Committee Secretary
Joint Select Committee on Australia's Immigration Detention Network
Parliament House
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Refugee Action Collective (Vic)

The Refugee Action Collective (RAC) provides this submission to the *Joint Select Committee on Australia's Immigration Detention Network*, in order to highlight the need for dramatic reform to Australia's immigration system.

Our organisation

Established in 2000, RAC is a democratic, grassroots activist collective representing a broad cross-section of the community. RAC focuses particular attention on the plight of people held in immigration detention and advocates strongly and unequivocally for an end to mandatory immigration detention.

It is RAC's view that mandatory detention violates basic human rights and contravenes not only the Universal Declaration of Human Rights, but the 1951 Refugee Convention, the UN Convention on the Rights of the Child and the Convention Against Torture and Other Cruel and Degrading Treatment or Punishment.

How RAC works with refugees

RAC members work closely with people detained throughout Australia in order to advocate for an end to mandatory immigration detention. Where possible, RAC members regularly visit and form lasting social and political relationships with refugees. In addition, refugees who have been released from detention currently participate in RAC activities and actions and provide first-hand information to our members about their experience of seeking asylum in Australia. This direct experience provides RAC with a unique insight into the conditions in which asylum seekers are held and the process of seeking asylum in Australia.

RAC intends to focus its submission on the following points:

- The need to reform the current immigration network
- The impact of long periods of detention, and the appropriateness of facilities and services for asylum seekers
- The resources, support and training for employees of Commonwealth agencies and/or their agents or contractors in performing their duties
- The impact of detention on children and families, and viable alternatives
- Processes for assessment of protection claims made by irregular maritime arrivals and other persons, and the impact on the detention network

- The health, safety and wellbeing of asylum seekers, especially children in detention
- The reasons for and nature of riots and disturbances in immigration detention.

It is important to note that we give particular attention in this submission to the impact of detention on children, especially unaccompanied minors. This is a particularly vulnerable group who have had very little opportunity to explain what has happened to them under Australia's current refugee policy. Many children and young people spoke directly to RAC members about their experiences, with the hope and expectation that their concerns would be treated with the gravity they deserve and need. Their direct comments are provided as part of this submission.

1. The need to reform the current immigration detention network

The Refugee Action Collective believes that Australia's current immigration network requires fundamental change. Only significant reform can ameliorate the damage immigration detention causes to people who seek asylum in Australia. Only significant change can ensure that refugees who need protection are subject to a determination system which treats their claims seriously and justly. Only significant change can restore Australia's reputation in the world as a defender of human rights.

RAC believes that change needs to occur in the following areas:

- Mandatory detention should be abandoned
- Refugees should not be held in any form of custody, including community detention or immigration transit accommodation, while their claims are assessed
- Offshore processing of asylum seekers should end
- Refugees should live freely in the community while their asylum claims are established, with full work and study rights
- All refugees should go through the same refugee processing system, regardless of their mode of arrival in Australia
- The processing system for refugee claims should be fair, open and transparent, and all asylum seekers should have the right to have decisions reviewed through the court system
- Refugee processing should be undertaken by a body *completely* independent of government
- Refugees should not be deported to places where they face persecution or danger.

Under international conventions ratified by Australia, it is not illegal for people to arrive in Australia and seek asylum.

The UN Human Rights Committee has consistently found immigration detention breaches human rights.

The system of mandatory detention is punitive as there is absolutely no reason to detain people for extended periods of time. These people are being punished by the Australian government for exercising their legal right to seek asylum.

2. The impact of length of detention and the appropriateness of facilities and services for asylum seekers

It has been well documented that extended periods of detention have a detrimental effect on the mental health and wellbeing of refugees. This has been exacerbated by the physical conditions in which detained people are held, often in isolated detention facilities. According to the Australian Government's own published information, the majority of people locked up for seeking asylum are found to be refugees and allowed to resettle here[i]. It is unclear what purpose is

served by subjecting these people to long-term detention prior to their inevitable acceptance.

In 2008 the current Labor Government introduced its 'new directions policy', a list of 'values' which were to guide immigration policy. The goal was to make the immigration detention system 'fairer and more humane'. At the time, the government was also seeking to distance itself from some of the more extreme consequences of Howard government policy – in particular, long-term, arbitrary detention, mental illness, dramatic protest action (involving self-harm and hunger strikes) and suicide.

