



St Vincent de Paul Society
NATIONAL COUNCIL *good works*

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***Contribution to the public hearing on the Parliamentary Joint
Committee on Human Rights examination of the Migration
(Regional Processing) package of legislation***

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Background

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 148 countries around the world. In Australia, we operate in every state and territory, with more than 50,000 members and volunteers committed to our work of social assistance and social justice. The National Council is charged with representing the Society on a national basis, and in particular in the area of advocacy. The Society is accountable to the people in our community who are marginalised by structures of exclusion and injustice.

The Society has a strong history of working with migrants and refugees. Catholic social teaching places a special onus on us to help people who have fled their homeland due to war, persecution, injustice or intolerance, and are now seeking asylum on our doorstep. To that end, the Society operates a migrant and refugee service in each State and Territory in Australia, which assists with everything from helping refugees lodge appeals against adverse decisions, to providing living support for those newly in our community, to providing refugees the opportunity to enhance their work-experience by volunteering with the Society. We also run a national Vincentian Refugee Network, and coordinate visits to immigration detention facilities, for example Villawood. Through these experiences, our volunteers have witnessed first-hand many of the daily struggles that asylum seekers and refugees in detention and in our community face, as well as hearing their stories of persecution in their homeland, and we consider it a privilege to assist, and stand in solidarity with, these brave and often remarkable people.

In conducting the current examination into the Migration (Regional Processing) package of legislation, the Parliamentary Joint Committee on Human Rights has requested that stakeholders provide evidence on the human rights implications of this package of legislation.

The Legal Question

As a preliminary point, the Society is pleased to note the Committee's mention of economic and social rights (Articles 6 and 12 of the *International Covenant on Economic and Social Rights*); we believe that Australia's compliance with these second generation rights requires scrutiny.

Regarding the legal human rights implications of the package of legislation, the Society notes the authoritative weight of opinion and evidence suggesting that parts of Australia's system of immigration detention are contrary to international human rights conventions by which Australia is bound.

For example, Australia's Human Rights Commission has suggested that our system is in breach of obligations under various Articles of the *Convention on the Rights of the Child*, and the *International Covenant on Civil and Political Rights*.¹ Other reports from the Commission have suggested probable breaches of the *Refugees Convention* as well.²

The Society anticipates that the Committee will hear evidence and argument from leading human rights experts on these matters, and so we will not go further into the legal arguments at this time. However, we would be more than happy to provide written legal argument if it would

¹ Australian Human Rights Commission, *Immigration Detention on Christmas Island – Report* (December 2012) (at humanrights.gov.au/human_rights/immigration/idc2012_christmasisland.html#fnB2).

² Australian Human Rights Commission, *Human Rights Issues raised by the Transfer of Asylum Seekers to Third Countries* (December 2012) (at humanrights.gov.au/human_rights/immigration/transfer_third_countries.html#Heading196).

be helpful, or to direct the Committee to sources or legal argument that the Society has found useful.

The Practical Question

The human rights implications of this package of legislation go further than raising questions as to whether Australia's legislative (and policy) framework meets the technical, legal requirements of our international obligations.

In our view, the most pressing human rights implication of this package of legislation, simply put, is that it is causing human suffering: physical and psychological suffering. This suffering creates a *moral imperative* to oppose mandatory indefinite immigration detention; an imperative that stands above and beyond technical legal compliance.

The evidence that immigration detention causes severe suffering, specifically with regards to mental health issues, is overwhelming.³ Of those asylum seekers in detention, 86% have been found to suffer clinically significant symptoms of depression, and in varying proportions other mental illnesses as well.⁴ Evidence clearly indicates that these symptoms are not only due to pre-detention trauma, but to the specific stressors that people experience through immigration detention itself, including loss of liberty, uncertainty regarding return to country of origin, social isolation, abuse from staff, riots, forceful removal, hunger strikes and self-harm.⁵

This suffering has been noted by experts,⁶ and is also witnessed by our volunteers, when they visit detainees. We also see the physical suffering caused by inadequate medical services.

Here are just a few of the stories that our volunteers have witnessed directly. Please note that these are stories of people who are detained within the Australian mainland, rather than offshore. However, we believe that their stories are relevant as examples of the suffering by detainees everywhere.

The rights of children, and the rights of persons with disabilities

Until very recently, we were involved in the case of a mother with two daughters who both have cerebral palsy. The mother received utterly inadequate support in caring for her daughters. For example,

- Serco staff refused to help the girls in and out of buses, saying that it is not their job;
- A lack of suitable food for the girls (who have difficulties chewing);
- A lack of suitable play equipment for the girls;
- much less physiotherapy than the girls require;

³ See, for example, Steel et al, "Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia" *Australian and New Zealand Journal of Public Health* (2004) 28(6) 527 – 36 (at ncbi.nlm.nih.gov/pubmed/15707201); Green and Eager, "The health of people in Australian immigration detention centres" *Medical Journal of Australia* 192(2) 65–70; Australian Human Rights Commission, *Immigration Detention at Curtin* at 31 (at hreoc.gov.au/human_rights/immigration/idc2011_curtin.pdf).

⁴ See, for example, Joint Select Committee on Australia's Immigration Detention Network, *Final Report* (2012) 104 (at aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=immigration_detention_ctte/immigration_detention/report/report.pdf). See also views of Professor Newman cited in Bereton and Bacon, "Nauru's 'Explosive' Situation" *New Matilda* (30 November 2012) (at newmatilda.com/2012/11/30/expert-condemns-nauru).

