

coalition for asylum seekers,  
refugees and detainees



245 Stirling Street  
Perth  
Western Australia 6000

Ph 61 8 9227 7322  
Fax 61 8 9228 9749  
Email: [carad@iinet.net.au](mailto:carad@iinet.net.au)  
ABN 97 481 185 842

Attention: Secretary to Inquiry

**Re: A Bill to amend the *Migration Act 1958* to implement seven Immigration Detention Values to provide the framework for immigration detention.**

**CARAD opposes mandatory detention**

- The Coalition for Asylum seekers, Refugees And Detainees [CARAD] has always opposed, and continues to oppose, the mandatory detention of asylum seekers. CARAD knows many individual men, women and children who suffered mental health and other problems while in detention centres during the previous Government's management and who continue to bear the scars of that experience.
- Detention experiences have in many instances compounded the torture and trauma issues for these people fleeing persecution in their homelands, leading to such illnesses as depression and post traumatic stress disorders. Detention is inherently harmful for people already suffering from experiences of human rights deprivations, privations, humiliation and grief in their home countries.
- CARAD also opposes the excision of various islands/waters that are clearly Australian territory, for the purpose of excluding asylum seekers, even when their lives are threatened.

**Changes welcomed**

- However CARAD welcomes the opportunity to respond to the Bill's proposals and welcomes the substantial changes already made to improve the treatment of asylum seekers including the abolition of temporary protection visas for people recognised to be refugees.
- CARAD welcomes also the principles or values that underline the Bill including those that:
  - recognise that people should be detained for the shortest time,
  - state that a minor must not be detained in a detention centre unless as 'a measure of last resort', and,
  - the fairer and more transparent arrangements for claims assessment including publicly funded independent advice, independent merits review and access to the Commonwealth Ombudsman by individuals in detention.
- The granting of 'temporary community access permits' for detainees for a specified period of time is a welcome relaxation of conditions that will ease the pressure that will continue to be felt. The intent seems to be a much more humane and rights based approach to the individuals.
- CARAD volunteers have visited numbers of asylum seekers in Perth based community detention. They have observed a much more respectful approach to the residents than formerly and, it is apparent that even without the legislative changes, they are treated more humanely than previously.

### **Some asylum seekers not detained**

- We point to the thousands of people who seek asylum each year, having arrived by plane with a visa of some kind, [4,750 in the year to Dec. 2008] and then ask for protection. During the course of their assessment for protection those applicants are not detained and appear to cause no risk to the community. CARAD understands that just less than 50% of these applicants are recognised to need protection.
- This contrasts with more than 90% of applicants from Detention Centres being recognised as in need of protection who came to seek asylum as unauthorised boat arrivals. They almost all flee escalating persecution and conflict in countries such as Sri Lanka, Afghanistan, Iraq and Iran. Such is their plight that, most, with the help of a chain of 'agents' or smugglers' make risky journeys from their homeland to Indonesia to make the final part of that journey to Australia by boats in poor condition. They finish this journey at Christmas Island, a territory of Australia that has been excised from the migration zone.

### **Christmas Island remains excised from Migration Zone**

- Despite no changes being made to this designation of 'excision' the proposed changes that incorporate the detention values apply to any immigration detention in Australia, as well as immigration detention in an excised offshore place. There is some confusion among non government agencies about the application at Christmas Island.
- The legislation changes to allow the Minister to delegate to the Department the power to make residence determinations, so people can access community-based detention arrangements. This applies in relation to people in excised offshore places, as does a proposed power to give 'Temporary Community Access Permission' to allow a detainee to leave a detention facility without an accompanying guard or other 'restraining' person. These are laudable and welcome reforms to detention policies and procedures that have the potential to change the culture from one of punishment and humiliation to one of dignity and respect for the individual.
- CARAD is one of very few non-government agencies with representation on the Island, employing a part time social worker to visit and assist asylum seekers and detainees.

Already huge changes have been made to the way that asylum seekers are assessed and their status determined. These are appreciated, especially by former refugees many of whom continue to suffer the consequences of their detention and also by human rights and refugee advocates.

However CARAD thinks it useful to compare the protocols at Christmas Island with previous observations in the table below. The new legislation should rectify some of the concerns that CARAD has about Christmas Island, particularly when the framework of values fully applies. However while the Island continues to be used to determine refugee status the distance to and from this isolated Territory will continue to detract from what could be a quicker and cheaper and more effective determination process on the mainland

## REFUGEE STATUS DETERMINATION

Previous regime	Christmas Island	Comment re CI conditions
Geographical isolation	Geographical isolation. Excised from migration zone	The issues of distance and cost for flying personnel, postal [& 'e'] documents and food in and out must mean substantial delays. Individuals with unusual or urgent health problems could be compromised by the distance unless properly diagnosed.
High security environs for men, women and children	The Detention Centre has been built as a high security prison - used at this time only for men.	There are a variety of facilities being used on the island, with various kinds of security, The North West Point Detention Centre is isolated on the Island. It is capable of being used in a very high security situation, but at present is being used with some security features not in operation. However it is still a detention centre with a high degree of supervision and limited movement. Once inside there are recreational spaces and activities for the men. People judged as vulnerable can live in community based accommodation, though the residents of C compound at Phosphate Hill are guarded and cannot leave or move around the compound unless accompanied. The criteria for accommodation at this camp should be clarified.
Claims process took inordinate time	Most claims reported to be assessed within few months	As more asylum seekers arrive more resources will be required to ensure efficient and timely processing.
Almost every child detained suffered harm from their experience and their observations, whether with family or not.	Children and minors are detained in unsatisfactory accommodation with their families.	Children can attend school but there are little to no activities for them outside school. No suitable place for small children to play. N.B. CARAD remains concerned that children are in effect detained.
	Provisions made for separated children & minors to live with foster carers.	Older children required to attend school at Phosphate Hill- because of community concerns.
From time to time complaints re inadequate, repetitive and non nutritious food	Similar	Fresh fruit and fresh/frozen vegetable supplies are very limited. The island has been known to run out of groceries and produce in recent past.
Personal isolation - arbitrary	Not able to receive incoming	There is only one phone for the