However, the Labor party has consistently ignored its own 'detention values' and has entrenched mandatory immigration detention, including lengthy periods of detention.

One of the Labor government's 'values' states that 'detention that is indefinite or otherwise arbitrary is not acceptable'. Yet according to DIAC's own statistics, up to 2,713 people being held in detention in May 2011 had been incarcerated for between 6 and 12 months; 1,652 people for 18 months; 146 for two years and 29 people for longer than two years[ii]. RAC understands that some people have been held in detention for up to 4 ½ years[iii]. It is disturbing to note that in Australia the longest a person has been detained is seven years, while stretches of three, four and five years have been all too common.[iv] This is not a situation Australia should be aiming to repeat.

While long-term immigration detention is subject to review every six months by the Ombudsman, the Minister has no obligation to accept the Ombudsman's recommendations. As so many people continue to be detained for long periods of time, it is clear that this system of review is ineffective.

RAC spoke to ten children at the Melbourne Immigration Transit Centre (MITA) in August 2011. No child seemed aware that their detention had been subject to review at 6 months. One child, detained for 10 months, said the following:

I don't know anything about review. I have never heard this word 'ombudsman'.

The Department should release public information about these reviews and the reasons why people continue to be detained for prolonged periods of time. DIAC states that people are detained for 'the management of health, identity and security risks to the community[v].' As this is done on behalf of the Australian community, the public should be made aware, in detail, of why the government believes these 6,729 detained people pose a health, identity or security risk to the Australian community.

It is RAC's view that keeping people in detention for extended periods is unjust and contravenes a range of treaties which the government has voluntarily signed. Article 3 of the Universal Declaration of Human Rights states that 'No-one shall be subjected to arbitrary arrest, detention or exile.'

Australians are currently witnessing a catastrophic recurrence of suicides, attempted suicide, self- harm and hunger strikes in Australian detention centres caused by

prolonged detention and the uncertainty and sense of injustice people feel about the way their refugee claims have been assessed. According to the Commonwealth Ombudsman, Allan Asher, there were 30 incidents of self-harm or attempted suicide in the one week he spent on Christmas Island in June 2011[vi]. According to information provided to RAC, there were also 5 suicides in the months leading up to March 2011. Two 20 year old men committed suicide in March this year and another three men killed themselves in Villawood between September and December 2010[vii].

Despite this high incidence of deaths in custody and self-harm incidents, there has still been no change to the system that has driven people to such desperate measures. The impact of long-term detention has a demonstrable and long-lasting negative effect on mental health. The impacts include Post Traumatic Stress, suicidal ideation, self-harm, anxiety and sleep disorders. There is clear evidence that the extended periods of detention and the facilities and services for asylum seekers are inappropriate and ineffective, and that they result in death, serious harm and mental illnesses.

RAC calls for urgent reform to prevent more deaths, attempted suicides, self-harm and mental distress in Australian immigration detention facilities.

The appropriateness of facilities and services in immigration detention

RAC believes it is inappropriate to keep asylum seekers in isolated detention centres. These centres keep asylum seekers separate from the Australian community and give the impression that asylum seekers are dangerous. However, the isolation also plays the dual role of keeping asylum seekers away from important facilities and services. Asylum seekers located in metropolitan areas can gain much better access to legal representation, advocacy, health services and community support from visitors.

The Human Rights Commission, in a number of reports, has indicated that there is inadequate medical care, psychiatric support, schooling, legal assistance and communication facilities provided to people in remote detention centres. They have also discussed the problems of overcrowding, poor access to bathrooms and toilets and the mental effect of housing people in physically harsh and remote locations[viii]. A lack of transparency and independent regulation are also features of these centres.

It is RAC's view that asylum seeker claims need to be processed quickly, fairly, and transparently. While being processed, all asylum seekers need to be provided with effective services including legal representation, translators, and the same level of medical care provided to Australian citizens.

3. The resources, support and training for employees of Commonwealth agencies and/or their agents or contractors in performing their duties

Asylum seekers are imprisoned in an extremely stressful situation, and the staff inside the detention centres are not trained appropriately to handle situations relating to self-harm, or provided with appropriate cultural training. Former SERCO staff have repeatedly claimed that the company provides little or no training to its staff to prepare them for the situations of intense mental trauma they are asked to supervise.[ix] It is also of concern that SERCO employees with a background in prisons for criminals form part of the staffing profile of immigration detention facilities, which are supposedly for administrative detention, not criminal punishment.

