remote and offshore processing of asylum seekers and refugees, CARAD feels that the *Health Care Bill 2012* goes some way in addressing some of our concerns around the human cost of mandatory detention, and will be a helpful monitoring tool on the health and wellbeing of asylum seekers in our Immigration Detention Centres.

2. Common Mental Health Problems Faced by Asylum Seekers

There is a large body of research indicating that immigration detention causes asylum seekers psychological harm. Mental health issues are highly prevalent amongst asylum seekers and refugees who have previously been detained, with the extent of their poor mental health linked to the length of time they have spent in detention. Time spent in immigration detention has been found to contribute to the severity of symptoms relating to Post Traumatic Stress Disorder (PTSD), depression, anxiety and suicidality.²

The experiences of fleeing, seeking asylum and resettlement are likely to leave asylum seekers at high risk of mental health problems and they are likely to need significant social, psychological and psychiatric support. The types of support required are not adequately accessible in immigration detention, particularly in offshore locations with limited services. Additionally, a high level of stress caused by uncertainty about the future is hypothesised to further negatively impact the health of asylum seekers.³

² Coffey, G.J., et al., *The meaning and mental health consequences of long-term immigration detention for people seeking asylum*, Social Science and Medicine, 2010 (70).

³ Mueller, J., et al., *Mental health of failed asylum seekers as compared with pending and temporarily accepted asylum seekers*, European Journal of Public Health, 2011, 21(2): p.184, The mental health of detained asylum seekers in Australia – Mental Health Wiki.

In the past a number of professional health organisations have made representations to the Human Rights and Equal Opportunity Commission, about the mental health of detainees, which can be obtained from the Amnesty International Australia website. These include:

- Alliance of Health professionals Concerned about the Health of Asylum;
- Australian Association for Infant Mental Health (AAIMH);
- Australian Reproductive Health Alliance;
- Dieticians Association of Australia;
- Australian Nursing Federation (Vic Branch);
- Royal College of Nursing and the Australian Nursing Federation;
- Australian Society of Traumatic Stress Studies (ASTSS);
- Australian Association for the Welfare of Child Health (AWCH);
- Australian and NZ College of Mental Health Nurses (Qld Branch);
- Australian Psychological Society;
- Mental Health Council of Australia;
- Public Health Association of Australia; and
- Suicide Prevention Australia.⁴

Some of the major recommendations of these professional bodies were as follows:

- Research suggests that asylum seekers and refugees (including children) suffer from psychological and physical symptoms sufficiently serious to warrant thorough and routine physical and psychological assessment.
- Health professionals are often unable to speak freely about concerns relating to the health care of detainees due to the contractual arrangements they are required to operate under.
- There should be an immediate clinical review of the physical and mental health status of asylum seekers in detention (Clinical Review) undertaken by independent health professionals (under the auspices of the Committee of Presidents of Medical Colleges) to gain a better understanding of the Health status and needs of those asylum seekers.
- A National Summit on Asylum Seekers should be convened (under the auspices of an independent organisation, such as this Alliance or a consortium of its constituents). The major

⁴ Healey, Justin (ed.) Summary for Dr Bhagwati and Matthias Behnke, Office of the High Commissioner for Human Rights, *Refugees and Asylum Seekers – Issues in Society*, Vol 193, pp.31-33.

task of the National Summit will be to call for submissions about Australia's policies in relation to undocumented asylum seekers (including detention and community-based issues), examine the results of the Clinical Review, examine barriers to good policy (e.g. jurisdictional and workforce/remuneration issues relating to child protection, health service, etc) and establish a working party to propose reforms to policy in this area.

- Asylum seekers who enter Australia without travel documents in future should be placed in processing centres for a limited number of days.
- Policy makers and government should work in partnership with the key stakeholders involved in this issue to determine the best ways forward and to develop feasible solutions. This group includes non-government organisations representing refugees and asylum seekers, human rights organisations, academics, lawyers and health professionals.

3. What is observed in the Immigration Detention Centre (IDC) Population

An increasingly large number of people have been detained in IDC's for long periods of time (some more than two years) without feedback as to progress of their Refugee Status Determination (RSD). Even when recognised to be a refugee in need of protection, individuals are detained during the course of their ASIO security assessment—for many an inordinately long and anxious time that compounds any existing mental health problems. Hundreds of children remain in detention to date. CARAD would like to point out that even those who are in the Red Cross Community Detention project, though experiencing an improvement on remote prison-like detention, are still detained awaiting the result of their claim.

We see in the IDC population excess rates of suicide, suicide attempts and self-harm. The number of suicides in IDCs suggests that suicide rates may be at least 10 times in excess of the general Australian rate, and 3 times that of young adult men, the age and sex group at highest risk. Self-harm and suicide attempts, which are endemic in IDC's involve children and young people. Serious methods of self harm such as hanging, throat-slashing, deep wrist cutting, and drinking shampoo are used. Pre-pubertal children, who almost never make suicide attempts, are involved or witness these attempts.

