

Submission to the
National Inquiry into Children in
Immigration Detention



By

ASYLUM SEEKERS CENTRE

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INTRODUCTION

Australia's Immigration Detention Centres are contradictory to the human rights of the child. The Immigration Detention experience is extremely harmful to children and has effects of traumatisation and re-traumatisation during the Detention experience and continuing after release. Concerning alternatives to Detention, the present options are also not geared towards the best interest of the child. This submission puts forth ASC case material displaying the effects of Detention on children and also debates the success of the current alternatives to detention through the view of professional social workers employed at ASC. Through this submission the ASC wishes to highlight how human rights of children are being abused and neglected in Australia, a country that is signatory to the Human Rights Convention.

THE ASYLUM SEEKERS CENTER - WHO WE ARE

The Asylum Seekers Centre is a non-government, community based organisation set up to assist refugee applicants (asylum seekers) who are living in the community in Australia while waiting for the government to decide on their cases. The Centre functions as a house of hospitality and a service and referral base for asylum seekers. Three trained Social Workers, one Registered Nurse/Midwife and 16 English Teachers and other volunteers staff it.

OUR DATA BASE

In our first eight years of operation, we have assisted over 2,100 asylum seekers. Each month we currently interview approximately 20-25 new asylum seekers.

People who use our services may be accompanied by their children and in a few cases are children themselves (under 18 years of age). They fall into two categories:

ÿ *Those who have arrived in Australia with valid documentation.*

Most people in this category seen by the ASC have a **Bridging visa (BV)**. This allows residence in the community until refugee status is determined. This can take anywhere between 3 months to 3 years, but if refugee status is granted these people are given **permanent residency**. During the waiting period there is no entitlement to Centrelink benefits and adults and children are charged international student fees for any type of study. Depending on whether on not the application for refugee status was made before or after 45 days in Australia, the person may be allowed to earn an income from work and be covered by Medicare while waiting for the determination of their case. Those not allowed Medicare cover and permission to work are those who applied for refugee status more than 45 days after arrival.

ÿ *Those who have arrived in Australia without valid documentation.*

Those seen by the ASC in this category have been granted refugee status under a **785 Temporary Protection Visa (TPV)** after a **period in detention**. Only in very few, unique cases, this waiting period is spent living in the community. The TPV allows the person to live in the community for 3 years. At the end of this period their refugee case is re-accessed. They can access Special Benefit from Centrelink and Medicare. They have permission to work. Children can go to school, however adults cannot study without paying international student fees.

In both categories there is **no right to family reunion** with spouses and children outside Australia.

Comments on the experience of children in this submission are generally made on the basis of standard case records and the professional opinions of the social workers involved with families. However, in preparation for this submission three families were specifically re-interviewed regarding the time their children spent in Immigration Detention Centres. The families were chosen because they had been in recent contact with the ASC and had a number of children. They were asked a series of questions concerning the environment and services of the Detention Centres in which they lived, how it affected their children and whether the experience continues to affect them. In total these families contained 10 children: girls aged 2,10,11,12,15,15 and 16; boys aged 8,10 and 18. Most were one year younger at the time they were in detention.

FOCUS OF THIS SUBMISSION

This submission has two sections:

- A. The detention experience for children**
- B. Alternatives to detention**

In each area it will be particularly concerned with:

How are the "best interests of the child" considered

Health and nutrition

Psychological and social well-being

Because the ASC is primarily concerned with asylum seekers in the community, the emphasis is on alternatives to detention for children (**Terms of Reference 2**) and the adequacy of the present system for child asylum seekers and refugees residing in the community after a period of detention (**Terms of Reference 3 and 6**).

A. THE DETENTION EXPERIENCE FOR CHILDREN

This section is based on the interviews with three families included in Appendix A.

Consideration of the best interests of the child.

It is self evident in the material below on psychological and social wellbeing that if the primary consideration were the best interests of the child, none of the children in these interviews would have been placed in detention. They were there because the primary consideration was the detention of their parents. Even so, Case Study 1 (C1) shows that where it was possible to detain a woman and children in geographic proximity to the children's father, the authorities choose not to act on this consideration. They detained a mother and three daughters at Woomera where it was impossible for their father to visit to support his wife or help the children. This was the cause of marked additional trauma for the family.

Psychological and Social Wellbeing

Post-detention, continuing psychological disturbance. This is described by two of the three families. In one family (C2) children aged 2, 8,10 and 11 continue to suffer nightmares and fear of going to sleep attributed to their traumatisation during 10 months in Woomera. In another, an 18-year-old high school student (C3) says he is still depressed, angry and fearful post detention. He is afraid of repercussions if he speaks out about his experience. In the third family, the parents are anxious about long term effects but do not report current stress symptoms.