⁵ See for example Robjant et al, "Mental health implications of detaining asylum seekers: systematic review" *British Journal of Psychiatry* (2009) 194(4) 306–12 (at ncbi.nlm.nih.gov/pubmed/19336779).

⁶ See, for example, a recent article by Professor Louise Newman, "Policy déjà vu will have a devastating effect on asylum seeker mental health" *The Conversation* (12 December 2012) (at theconversation.edu.au/policy-d-j-vu-will-have-a-devastating-effect-on-asylum-seeker-mental-health-11284).

- inadequate wheelchairs (they were provided with non-supportive high chairs. This deficit has resulted in ongoing pain for one of the girls); and
- constant threats that the family would be sent to Nauru or Manus Island.

The care provided to the girls in detention was less than they were receiving in the country that they had to flee due to religious persecution. This low level of care led to a rapid deterioration in detention of the conditions of both girls. We can only imagine how hard it must have been for their mother, already in an impossible situation, to see her daughters suffering like this, and be powerless to help them.

This story aired on Lateline on 21 November, after which DIAC issued a response which – in our view – attempted to blame-shift to the parents of children with disabilities, and did not recognize the complex needs of these children.

Note: After significant community advocacy, we have been told that the family was to be let out of detention on 12 December.

Insufficient medical support

Since early October, several of our volunteers were very concerned about an Iranian man in detention, who had previously suffered extensive and extreme physical and psychological trauma as a result of terrible torture in his home country. We do not know the full extent of the torture, but it included severe beatings and electrocution.

Our volunteers have witnessed ongoing suffering physical suffering in this man, and believe unless he receives urgent and expert medical care his rehabilitation will be severely affected. His suffering is caused by:

- a broken back;
- deep scarring to hips and groin area, both legs, his torso and particular to his left arm;
- major nerve damage to his writing hand and fingers, which have lost almost all feeling, and has also started to atrophy: there is no strength and very little movement in the hand or fingers; and
- chronic pain.

Although requested from International Health and Medical Services (contracted to provide medical care to asylum seekers in detention), we haven't received concrete information about the medical care this man was receiving while in detention, on confidentiality grounds. We had been told that "referrals" were being made, but there has been no evidence that this man has received the expert medical help that he requires. In fact, we have been told that, when an appointment to see a surgeon *was* finally made, it was cancelled by a Serco employee on the day of the appointment (although we are unsure of the reason for this).

In addition to these physical problems, this man suffers severe psychological disturbance, including insomnia and inability to eat. He has been seen by as many as seven counsellors within a one month period, and has indicated that he no longer wished to keep repeating his story. Inconsistency in mental health care is a problem we have seen over and over again in immigration detention.

Discrimination

Our volunteers have met an Hazara man in immigration detention, who had been a high school level English teacher. Back in Afghanistan, some NATO soldiers (he states they were Australian) had asked him to be an interpreter, and he had refused. But merely because the

NATO soldiers had approached him, the Taliban attempted to murder this man with a grenade attack. The man suffered major trauma to both legs.

Once in Australia, the young DIAC person interviewing the Hazara man about his refugee status told him he was not an Hazara, because he did not look like one and spoke English too well. This is not only an inaccurate racial generalisation, but was highly insensitive, and severely hurt and damaged this young man. He became acutely depressed. Although this injustice has now been righted, the toll on the man was enormous.

Inadequate response to mental health issues

As outlined above, the mental health toll on asylum seekers locked in detention is unconscionable. Our volunteers have witnessed much depression, and even suicide attempts, first hand. The suicide attempt rate for men in detention is 41 times higher than the national average.⁷

One of our volunteers knew an Hazara man with severe depression who was in detention. In an attempt to end his own life, this man drank an entire bottle of shampoo, and then climbed on the roof of a building and lay in the hot Darwin sun waiting to die.

DIAC's policy at the time was that no one could take water up to someone on a roof: they had to climb down. The man remained on the roof, with no one able to take him water. It was incredibly distressing to witness, including for the Serco service officers, with one male officer crying. After contacting some advocates, our volunteer finally convinced DIAC to allow some other Hazara men to go up onto the roof, and provide the man with food and water.

While DIAC's policy on providing water to people on roofs has apparently changed since this event, this story is emblematic of how the current system of immigration detention is a cause of severe mental anguish, and how the system is often unable to respond appropriately to that suffering.

Insufficient staff training

Some of the stories above point to an insufficiency in the training provided to both Serco and DIAC staff in dealing with asylum seekers in detention. People in detention regularly tell us of the frequently conflicting information they receive from different officers, some of it misleading, a lack of transparency in decision-making processes, with little information given about decisions regarding people's futures, and the arbitrariness of decisions, where people in identical situations receive information about protection visas months, or even years, apart. We have also witnessed how the public information from DIAC and Serco is diametrically opposed to what we see when we visit detention centres.

⁷ Joint Select Committee on Australia's Immigration Detention Network, above n 4.

Conclusion

We hope that by sharing these stories we have added a slightly different perspective to the debate.

While we believe that other organisations may be better placed to answer questions about whether the current system complies with human rights standards, or to provide statistics and facts about the operation of detention centres, we are very happy to provide the Committee with any further information that might be helpful.

Dr John Falzon
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