4. Impact of detention on children and families, and viable alternatives

Are children kept in detention centres?

The term 'detention', as defined by *The Macquarie Dictionary*, means 'to keep under restraint or in custody'.

Factsheet 82[x] on the Department of Immigration (DIAC) website states that 'It is government policy that children *will not* be held in immigration detention.' This fact sheet also states that children will be housed only 'on occasion' in low-security facilities. These low-security facilities are not defined by the Department of Immigration as detention centres.

A number of RAC members regularly visit the Melbourne Immigration Transit Accommodation (MITA) centre in Broadmeadows, which houses people under 18 who have arrived in Australia without parents or guardians. (These children are referred to as 'unaccompanied minors'.) This centre is not defined by DIAC as a detention facility, even though the inmates are locked up inside and are unable to come and go as they please.

RAC believes that DIAC should provide truthful, accurate information about the conditions in which minors in Australian detention centres are held. Currently, members of the public who read the DIAC site would gain the impression that Australia does not detain children. This is undeniably misleading and untrue.

RAC member Kristalo Hrysicos is a regular visitor to MITA. She reports the following:

The first point to note is that MITA is without a doubt a detention centre. The boys are locked up inside. They are not able to come and go. Their freedom has been removed. The word 'transit' is somewhat deceiving as it suggests the children are going somewhere. The boys I have been visiting have been locked up from anywhere up to 12 months since their detention in Australia started at Christmas Island.

It is clear that the majority of children held at MITA are not housed only 'on occasion' in low-security facilities but on a long-term and indefinite basis. As of August 1, there are approximately 50 young, unaccompanied minors imprisoned at MITA. Of the teenagers Kristalo Hrysicos spoke to, the majority had been held from between 4 to 12 months in a range of detention facilities.

It is clear that some children have also been held in 'mainstream' detention centres. One child Kristalo Hrysicos interviewed, who at the time of writing had been detained for 11 months, had been held in two 'mainstream' facilities, Maribyrnong Detention Centre and Darwin Detention Centre, after involvement in protest action. All of this contradicts DIAC's claims that children 'will not be held in immigration detention.'

Impact of imprisonment on children

Kristalo Hrysicos has made the following observations after visiting MITA on a regular basis for the past six months:

From a visitor's perspective, my general impression of the centre can only be described as woeful. Immediately you witness the forlorn looks on the boys' faces, their tiredness, their paleness. Many do not eat, they are on medications of various sorts, and generally do not sleep. There are a multitude of physical health problems as well as an overwhelming situation of mental and emotional health issues. Many boys have resorted to self- harm and fallen into deep depression.

Some of the stories and experiences of children detained at MITA highlight this. These accounts have been compiled by Kristalo Hrysicos. Many have been written via messages on Facebook, a networking tool which has allowed the boys to express themselves and to give RAC an indication of life inside detention centres.

Child 1: *We are locked up like lions in a cage. I am oppressed in here, how sorrowful it is inside. I can't express the burden.*

Child 2: *How can they say it isn't a prison? I can't go out. There is random searches of rooms. There is no control over life. I can't sleep. It is Ramadan and we are given three days old, off, stinking food. I asked them, look at this food. Is this fair to eat? I was told this is what it is. You eat or you don't. So I did not eat. We have been treated like dogs.*

The following message was written by a 17-year old Hazara boy from Afghanistan who has been locked up for four months. It is written exactly as he wrote it in a message to RAC before a rally outside MITA on July 9, 2011.

Child 3: *IT IS NOT FAIR. I AM A HUMAN, WHO NEEDS FREEDOM. I feel I am depressed and extremely anxious and am losing my confidence and talent and every positive thing one can be happy for having! How you can reflect my pain and sorrow, you only need to imagine yourself in a cage, seeing people around you walking freely and cheerfully…I can't express my feelings, it is such a burden.*

Hope to see you outside the cage!
Thanks for writing
Good luck

Self-harm amongst children in immigration detention

RAC is extremely concerned about incidents involving children harming themselves in immigration detention. In 2004, the Australian Human Rights Commission released a definitive report on the mental health effects of immigration detention on children. *A last resort? National Inquiry into children in immigration detention* found that children detained for extended periods of time suffered significant mental health problems. These were the result of children witnessing violence and distress, being confined in a closed detention environment and the 'uncertainty surrounding visa applications.'

