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A Project of Catholic Social Justice, Welfare and Educational Agencies
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SUBMISSION TO SELECT COMMITTEE

Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru

NetAct members wish to add our voice to the considerable volume of concern being expressed about the allegations related to conditions and circumstances at the Regional Processing Centre at Nauru. As a Coalition of Catholic Social Justice, Welfare and Educational Agencies, NetAct has become increasingly concerned by the careful and indisputable evidence that has emerged about the mistreatment of asylum seekers in Nauru.

As Australians and as Christians, we are challenged by the deeply disturbing accounts of abuse, cruelty and sense of hopelessness, both in the Asylum Seeker Centre and among those who have been released into the community in Nauru. For the sake of those who are the victims of this cruelty, as well as for us in whose name these injustices are being perpetrated, it is imperative that we speak out as we call ourselves to consider the issues and values facing us as a national and international community.

THE SUBMISSION

The Government has identified the purpose of this consultation as being:

- To examine the recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru
- To report on the responsibilities of the Commonwealth Government in connection with the management and operation of the Centre.

Consequently, this submission will focus on both the Commonwealth Government's failure in its obligations to asylum seekers in Nauru (particularly as analysed in the Moss Report), and the urgent need for reform in Australia's responsibility to asylum seekers, clearly indicated in the condemnation of conditions in Nauru

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THE PRINCIPLES

1. All members of the human family have equal dignity and inalienable rights as human beings.
2. Australia is party to the 1951 Geneva Convention and its 1967 Protocol, and hence has agreed that its refugee policy will be informed by, and consistent with, its international treaty obligations.
3. Each person has the right to apply for asylum in another country, according to the Geneva Convention, regardless of the means of travel to that country.
4. As a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, Australia has an obligation to protect refugees who have sought asylum in this country.
5. In signing the 1951 Refugee Convention, Australia recognised that states shall:
 - a. not impose penalties, on account of their illegal entry, on refugees coming directly from a territory where their life or freedom was threatened (Article 31);
 - b. accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals (Article 23);
 - c. issue to refugees lawfully staying in their territory travel documents for travel outside their territory (Article 28).
6. The Convention on the Rights of the Child prohibits arbitrary detention of children except as a last resort and for the shortest appropriate period of time (Article 37). It protects the right of children to remain under the care of their parents (Article 18), and recognises children's right to education (Article 28).

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ALLEGATIONS RELATING TO CONDITIONS AND CIRCUMSTANCES AT THE REGIONAL PROCESSING CENTRE IN NAURU

As a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, Australia has an obligation to protect refugees who have sought asylum in this country.

Reports related to the conditions and circumstances at the Regional Processing Centre in Nauru indicate without doubt that Australia has failed to honour its obligation to protect refugees who have sought asylum in this country. This is evidenced particularly in the way that it has outsourced its responsibilities and its commitments to the asylum seekers in Nauru, and failed to take adequate action when it became aware of injustices occurring at the Centre. There are a number of areas that cause serious concern.

Previous reports have provided evidence of the abuse of asylum seekers in Nauru. Harsh physical conditions, characterised by over-crowded accommodation, in situations of stifling heat have been common. There have also been reports of distressing incidents of physical and sexual abuse. Victims have been hesitant to complain of incidents of abuse because of justified concerns about damaging repercussions. A resultant culture of intimidation and fear has developed. Asylum seekers describe a monotonous and unsafe existence devoid of hope.

In confirmation of these earlier reports, the Moss Review has found substantiated evidence that asylum seekers in Nauru live with constant fear, in unsanitary conditions and intolerable heat. The Review has found evidence of physical violence, sexual abuse, self-harm and suicide attempts. Transferees have experienced a lack of personal safety and privacy. These incidents of abuse, sexual harassment, assault and intimidation from guards, as well as from locals and other inmates, are shown to be endemic to the centre. Combined with these hardships are prolonged periods without processing, and little prospect of release, of family reunion or employment. All have led to the well-documented accounts of mental illness, self-harm and suicide.

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These reports, reinforced by the Human Rights Report, and strengthened by the condemnation of the Special Rapporteur to the United Nations, highlight the degree to which the Australian Government has failed to establish relevant human rights standards, to take satisfactory action when complaints have been made, and to oversee the behaviour of the company to whom it has outsourced the responsibility of the Detention Centre and the care of asylum seekers. The training and supervision of contract service provider staff were found to be inadequate. Some staff members have already had their contracts terminated, but incidents of abuse continue to occur. It is apparent that the processes for identifying, reporting, responding to, mitigating and preventing incidents of abuse are far from satisfactory.

The protection of minors is of particular concern. The Convention on the Rights of the Child prohibits arbitrary detention of children except as a last resort and for the shortest appropriate period of time. It protects the right of children to remain under the care of their parents, and recognises children's right to education. On all of these conventions, there is blatant injustice on the part of the Australian Government. Incidents of physical and sexual abuse are alarming, and neither the service provider staff, nor the Government have taken adequate steps to rectify this mistreatment and exploitation of young people. The current Royal Commission into child abuse in Australia is a clear foreshadowing of future events related to minors in detention, and the eventual condemnation of policy makers in this country. Human rights experts maintain that Royal Commissions will hold Governments and their officials to account for the punitive ruthlessness of their policies, the relinquishment of their international obligations, and their blatant abuse of power. The recorded complaints of concerned Australians and of international bodies are important for this process and will hold officials unequivocally to account.

NetAct joins its voice to the many voices expressing horror at the immense harm being done both to asylum seekers and to the character of the Australia nation. Within the terms of this inquiry, the Government has been found to have colluded in the cruel, inhuman and degrading treatment of vulnerable people.

Moreover, beyond the terms of the Inquiry, but needing to be said as part of this submission, are both economic concerns and fundamental abuses of human rights.

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The Government's current budget allocates more than \$8.3 billion to locking up refugees in offshore centres of immense harm, and to condemning them to a desperate future in some of the poorest countries in the world. This amount, compared to expenditure on health, education and welfare, is a stark indication of the Government's' priorities and the lengths to which it is prepared to go to pursue popular objectives like border security.

The most significant question underpinning the question of Nauru, of course is that of human rights and the cynical manipulation of information for political gain. Both major Parties have engaged in this abuse of truth and justice and caused immense harm to traumatised people fleeing from war and torture in war-torn zones of the world. For this reason, we must continue to do our part to speak truth to power, and to register our dismay at the depths to which we have sunk as a nation. We can do better than this. We are better than this.

We urge all members of Parliament therefore to commit initially to an asylum seeker policy, which acknowledges the rights of each person seeking asylum, which demands careful administration of programs dealing with asylum seekers. The original contractual agreement with Nauru, with all its inadequacies, committed to a process by which transferees will be treated with dignity and respect, as well as to the development of special arrangements for vulnerable cases, including unaccompanied minors. Even these basic terms have not been honoured.

More fundamentally, we urge both Government and Opposition to put aside short-term political advantage and work together to solve this critical issue of asylum seeker policy. It is impossible for Australia to pursue its current policies without damaging its soul as a nation. It is our hope that the basic human values of fairness, decency and openness, and our proudly held Australian principles of justice, a fair go for all, and our concern for the underdog and those who are oppressed, might once more be identified as the hallmarks of our national character.

Fr Claude Mostowik MSC

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On Behalf of NetAct

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