



S A V E – Australia Inc

Specialist Assignment Volunteers Enterprise

Steadfast for Justice and Equality

Aborigines for Refugees, Ausnews Global Network (AGN), United Against Racism, Australian Human Rights Newsletter, Coalition for Justice for Refugees

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Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Submission to the Inquiry into the administration and operation of the Migration Act 1958

We at the S A V E – Australia Inc, make the following submissions with the belief that every human being in Australia has the right to the highest standard of mental health, including all those who are seeking asylum.

We are concerned that the psychological damage being inflicted upon the refugees in detention centres in Australia demands serious investigation and new strategies need to be put in place to rectify the problem immediately. Refugees and asylum seekers in detention DO face extreme humiliation and their basic human rights ARE being violated. These people are not properly protected, nor given appropriate medical assistance, education, nutritional food or provided acceptable living quarters. Their basic needs are not being met and the Australian government is failing to align its laws with international standards.

S A V E – Australia has extensive experience in the promotion of human rights in the current global context by organizing several forums around the country and currently coordinating the 3rd National Conference on Human Rights and Mental Health to be held at Federal Parliament on 8 & 9 September 2005.

We apologise for not meeting our deadline by forwarding our submissions by 8 August 2005, however, we hope that you are generous enough to still accept it as we believe our contribution to the Inquiry will offer some insight into the current situation, which will in turn, propel some positive changes to address the mental health issues within Australian detention centres.

Please do not hesitate to contact us if you require further evidence.

Yours Sincerely,

Maqsood Alshams
for S A V E – Australia Inc

S A V E – Australia Inc (Specialist Assignment Volunteers Enterprise) is a non-profit organization responsible for the management and supervision of the continuing work of Ausnews Global Network (AGN), Aborigines for Refugees, United Against Racism, Coalition for Justice for Refugees and the Australian Human Rights Newsletter.

Over the years, S A V E – Australia Inc have achieved specific successes in highlighting the plight of refugees in Australia and raising awareness of human rights with particular emphasis on mental health issues faced by some of the most marginalised people in our society. Currently, S A V E – Australia Inc is in the pre-production phases of a series of documentary films focusing on the mental health and human rights issues of Indigenous Australians, Refugees and Asylum Seekers, and Adolescent Australians.

On 8 & 9 September 2005, the “3rd National Conference on Mental Health and Human Rights”, at the Federal Parliament House will be conducted with key Australian political and NGO leaders due to address the audience. The Conference co-organiser Hon. Louise Pratt MLC (WA Parliament) said that the importance of the conference was to challenge the Department of Immigration and Multicultural Affairs to intensify their efforts in “recognising the fundamental link between human rights and mental health”.

In addition to the above achievements, the numerous conferences and forums held nationwide, the production of an online human rights newsletter linked to over half a million readers around the world, and with continuous community education, S A V E – Australia Inc’s efforts have been the result of the voluntary creativity and goodwill of many people from diverse sectors of Australia. Like many similar groups, we receive no government funding or regular sponsorship and rely entirely on donations to support our activities. Unlike many other groups, however, S A V E - Australia Inc is the only group in Australia which provides support to refugees that is actually run by a refugee.

At the one-day conference organised by SAVE – Australia Inc in March 2004 titled “Human Rights and Mental Health in the Political Context of Contemporary Australia”, the Hon. Dr Meredith Burgmann MLC said “Australia is failing to meet its international obligations to asylum seekers and their families”. Coincidentally, the United Nations High Commission for Refugees declared for the third time that Australia’s policy of mandatory detention of asylum seekers was in breach of international human rights law. It was also identified that the suicide rate in detention centres is conservatively estimated to be between 3 to 17 times greater than that of the Australian community.

SAVE-Australia Inc is committed to increasing awareness of the injustices that are occurring daily around the world and it is through its continued efforts that it wishes to contribute to the Inquiry. That the information and knowledge we have acquired over the years will offer some insight into the current situation and that the Inquiry will be a strong force for change within Australian detention centres.

Australia remains the only industrialised country in western civilisation that continues to routinely impose mandatory detention on those who seek refugee protection. Those who arrive on our shores without a valid visa, including unaccompanied children, are detained in facilities in remote areas for several months, even years. Such practices have been condemned by the international community as breaching human rights standards with the ill treatment of refugees in Australia being clearly documented by the United Nations Human Rights Commission and the Human Rights and Equal Opportunity Commission (HEROC). Such international instruments demand that each person is afforded the highest attainable standard of physical and mental health available. To date, every independent inquiry into the immigration detention centres of Australia

have highlighted the poor mental health of detainees with particular emphasis on the risks to children's wellbeing.