The report stressed that:

… the detention environment made it virtually impossible to meet the mental health needs of children…This was because the source of many of the problems was the detention environment itself.

Seven long years have passed since this report was released and very little has changed. Children continue to be detained and to suffer serious health effects as a consequence. RAC believes that the only solution is to remove children from any form of locked or guarded facility.

Kristalo Hrysicos has compiled further stories from a number of boys she regularly visits at MITA. These clearly indicate the level of distress these children are currently experiencing.

Child 4: *I woke up and could not sleep…I am afraid to sleep because of the nightmares. An officer saw me, I could not speak, I was so scared and angry and I told them there was nothing wrong, but they could see there was. So he took me to the office, I was shaking outside, I felt sick. He asked me what was wrong and I told him I couldn't be in the camp anymore, that I was scared, that I was thinking about my mum back in Quetta…there had been an ethnic cleansing shooting of Hazara people just a few days before and it was near my family's house.*

He told me not to worry. I was so angry and I had to swallow my words. He said the government was still doing security checks on me, that's why it was taking so long….how insulting, I am not a bad person. Then he said you should take this sleeping pill and I didn't want to. I am fasting, it is Ramadan. Anyway, I took it and it made me sick...I am sad, I have never taken a sleeping pill before. I don't know what to do. I know I am so depressed. But I do not want to take the pills.

Kristalo Hrysicos has also witnessed some of the physical injuries children have inflicted upon themselves at MITA:

On one occasion a boy I regularly visit was very distressed and angry. When I asked him what was wrong he said he had bashed himself against the wall because he was frustrated at being inside for so long…he had cut his arms with a knife as well. His body was badly bruised. Two other boys had smashed windows out of frustration.

Ability of detention staff and DIAC to effectively handle distressed and mentally ill children

RAC believes that detention staff and DIAC are unable to effectively deal with the mental distress suffered by children and young people in detention. Often extreme forms of protest action, which can involve some form of physical harm or injury, are dealt with by SERCO and DIAC as issues of 'law and order', rather than as symptomatic of unjust treatment.

A prime example of this is the treatment of a boy who staged a tree-top protest at MITA in March 2011. He climbed a 5 metre tree and refused to come down for 8 hours.[xi] This child was subsequently transferred to two adult detention centres, contrary to the stated policy position of the government. Visitors believe he was moved as punishment for his protest action. He was returned to MITA only after refugee advocates became aware of his situation and complained to DIAC. This child was exposed to drugs whilst at Maribyrnong Detention Centre:

Child 5: *The officers [at Maribyrnong] gave me drugs, any drugs you want. Heroin, hash, ice…I never know anything about them before…now they made me crazy…I was scared.*

In another distressing incident, in late July 2011, RAC was made aware that 3 boys from MITA had sewn their lips together in an act of desperation about their continuing imprisonment and the length and uncertainty surrounding their visa application claims. They posted their photos on Facebook as a plea to help from the outside world.

Instead of receiving help and compassion, these children were subjected to punishment as a consequence of their actions by SERCO. They had their excursions and school visits cancelled.

Kristalo Hrysicos also notes that many distressed children are heavily medicated and are not receiving the proper mental health care they require:

Child 5: *They make me take valium twice a day…I feel sick and am tired.*

Department of Immigration – guardian, jailer and decision maker.

RAC is also concerned about the arrangements for the protection of the rights of detained children, in particular unaccompanied minors. RAC believes that unaccompanied children should be appointed an independent guardian. Currently the Minister for Immigration is appointed as the guardian of unaccompanied minors; the Minister may assign these powers to a Department of Immigration (DIAC) officer. As indicated by the Human Rights Commission, this is a serious conflict of interest. 'It is not possible for the Minister or DIAC to ensure the best interests of an unaccompanied minor are their primary consideration when they are simultaneously the child's guardian, the detaining authority and the visa decision maker.'[xii]

Supporting unaccompanied children through the refugee determination process.

