



association for the wellbeing
of children in healthcare

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Submission re:

The Migration Amendment (Immigration Detention Reform) Bill 2009

The Association for the Wellbeing of Children in Healthcare (AWCH) is a national not-for-profit organisation of parents and professionals advocating for the needs of children, young people and their families within the healthcare system in Australia. AWCH advocates to ensure the emotional and social needs of children, young people and their families are recognised and met within hospitals and the healthcare system.

AWCH advocates a holistic family-oriented approach to the care of children and young people, acknowledging the vital role the family plays in that care.

No group is more disadvantaged in the political process than children – they cannot vote, cannot hold political office, and have few opportunities to speak publicly regarding their interests. They have limited access to the formal, structural levels of political power. Children and young people need the advocacy voice of parents, health care providers, and interested members of the community to support and represent their interests and to raise issues on their behalf.

The health rights of children and young people were encapsulated in the 1990 UN Convention on the Rights of the Child to which Australia is a signatory. **This submission highlights the primary issues of concern relating to the well-being and healthy development of children who find themselves in immigration detention centres or similar facilities and makes recommendations to ensure the best interests of children seeking asylum are met.**

AWCH acknowledges the progress that has been made by the Federal Government towards legislative reform in a number of policy areas. We commend Immigration Minister Chris Evans and other concerned parliamentarians who have worked for fair and just policies for asylum seekers. We urge our politicians to continue to work towards moving Australia's asylum policy into line with our international human rights obligations.

However, immigration detention in any form will never be in the best interests of children and is a breach of the Convention on the Rights of the Child. These rights include rights of freedom, to a normal social life and to education. Detention of a child interferes with all of these rights. This is true whether it is an unaccompanied child or a child who is made subject to the detention of his/her parents.

Psychological and Social Wellbeing



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AWCH believes that the individual rights of detained children and young people are being overlooked. Consequently there is a failure to ensure these children are given the opportunity to assert those rights and a failure to ensure those rights are upheld and protected. This concern is expressed both in relation to those children who are unaccompanied and those children who are with their families.

AWCH asserts that the detention of children in immigration facilities poses long-term risks to the psychosocial well-being of children and young people and is not in the best interests of the child. Extended stays can lead to behavioural extremes in children and young people and those without family members in particular can experience depression, apathy, delinquent behaviour, aggressive acts, mental disturbances, drug abuse and suicide.

Detaining children is strongly discouraged under the Convention on the Rights of the Child and is discriminatory. Any detention of children should and must be subject to periodic judicial review.

Detained children have the same social welfare rights (health, education, standard of living) as the general population. If it is necessary to detain children in immigration detention facilities, all the needs of the child must be met while they are being detained and the child's best interests must be the primary consideration. Freedom of movement outside detention should be an option so that children have access to the outside world and to enjoy their own culture, practice their own religion and use their own language. In this way the mental and social wellbeing of children can be more effectively assured by the quick reestablishment of normal community life.

Documented evidence has shown detention centre environments are inadequate to meet the special needs of any child, let alone children who have suffered human rights abuses and the trauma of fleeing their home. There are also fears that children housed in detention centres may be at heightened risk of abuse and the dehumanising effect of being treated as illegal.

Children are vulnerable, and detention has a harsher impact on them than on adults. The continued detention of children, who are innocent of any crime, causes physical, emotional and developmental damage, which has been extensively documented. Detention of children violates international conventions governing the welfare of children.

The detention of children and young people places them in an abnormal environment and risks impeding their development. Australia, as a signatory to the UN Convention of the Rights of the Child, is required to ensure the

appropriate development of children and young people, with every effort being made to remove or minimise any physical and emotional distress to these children and their families.

Recommendations

AWCH strongly recommends the following in relation to the Migration Amendment (Immigration Detention Reform) Bill 2009:

- **The detention values should apply to Christmas Island, not just mainland Australia.** It must be remembered that the majority of child and young people seeking asylum are located on Christmas Island.
- **AWCH believes that children and young people should not be housed in any form of detention or secured immigration facility.** The Immigration Detention Reform Bill must state that children and young people should not be detained in any kind of secured immigration detention facility. Currently, they are being detained in facilities that are detention centres in all but name, under guard supervision and unable to come or go freely.
- **The Immigration Detention Reform Bill must detail specific measures for independent, timely review of a person's detention.** The Bill in its present form does not include any review measures. Under present policy, a person can be detained for six months before any independent review (by the Ombudsman) and even then, the Ombudsman's recommendations are not enforceable. Six months is too long to be detained on the decision of just one government official.

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