Exposure to violence, suicide, riots. All the children were exposed to extraordinary adult suffering and violence in the detention centre. In C1 we have a picture of a mother and three young girls cowering in their bedroom while a riot, set off by the suicide of one detainee, runs unchecked outside – the guards having left the premises. In C2 we have four young children reported as seeing a man stab himself, another self mutilating, others on hunger strike or threatening to jump from roofs or drink detergent. They were in Woomera during riots and fires. In C3 we have a picture of an 18-year-old high-school student, physically underdeveloped, locked in Stage One at Villawood with people he recognized were *going crazy*. At the same time he was without adequate medical help for his father who was having panic attacks needing oxygen. As the mother in C1 said, these experiences *just prolonged the horrible feeling they were fleeing from to begin with*.

Agitation/boredom/inability to learn. All the families said that their children were not really able to take advantage of whatever education was on offer. Their psychological state affected their ability to learn. Boredom was also mentioned by all families as a debilitating state brought on by the detention experience.

Health

Unhealthy environment. All families mentioned this. The general experience was of over crowding, dirty bathrooms and toilets and considerable fear that they would catch diseases while in detention because many adults had diseases. There is no indication of special facilities for children which might protect them from exposure to these risks.

Health care - physical and psychological. One of the first experiences of detention was having health checks. Neither of the families in C1 or C2 received any information on the results of these checks. These families reported that their children were very frequently sick. They had common experiences in waiting in long queues for the doctor and finding that the available treatment was advice to drink water and take Panadol. Doctors frequently viewed the children's condition as psychological in origin. However, these families reported virtually no help of a supportive nature to help them with parenting young, stressed children either in the detention environment or after that experience.

The lack of availability of psychological help is particularly marked in C3. In that case in Stage One at Villawood, an 18-year-old high school student and his brother aged 20 were trying to care for a father in a very distressed psychological state with panic attacks requiring oxygen. *We asked to see a psychologist every day. It took eleven days before we were able to see one*, the interviewer was told. That this situation was acute seems confirmed by the fact that the three were released within 48 hours of the psychological assessment. Why did it take so long to be seen by a professional?

B. ALTERNATIVES TO DETENTION

Best Interests of the Child under BV and TPV

Both the Bridging Visa (BV) and the 785 Temporary Protection Visa (TPV) may be seen as alternatives to detention in the sense that they involve waiting periods while full refugee status is determined. During this waiting period, Australian Government policy denies parents and their children the normal benefits of permanent residence in Australia and it denies the right to family reunion of spouses and children.

This submission argues that many of the restrictions placed on parents with children on **BVs or TPVs are against the best interests of the children** concerned. Such restrictions should not form part of alternatives to detention which may be proposed by the HREOC Inquiry.

Health and Nutrition

For all parents with children on BVs there is **no safety net to ensure that children have adequate nutrition and health care** if the parents use up their available funds and/ or are unemployed. This is because they all have no access to Centrelink benefits. For those who applied for refugee status more than 45 days after their arrival in Australia, a situation of more extreme financial hardship is highly likely to occur because, in addition, they have no permission to work and no right to Medicare benefits.

Two cases from the ASC records illustrate the danger to children.

- *Case 1.* This is a family on BV and consequently without the right to Centrelink benefits. The father did not have permission to work due to late application for refugee status and the pregnant mother was unemployed and looking for work. (She had only recently been granted permission to work.) The ASC organised a home visit by a volunteer. On the first visit there was no food in the house at all, so that the children had to go to school without lunch. The ASC visitor purchased food for the family, with the comment that “if this was a normal family with permanent residence, this type of thing would be considered neglect by DOCS.”
- *Case 2.* This family consists of with a young mother with four children less than 12 years of age. The father did not have permission to work due to late application for refugee status. He breached this BV condition, was found out, and punished by detention. Mother and children are living in a tiny room in the house of an acquaintance, with no income and no support.

Families who are unable to feed their children adequately are clearly likely to have additional health problems among their children. When they have the kind of BV which prevents them accessing Medicare, it is clear that the children are at additional risk.

Poor living standards, which arise from BV restrictions , can also cause health issues. Without adequate income for rent many families known to the ASC live sleeping together squashed into a single bedroom at a friend's house. Often children sleep on the floor because their parents cannot afford to purchase beds.

Children on BVs do not have an adequate safety net to ensure that they have adequate nutrition and health care. A response to this situation cobbled together by voluntary NGO emergency food and medical assistance is clearly inadequate. Moreover, the voluntary charitable organisations are overstretched and asylum seekers are not always aware of this source of help.