Unaccompanied children require support to assist them through the complex and distressing immigration determination process. Under recent reforms, unaccompanied children should have a lawyer from the *Immigration Advice and Application Scheme* present during case interviews with DIAC officers. Children are also required to have an Independent Observer from the organisation 'Life without Barriers' to support them during some interviews. These people have the right to stop an interview if they think a child is upset, distressed or needs a break etc. (It is important to note that Independent Observers are not required to be present during Refugee Status Assessments (RSA), which are the interviews conducted by DIAC officers which form the basis of a person's refugee claim.) A third tier of support is supposed to come from DIAC Case Managers who, among other responsibilities, are to 'provide minors with updates on progress with their cases.[xiii]'
RAC member Abdul Baig spoke to ten children at MITA about how well supported they had been through this process.

The majority of children he spoke to felt completely unsupported throughout this process. A number of children said that during significant interviews they had no idea who the people accompanying them in their interviews were, and considered all the people in the room to be DIAC officers. While all children interviewed were appointed with lawyers, generally these children were given little to no information about the process and importantly, did not speak to a lawyer before their RSA interview. RSA interviews are undoubtedly the most important interview, given that this interview largely determines the success or failure of a person's case.

Child 6: *In my first interview I didn't know if there was a lawyer for me. There were three people in the room. I was told one of them was a lawyer but I didn't know who he was for.*

I have never seen a lawyer before I went into my first interview. Later I did get a lawyer but that person didn't help me at all. She will be present just during the interview. My lawyer didn't explained properly nor she commented or represented me during the interview. I was grilled by the officer for four hours. She just sat silently through the whole interview.

I had three interviews and every time different lawyer. They never sat with me separate to tell me about the case or to help me answer the questions.

Another important issue raised by these children was the hostility and aggressiveness of the DIAC officers who interviewed them.

Child 7: *The immigration officer was very insulting, very intimidating and aggressive. He is telling me things like 'that doesn't happen in Afghanistan' and saying I am a liar.*

A further issue raised by this group of unaccompanied minors was what they felt to be the inconsistency in the decision-making process. Some children, all whom had been rejected by DIAC, felt that people with similar cases had been accepted and

released. This added to the feeling that they had not gone through a fair and transparent system.

Child 8: *While I was in Indonesia I was told that Australia is a very fair country where the rights of everyone are protected.*

The significant issue of inconsistency in the refugee claim system has been raised by the Asylum Seeker Resource Centre[xiv] and other human rights and legal organisations.

Child 9: *I am very scared and very upset. Don't know what is going to happen to me. The despair is so much sometimes I feel like why to live?*

5. Processes for assessment of protection claims made by irregular maritime arrivals and other persons and the impact on the detention network.

RAC is deeply concerned about the way refugees who arrive in 'excised zones' are processed. RAC believes that all refugees, regardless of their method of arrival, should be processed through the same system. The Refugee Status Assessment (RSA) process limits the legal rights of refugees, as does the independent merits review system associated with offshore processing. The Human Rights Commission, in its 2010 report into detention on Christmas Island, criticised the review process available for refugees who landed in offshore zones, for two important reasons. Firstly, an Independent Reviewer can only make a non-binding recommendation to the Minister. Secondly, the commission is critical of the 'limited transparency surrounding the independent merits review system'. In particular the commission noted the need for public transparency in this process[xv].

RAC also expresses concern, in accord with other legal and human rights organisations, in regard to a range of other legal matters associated with the immigration determination system, including the system that applies to onshore refugees.

RAC believes that initial decision making on refugee claims should not be undertaken by DIAC staff, but by a body genuinely independent of government.

RAC is also particularly concerned about inconsistency in decision making by the Refugee Review Tribunal (RRT) on issues of fact, which are not currently reviewable by a court. RAC believes that the RRT needs to be reformed so that the process of review is fair, transparent and accountable.

Currently RRT members are able to make decisions based on their own feelings about a case or their belief about the 'truthfulness' of an asylum seeker's claim. They are under no obligation to follow their own guidelines and may make decisions without giving due weight to documentary evidence in support of a refugee's claim, expert opinion and factors such as culture or trauma which may affect a refugee's ability to give a simple narrative account of their past. Some members are not legally trained and there are questions about the effect of political influence on the RRT[xvi].

Just one example is given, though many hundreds could be told:

A young man seeking refugee status from a situation involving a civil war appeared before an RRT member, who made a crucial error of fact. This error of fact was noted by subsequent and higher courts all the way up to the full bench of the Federal Court, but legislation limiting review to points of law explicitly prevented this initial error of fact from being overturned. The man's case was listed to be considered by the High Court but he withdrew the case, as Immigration officials advised him informally that while the case was on foot he would not be granted a bridging visa, despite having spent four and a half years in detention.