rules	calls in Detention Centre—rely on phone cards if no mobile.	current residents [>100] of C Compound
Barriers in way of practicing religion/faith	Similar reported	CARAD has expressed concern to the Department of Immigration about the lack of religious celebrants on the island and difficult access to those there. People in the North West Point detention centre do not worship with the island Islamic community. This issue is a matter of current focus for CARAD
High incidence of mental illness and self harm	Some emerging concerns re depression and anxiety in people there longer than about 3 months	Our social worker on the island has referred clients to DIAC who are suffering 'stress'. There are intermittent torture and trauma counseling services available to asylum seekers.
Could be prolonged legal and court cases for people with complex claims	Migration agents act for initial and review stages as no legal representation.	Migration agents do not have access to office equipment and resources. CARAD needs assurance that the M/As have preparation to interview children and minors
Approval of claims for Afghans and Iraqis over 90%	Understand that so far over 90% claims approved [although there are no completed data available].	Independent review agencies can only review individual cases after 6 months.

### Conclusion

CARAD opposes the notion of excision and high security detention for asylum seekers. Apart from that the choice of Christmas Island as a detention centre has inherent problems. [We understand that there is a current Parliamentary review into the future of the Island]. The impact of the Centre on the Island, its population and its fragile environment and infra structure must be enormous; such pressures concerning the use of water, including for any grounds, the manufacture and use of electricity, waste disposal and telecommunications. For Government the costs of flights in and out for work force and for bringing in food and equipment must out- weigh any benefit of assessing asylum seekers off shore.

### Recommendations

- Because of its isolation Christmas Island is not a suitable place to detain and assess refugee claims.
- If the policy of maintain migration zone excisions is to continue then Christmas Island should not be included.
- The Convention on the Rights of the Child which emphasises the test of the 'best interests of the child' should be the point of reference when children in families and unaccompanied minors claim asylum. Children should not be detained at all and during the period of assessment should be kept with their family in a community based facility in a capital city. The same should apply to unaccompanied minors.
- Children and minors should only be interviewed by migration agents who have undergone special preparation to work with children.
- The criteria for people to live in the Phosphate Hill camps should be clarified.
- The maximum time for assessment should be enshrined in this legislation.

- Qualified mental health workers should be available on site for asylum seekers.
- Six months is far too long for the right of review when the order for detention is made by one DIAC employee.
- Persons who use temporary community access permits must be able to qualify their privacy when visiting health, legal and other services where confidentiality must be respected.
- CARAD would welcome any measures to establish an Orderly Departure programme from Indonesia such as that implemented almost 30 years ago for Vietnamese asylum seekers. Applications would be made and assessed in Indonesia and those recognised to need protection as refugees would then come to Australia without the need for detention. [It is acknowledged that extensive and successful Government to Government negotiations with Indonesia are essential for this proposal to be advanced.]

CARAD is prepared to give further evidence if called

Yours sincerely

Dr Judyth Watson for Ms Rosemary Hudson Chair [on leave] and for CARAD  
30/7/09

## **The Coalition for Asylum seekers, Refugees And Detainees [CARAD]**

**CARAD** was established in January 2000 when the first group of refugees with temporary, rather than permanent, protection came to Perth on release from detention centres. These Temporary Protection Visa (TPV) holders were not entitled to access the usual resources for off-shore refugee applicants and migrants. CARAD provided practical assistance to TPV holders to enable them to access basic resources and settle in Australia.

### **During the first years CARAD:**

- Met more than 3,500 refugees
- Assisted almost all of them to complete essential application forms
- Found temporary, then permanent, rental housing for refugees
- Established close to 900 households from donated goods
- Set up English language classes for men at Welcome House (now closed) and for women at home
- Enrolled children at schools and provided homework support
- Provided practical assistance and friendly support aimed at helping refugees to settle
- Worked with other organisations to provide appropriate services for refugees
- Provided support for the refugees while they reapplied for permanent protection
- Engaged in advocacy for individuals and for policy changes
- Raised money to support out work
- Provided practical support for refugees who have chosen to return to their homeland
- Provided information to members and supporters on developments in this area

Since mid 2005 conditions for asylum seekers in Australia have eased considerably. There are no longer children in detention; Manus and Nauru detention centres have been closed; the Pacific Solution is finally history and the new federal government is granting permanent protection visas to all who were on temporary visas.

### **Current focus**

- We remain the agency of last resort for many asylum seekers on Bridging Visa E's - who are denied work rights, Centrelink income and Medicare. We assist these people with their most essential needs including accommodation, food, and medical care. Last year CARAD raised and spent an average of \$5000 per month on providing a basic living allowance for this group of asylum seekers. [we welcome recent changes]
- We continue to work to change government policies towards asylum seekers through advocacy, campaigning and lobbying.
- We assist the settlement of new arrivals through the family reunion program.
- We have active volunteers involved in homework & English home tuition as well as general support.
- We are increasingly being requested to help refugee families find new rental accommodation.
- We visit asylum seekers in community detention and in the Perth detention centre.
- We support a part time worker for Christmas Island detainees.