Education

The Barrier of Fees. Children on BV have to pay international school fees, \$4,000 per child, per year. They can apply for an exemption of fees; however, the process is somewhat confusing and can be very time consuming. The main problem is that the majority of parents do not know there is this option. They approach the school, are told the amount they must pay and leave, extremely stressed because they cannot afford it. The Centre has seen children who have been without schooling due to this problem for over 10 months. When children are enrolled in school, often parents cannot afford to pay for uniforms, shoes and books.

Fees are also a barrier to many families in accessing good childcare so that a parent can work. In many cases children are being left alone or with inappropriate carers because there is no other option for the parents. Children miss out of school often because of this.

Inability to learn. Parents in inadequate housing, with children sleeping on the floor in overcrowded rooms, without sufficient income to feed children adequately, tell us that their children are unable to concentrate at school. This seems highly likely.

Acceptance at school. Children of asylum seeker parents can feel unaccepted at school. Sometimes this arises because parents cannot afford to pay for uniforms, shoes and books. Children may also feel stigmatised because of the attitude to the Australia public to asylum seekers and those who have been in detention. An example of this is the concern of the 18-year-old in C3 above.

Psychological and Social Wellbeing

Stress from the Parent's situation. Asylum seeker and refugee parents have multiple sources of stress. Nearly always there is the pre-flight background of fear and trauma (sometimes torture and almost always major personal loss) which continues to affect psychological wellbeing. Such traumas may have been exacerbated by the experience of flight and detention in Australia. Access to the overstretched, post trauma counseling services of organizations like STARTTS is also limited. There are further difficulties in learning a new language, adjusting to a new culture and often losses related to the non-transferability of previous employment and professional skills to Australia. In addition, there are stresses which arise directly from the conditions of BVs and TPVs. Holders of

such visas exist in a state of limbo and insecurity about their future in Australia, exacerbated in many cases by financial, employment, re-education and housing difficulties.

Children of Asylum seeker and refugee parents are almost inevitable likely to suffer from the stress and difficulties of their parents. Some of the stresses on children, however, could be avoided if the Australian Visa conditions were framed with the interests of the child in mind. Particular causes of stress in the experience of the ASC are:

Separation from family. This occurs when one parent is in detention and the remainder of the family is in the community. It also occurs as a result of the embargo on family reunion entry to Australia for holders of BVs and TPVs. Of particular concern are situations in which the Immigration Department chooses to separate families after they have come to Australia. The ASC is aware of this happening in a number of its cases. The example above of the detention of a father on a BV because he had worked, is a typical case. In this case the mother reported that her four young *children cried all the time*. Another case is that reported here in Part A (C1).

Stress from poverty. The negative effects of the poverty of many parents on BVs have been discussed under health and education above. It is also true that some children are additionally stressed by awareness of their parent's stress or by the effects of the parents anxious stressed behavior on all their family relationships

Inappropriate responsibilities placed on children because of the poverty of parents. The ASC is aware of children being left alone or in the care of other relatively young children because the parent cannot afford childcare and the family will starve unless the parent works. Children miss school for this reason also.

Children are used inappropriately as interpreters. A caseworker at the ASC sees a family where the mother uses 10-year-old boy to interpret at medical appointments where the subject matter can be quite disturbing for him. However, the mother sees no other option available to her. The boy has missed out on school in order to attend appointments with mother.

Stigma in the community. To the extent that this is exacerbated by the Governments policy is an avoidable cause of psychological stress in children.

CONCLUSION

Best interests of the child. This submission has produced case material from a small sample of cases to demonstrate parents' reasonable concerns about the deleterious effects of detention on the psychological and social wellbeing of their children. It also argues that in the view of the ASC's professional social workers the best interests of children cannot be served by the life style imposed under the current system of BVs and TPVs. In any recommendations about alternatives to detention the identified harmful consequences to children of life under these visas should be avoided.

Health and nutrition. There are reasonable concerns of parents for the health of their children while in detention. The risks to nutrition and health care post-detention are a direct reflection of the conditions under which parents on BVs live. The basic right to support one's children by employment, as well as the safety net of Medicare, is denied to asylum seekers who enter Australia legally but do not ask for refugee status within 45 days. Even those who do act more expeditiously are also denied access to the Centrelink safety net. The ASC has experience of the deleterious effects of this form of poverty and insecurity on children and advocates that such conditions are not replicated in any alternatives to detention, which may be recommended by HREOC.

Psychological and social well being. This is an area of extreme and reasonable concern for parents of children in detention exposed to trauma, suffering, violence, suicide, and riots. It manifests itself in post detention psychological disturbance in children. The insecurity and extreme financial hardship of some parents, especially on BVs, is also likely to affect the psychological wellbeing and social and educational development of children. Again the ASC advocates that such conditions are not replicated in any alternatives to detention, which may be recommended by HREOC.