RAC calls for reform of the whole refugee determination system to ensure refugee claims are assessed in a fair, consistent and accountable manner.

6. <u>The health, safety and wellbeing of asylum seekers, including specifically children detained.</u>

The detrimental effect of mandatory immigration detention on traumatised persons is well documented. Patrick McGorry, 2010 Australian of the Year, has referred to immigration detention centres as 'factories of human misery.'

Various studies have indicated the impact of immigration detention on the mental health of refugees. In the British Journal of Psychiatry, researchers Steel, Silove, Brooks, Momartin, Bushra, Alzuhairi and Susljik in 2006 made the following conclusions about immigration detention in Australia:

Immigration detention and ongoing temporary protection each contributed individually to ongoing PTSD, depression and mental health related disability. Longer detention was associated with more severe mental disturbance.

As noted earlier in our submission, the Commonwealth Ombudsman has begun an inquiry into self-harm and suicide trends across the immigration network after 1,100 incidents last year. RAC strongly endorses this inquiry.

People who were detained many years ago in immigration detention are experiencing significant mental effects to this day. Many continue to require counselling or medication to deal with the illnesses caused by, developed in or exacerbated by detention. RAC recommends that people who have suffered long-term psychological damage due to detention receive compensation.

Shahid Kamran Qureshi who was locked up in Maribyrnong Detention Centre for six months in 2001 recounted his story to RAC:

Being locked up is like when you are being buried alive…you know what I mean…when you shout and shout but you are helpless and no one hears you. We would shout for many things locked up inside…when we were sick or when we needed something but no one heard you…the guards didn't treat us like human beings. We didn't have proper clothes, shoes, a dirty old toothbrush, at one stage no mirror to shave or comb your hair. You had nothing to do…wake up, take a walk

outside, come in and have a coffee and a small chat. You couldn't see anything or anyone outside. Sometimes we would get visitors and this is the only thing we looked forward to. There was a woman with a small baby…one evening I remember her calling for the guards because her baby was hungry and crying….he needed milk in the middle of the night and the guards refused her…they wouldn't give the baby milk because it was not the right time…it was like that inside.

Mr Qureshi's account touches on the fact that it is volunteer organisations and private individuals who have provided the lifeline for many detained refugees – not the government, which is supposed to be protecting and assisting them. These people and groups may provide non-judgemental support, assistance in finding appropriate legal representation, help with learning English, spiritual and mental fellowship, nutritionally adequate and culturally appropriate foodstuffs, and clothing, phonecards and other material aid. But such support is necessarily random and incomplete, especially for the vast majority of current detainees who are isolated as never before, in such places as Christmas Island, Scherger, Darwin and Curtin.

Viable Alternatives

Australia is exceptional in utilising mandatory immigration detention. RAC advocates overhauling the current approach and moving towards a more just system which would involve housing all refugees in the community.

In Sweden, asylum seekers spend about a week in an initial processing centre for government checks. After that time, they can live independently. This remains the approach of the government despite the huge number of refugee applicants. In Sweden in 2010 there were 31,800 claims made for refugee protection, compared to Australia's 8,250[xvii] . In Spain, which receives a similar number of refugee applicants to Australia, asylum seekers and refugees are housed in open reception centres where they can come and go as they please[xviii].

Detention, even for short periods, harms and undermines an individual's right to liberty. Detention and removal are more expensive than community-based alternatives. Detention is not effective in deterring asylum seekers, refugees and irregular migrants.

7. The reasons for and nature of riots and disturbances in immigration detention.

It is RAC's view that the riots, demonstrations and incidences of self- harm inside the detention centres are a direct result of the desperation of those seeking asylum, frustration at the length of time taken to assess claims and the arbitrary result of assessment claims. These riots or disturbances are exacerbated by the location of detention centres in harsh and isolated places, where people feel they have been completely abandoned and disempowered by the mandatory detention process.

RAC prefers to refer to these 'riots' and 'disturbances' as protest actions. The people involved in these incidents have genuine grievances which need to be seriously addressed. They have been pushed to taking extreme action out of desperation.

RAC has included a letter sent by refugees detained at Scherger Detention Centre to media and refugee organisations in late July 2011. At the time, approximately 60 people at the centre had undertaken a mass hunger strike.