Protest, despair and imitation are important motivations for self-harm in IDCs. The Department of Immigration only sees protest (in the form of 'manipulation', or 'terrorism') as significant and ignores the role of these other equally powerful factors.

In the general community, suicide attempts and self-harm are frequently associated with mental disorders. Social and environmental factors contribute to higher rates for particular groups (such as youth in custody, indigenous youth). Among adult asylum seekers, rates of depression, anxiety and post-traumatic stress disorder (PTSD) are reportedly higher among ex-detainees than those who have not been detained. It is uncertain whether detained children have more mental health problems than non-detained children, because independent assessments cannot be undertaken.

Detainees, including children and adolescents, are an already vulnerable and traumatised group. However convergent multi-source testimony, including clinical reports and the children's own accounts, suggests that children, like adults, suffer from depression, anxiety and PTSD, and also from disruptions of attachment and development, including disruptions to their sense of self. This testimony also suggests that these disorders and disturbances are greatly augmented by detention.

Severe attachment disorder has been documented in very young children or those born in detention. This implies a long-term risk to neurodevelopment that could lead to vulnerability to stress, long-term relationship difficulties, risk of chronic depression and vulnerability to suicidal behaviours after release from detention.

4. How the Detention Environment creates and aggravates mental disorders

Professor Patrick McGorry, who in 2010 was named Australian of the Year, has referred to detention centres as 'factories for mental illness'.⁵

CARAD is concerned with the mental health effects of immigration detention on children and young people. Specific aspects of immigration detention create or aggravate mental disorders and self-harm, and re-traumatise vulnerable children. Detention centres are harsh, depriving environments where children and their parents are held in prison-like circumstances behind razor wire indefinitely. Remote and offshore locations further isolate asylum seekers from the community to which they seek refuge. Detention involves a legalistic and adversarial refugee determination process that detainees and others perceive as arbitrary and unjust. Evidence exists that some IDC procedures stigmatise and coerce detainees (e.g. detainees are again being called by number not name, at times exposed to intentional violence, or placed in solitary confinement). The rules of IDCs frequently change in arbitrary ways and

⁵ Refugee Rights Action Network, WA. <http://rran.org>

existing government policy concerning asylum seekers and private arrangements with the contractor (SERCO) prevent accountability.

No appropriate psychiatric treatment can be given within the IDC environment, as it is the environment itself that is a fundamental cause of the problem.⁶

In view of these findings the proposed *Health Care Bill 2012* will be an important provision in monitoring the health impacts of detention over a period of time.

CARAD accepts and endorses the position that health standards in general and the mental health standards should be immediately looked into in Immigration Detention Centres. It supports the view of Amanda Gordon (Amanda Gordon is Adjunct Associate Professor in Clinical Psychology at the University of Canberra, and a Fellow of the Australian Psychological Society) who stated:

But in the five years that I have been a member of the Detention Health Advisory Group – established by the Department of Immigration to monitor and advise on health care for detainees – I have witnessed how inimical the current system of mandatory, indefinite detention is to protecting mental health. Evidence mounts about the long-term harm caused by this system, yet more detainees are being contained in this way, and for longer than before, with detention centres under no legal obligation to meet the basic standards that govern mental health care provision throughout Australia.⁷

5. Recommendations

Given the severe and long lasting mental health implications for detainees in Australia's IDCs and the previous experience of those who were detained offshore, it is therefore recommended that the following changes be embodied to the *Health Care Bill 2012*, to give it a greater focus and purpose:

- The Panel should have a Chairperson and a Secretary appointed by the Minister. To facilitate the functions of the Panel there should be an Office centrally situated. The Chairperson should have direct access to the Minister, and be in a position to report and obtain redress in individual cases brought to their attention.

⁶ Healey, Justin (ed.) Summary for Dr Bhagwati and Matthias Behnke, Office of the High Commissioner for Human Rights, *Refugees and Asylum Seekers – Issues in Society*, Vol 193, pp.33-34.

⁷ Gordon, Amanda (2011) *The Drum Opinion*, ABC News 24, 9 September 2011, Mental Health Standards needed in Detention Centres.

- We believe the reports to parliament should cover general issues and should also refer to individual cases without prejudice to the persons concerned.
- Apart from the professional people stated in the proposed Amendment, there should be certain proportion of non-government organisations representing refugees and asylum seekers and human rights organisations in the Panel. This will give a certain balance to the Panel along with the health professionals.
- We recommend ensuring there are accessible mechanisms in place for detainees to communicate and consult with the independent panel.

CARAD welcomes amendments to the *Migration Act 1958* which will bring increased scrutiny of our treatment of asylum seekers, and the Immigration Detention Centres where they are held. Although we are firmly opposed to offshore detention, we support amendments that will increase documentation and reporting of health and wellbeing of asylum seekers in the care of the Commonwealth by an independent expert panel.

Yours sincerely,

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