Due to the varying circumstances in which refugee and asylum seekers arrive in Australia, it is possible that some people may be already experiencing early signs or have underlying psychosis of mental illness. Upon arrival in Australian detention centres, the crucial role for mental health workers, therefore, is to immediately identify those affected and susceptible to symptoms of mental illness and treat them accordingly. For those who, for the moment are unaffected, concern lies with the length of stay in detention before mental illness starts to settle in. Research has shown high rates of post-traumatic stress disorder, depression, anxiety and panic attacks, attempted suicides, and self-harm among detainees. A correlation has also been discovered between the lengths of time people stay in detention with the prevalence of mental illness. In other words, the longer people are held in detention, the worse the symptoms are, compounding on the already high levels of psychopathology in the detainees who have been persecuted, harassed, tortured and assaulted. Such evidence of the prevalence of mental illness are highlighted in the following clinical studies:

- (i) *The Victorian Foundation for Survivors of Torture (Parris Aristotle, personal communication, 16 November 2001)*
A file audit of clinical assessments undertaken with 46 Cambodian asylum seekers held within the Villawood and Port Hedland detention centres from late 1993 to mid 1994. Sixty two percent were found to meet diagnostic criteria for posttraumatic stress disorder with all of the detainees displaying clinically significant symptoms of depression. **The authors concluded that the length of detention was a major contributing factor to the level of symptoms displayed.**
- (ii) *Victorian Foundation for Survivors of Torture. The East Timorese: Clinical and social assessments of applicants for asylum. In: Silove D, Steel Z The Mental Health and Well-Being of On-Shore Asylum Seekers in Australia. Sydney: The University of New South Wales, Psychiatry Research & Teaching Unit, 1998 p23-27.*
A survey undertaken in mid - 1995 involved 17 East Timorese held at the Curtin Detention Centre in Victoria for one to three months. Levels of premigration trauma were substantial, including random and unprovoked harassment, torture and physical assaults, and being arrested and/or detained under harsh conditions. All 17 East Timorese were found to be suffering from PTSD, 94% were depressed and 65% suffered from severe anxiety.
- (iii) *Thompson M, McGorry P. Maribyrnong Detention Centre Tamil Survey. In: Silove D, Steel Z, editors. The mental health and well-being of on-shore asylum seekers in Australia. Sydney: University of New South Wales, Psychiatry Research & Teaching Unit, 1998: 27-31.*
A survey of 25 detained Tamil asylum seekers held at Maribyrnong Detention Centre during 1997 and 1998. Results indicated that those who detained exhibited a significantly higher level of depression, posttraumatic stress, anxiety, panic and physical symptoms, compared to Tamil asylum seekers residing in the community. **Statistical analysis indicated that the higher level of emotional distress was not accounted for by a higher level of exposure to pre-migration trauma.**
- (iv) *Sultan A, O'Sullivan K. Psychological disturbances in asylum seekers held in long term detention: a participant-observer account. Medical Journal of Australia, 2001; 175, 593-596.*
Qualitative study based on observations of participant-observer account of a detainee and a clinical psychologist working at Villawood IDC. The authors describe **a pattern of psychological reactions amongst immigration detainees held for long periods of time where each successive stage was found to be associated with increasing distress and psychopathology.** At the most extreme end of the spectrum of disability is the development of a psychological state characterized by severe depression, despair, hopelessness, paranoia, chronic rage, persecutory delusions, sub-syndromal psychosis, characterological change, stereotypic movements and persistent self harming behaviour. Observed that these

reactions have a marked secondary impact on their children in detention, including in a sample of 33 asylum seekers detained for over 9 months (average period of detention, 2.1 years) **all but one of the detained asylum seekers displayed symptoms of psychological distress** at some time during their period of detention. 85% had chronic depressive symptoms and 65% had pronounced ongoing suicidal ideation.

Ironically and quite sadly, after investigations conducted by Australian authorities, almost all refugees and asylum seekers are found to be genuinely seeking humanitarian relief and are granted temporary protection visas and eventually become permanent residents. In fact, an inquiry held by HREOC found that due to the immigration detention policy, 93% of 2,184 children detained were subsequently found to be genuine refugees and that the children failed to receive proper mental health care whilst in detention. Such evidence leads one to question why these people must endure sub-standard treatment only to find that they meet the requirements of entry into Australia according to our own laws anyway. Australia has thus carved out a reputation for being a first world country dispensing third world care.

To date, the Australian Government has done little to address the mental health crisis of detainees occurring within the walls of its detention centres. What little changes have been made in recent times have eventuated only after considerable damning media coverage of several spectacular bureaucratic bumbles and a back-bench revolt in Federal Parliament. The adverse media attention resulting from serious deficiencies in policy issues in detention centres left unaddressed revealed the illegal detention and/or deportation of Australian citizens.

Australia must cease and desist in breaching its obligations under international law and address the issues it has long swept under the rug. Just because Australia has passed its own domestic laws to justify its actions, does not absolve it from its accountability to international law. In fact, any country is in breach if it enacts domestic laws which are in direct contrast to provisions in international law.