Scherger Detention Centre is located in extreme isolation from the Australian community, 30 km east of Weipa in far north Queensland. The people who undertook this action were predominantly Afghani and had been subject to the government's blanket freeze on Afghani application claims, which was in place from April until September 2010. At the time, the Human Rights Commission warned that this suspension had prolonged the detention of these people. The commission also criticised the determination process offshore refugees are currently subject to, in particular the non-transparent review system which the protestors complain of in the following letter[xix].

This letter clearly outlines the concerns and difficulties of the people involved in this protest action. Protest actions are often depicted by the government and media as violent and unruly, conducted by people who are ungrateful and who have no genuine reasons for their actions. People are often depicted as being 'failed asylum seekers' who are attempting to blackmail the government. This letter clearly shows that this is not the case:

In the Name of Merciful God
This HUNGER STRIKE is a response to the continued pressure exercised by the Australian Immigration Department on us.

The participants in this hunger strike have been denied protection and robbed of their liberty for periods of time extending over a year, even up to 20 months. This punitive action and arbitrary jailing, has destroyed our physical and mental health.

Our families – including our children -- living outside detention and overseas have suffered additionally from the terror of Taliban, and the tyrannies of other dictators and regimes.

Daily sadness and additional trauma that we are exposed to remains unknown to certain officers and Immigration Merit Review members. These members are neglecting our claims, the reasons for our claims, the arguments that we have supplied, and the documents available to them, they have consequently failed to reach a comprehensive human and just decision.

We are locked in "NO MAN'S LAND" inside a military base where average people and the media have no access to us.

Our friends and relatives cannot reach us and we have to accept the blame of officials, and the suggestion that "you are not looking after your case!"

Our treatment in this way is very hideous and painful. They are melting us in a

bureaucratic oven, and pushing us through cracks in the law, all the while, money-makers are making their money and we have to suffer indefinitely and infinite trauma.

We have to suffer for such a long time, because you want to send messages to the opportunistic smugglers. You have punished us more than enough and the smugglers will have received your messages. Be happy!

SUGGESTION:

1. All rejected cases have to be reviewed by positive and reputable IMR members within a month.
2. Well known IMR members, who have prolonged the detention of Asylum Seekers with their arbitrary and unjust decisions, have to step aside until the completion of this process.
3. All detainees who have been in the detention more than three months and have completed health checks should be released under the "Community Detention Program".
4. Media must be permitted to see and report our condition to the people of Australia and the world.

Finally we are asking that all freedom-loving people of Australia and International Organisations would support our cause and our struggle for justice. Be assured we are peace loving people and we do respect the traditional owners of the land in Australia, and all peoples of Australia and their magnificent cultures.

We are Law abiding people and we have been calm and quiet for many months. We have reached the end of our resilience and we cannot cope anymore.

This Hunger Strike action we are undertaking is fully peaceful and our demands are all just and fair. We are happy to negotiate, but our freedom is not negotiable.

Many thanks for your attention.
[Signatures of Hunger Strikers]

This moving and eloquent appeal raises a significant issue, which is the control that the Immigration Department exercises over access to detention centres for both journalists and concerned citizens. It has been recently pointed out that the Immigration Department is more secretive and less willing to allow journalistic access than the US military prison at Guantanamo Bay.[xx] RAC supports the recent call by the Media, Entertainment and Arts Alliance for better access to detention centres for journalists and media workers.[xxi]

8. In conclusion and thank you

The recent decision by the Australian Government to relinquish all responsibility for processing asylum seekers by sending people seeking asylum on our shores to Malaysia is reprehensible. This supposed 'solution' is against international law and represents a failure of government to provide a humane response to the global issue of refugees. This policy also entrenches the divide between people arriving by boat and people arriving by plane and discriminates and punishes people for their mode of arrival. There is no orderly queue for asylum seekers to join, and all those arriving on our shores have the right to apply for asylum and to be treated with dignity.

The government is now effectively subcontracting out to Malaysia the violation of our humanitarian obligations to refugees.

We call for no off shore processing and for all persons seeking asylum in Australia to be processed in Australia.

RAC would like to thank the Joint Select Committee for seeking this statement and providing the opportunity for our organisation to provide feedback on the experience of asylum seekers in this country. The voices of asylum seekers need to be taken into account in the immigration debate.

We look forward to much needed reforms.

Refugee Action Collective (Victoria), 12 August 2011

References

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