With the view of assisting the drafting of appropriate policy concerning mental health care services provided to people in immigration detention centres, S A V E – Australia Inc forward the following submissions for consideration by the Senate Legal and Constitutional References Committee:

1. There is urgent need for standardised methods of assessment of the mental health of people affected by war and displacement who are detained in immigration detention centres in and around Australia.

The variability in assessment techniques of complex mental health problems has led to wide variations in estimates of the prevalence of refugee mental health disorders. As a result, there have been gross underestimations or overestimations of the real scale of the problems to suit the purposes of those involved.

There must also be a standardised method of assessing detainees when they first arrive at the detention centres to ascertain the existence any underlying or pre-existing mental illness with the view to immediately treating it and not to exacerbate it.

2. On-site and on-call Mental Health Workers must be comprehensively trained to address issues in the detention centres with cultural sensitivity and to provide culturally appropriate care and treatment.

Cultural issues are very important in understanding the way in which certain groups report and address mental health problems. The ability of a mental health worker to ask and learn about traditional healing methods could enhance doctor-client relationships and bring about more favourable outcomes for each party.

3. The use of an interpreter to communicate concerns on behalf of detainees must be used at all times.

The literal translation of detainee concerns is important in making a comprehensive mental health assessment of migrants and refugees and avoiding missing key signs of a mental health disorder.

4. A holistic approach must be taken when dealing with mental health issues, prompting consideration of environmental, social, emotional, education and housing concerns of detainees.

Families are important in all cultures and they are not generally consulted enough about the treatment of mental health needs of those who are suffering.

5. Due to the extensive research supporting the correlation between the length of stay in detention facilities and the onset or exacerbation of mental illness, it is proposed that extensive cross-departmental initiatives commence between the Department of Immigration and Multicultural Affairs and the Department of Health to address the relevant issues.

It would be better practice and more beneficial for us and them if our management of refugee mental fragility began earlier, systematically and removed from the artificiality of a detention centre, thereby allowing early commencement in the process of fruitful integration into the Australian way of life

6. Abolish Temporary Protection Visas (TPVs).

TPVs have a particularly detrimental result upon a refugee's mental health, mainly because of its lack of effectiveness to reunite families and requiring the refugee to live in limbo for years until a Permanent Protection Visa is granted. The Temporary Protection Visa Regime must be abolished and all affected people be recognised as refugees forthwith, regardless of their mode of arrival and granted a Permanent Protection Visa.

7. Re-education of misconceptions held by the Australian public and mental health workers about Refugees and Asylum Seekers being 'que-jumpers' not entitled to humanitarian assistance.

It must be communicated to the general public and mental health workers that under the provisions of the Universal Declaration of Human Rights, because of political persecution, war, famine or other human rights abuse, aggrieved persons are entitled to seek refuge in Australia. As signatories to various international conventions, Australia is ethically and legally bound to accept and humanely treat such persons and providing them with the highest attainable mental health services. Refugees and asylum seekers have the same human rights as any other person regardless of race, religion, gender, colour, age, language, political or other opinion, social origin, birth or other status.

8. With the view of highlighting DIMIA's transparency, accountability and integrity to the detainees and the general Australian public, it should employ its own specially trained staff to operate all Australian detention facilities and not contract such services to external providers. Such a practice would ensure that DIMIA would be accountable for any "administrative errors" which it could not simply attribute to the external service provider and escape responsibility.

9. Recent changes to the *Mandatory Detention Amendment Act* appears to have vested even more discretionary powers in the Minister for Immigration and Multicultural and Indigenous Affairs. Concern lies with the Minister abusing this power and perpetuating the "culture of denial and self-justification" as found in the Palmer Report. Furthermore, it is suggested that

such non-compellable discretion is an attempt made by the government to restrict judicial review.

10. Many of the needs outlined above may have already been identified and recognised in policy development but problems appear to arise in the implementation of policy at the practical level. Improved resources and administration of existing policies would go a long way to meeting the special settlement needs of humanitarian seekers and/or their families.
11. It is considered that this area of law is extremely complex. If DIMIA staff can mistakenly interpret and apply it, what more the general public. Perhaps the prevalence of incompetent compliance and implementation is a testament to how complex it really is. It is suggested that DIMIA review its legislation, including the *Migration Act* 1958, with the view of simplifying it, rendering it more practical, just and humane.

S A V E – Australia Inc are concerned that the mental health issues of refugees and other asylum seekers in detention are not being adequately addressed. Serious investigation and new policies and procedures need to be put in place to rectify the problems immediately. Notwithstanding that not all refugees who come to our shores will be granted refugee status, all have a right to be treated with humanity and respect for the inherent dignity of the human person during their stay here. While in detention, they have limited means of voicing their concerns and, therefore, are completely dependent on the Government's commitment to maintaining human rights standards. Australia can no longer be complacent regarding these issues and must be held accountable.