

Australia

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Reservation:

"Australia accepts the general principles of article 37. In relation to the second sentence of paragraph (c), the obligation to separate children from adults in prison is accepted only to the extent that such imprisonment is considered by the responsible authorities to be feasible and consistent with the obligation that children be able to maintain contact with their families, having regard to the geography and demography of Australia. Australia, therefore, ratifies the Convention to the extent that it is unable to comply with the obligation imposed by article 37 (c)."

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

How nice then that Australia is not prepared to deny the children of criminals in prison access to their parents, but asylum seeker children under the guardianship of the minister for immigration are allowed to be jailed for so long without charge that they try to kill themselves.

I applaud the idea of a commissioner of children but fear that they will be nobbled by intransigent public policy rather than to set the rights of the child.

Will they be allowed to order the release of children like those who wrote the accompanying stories from their prisons, prison that is arbitrary and illegal because detention in Australia is only for the purpose of administration, not punishment and delaying assessments is certainly punishment.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and

in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason , as set forth in the present Convention.

I ask the committee to read the letters from three boys locked up in Darwin since April and tell the country how that complies with the articles 22 and 37 of the rights of the child, children in ministers care.

Since the HREOC report there has been very little difference in the way children in illegal, arbitrary detention have been treated.

Denied schooling, denied lawyers, denied access to courts, denied legal guardians except the person who jails them.

<http://www.crikey.com.au/2010/11/04/letters-from-detention-in-the-test-match-of-life-howards-the-batsman/>

Letters from detention: in the test match of life, Howard's the batsman

by [Tom Cowie](#)

The sporting dreams of teenage boys can often be fairly predictable. Whether they involve hitting a last-ball six to win a test match or scoring the winning goal at a World Cup, rarely do backyard fantasies stray far from an orthodox narrative of fame, fortune and triumph.

But what about the sporting dreams of boys awaiting their application for asylum? As a group of teenage Hazara detainees wrote in open letters sent to *Crikey*, they still aspire to glory, but it's John Howard, not a sporting rival, they dream of beating.

The federal government is currently holding more than 150 asylum seekers at the Darwin Airport Lodge (DAL) as a part of its policy of detaining children at Alternative Places of Detention (APOD). As [Crikey reported in September](#), most of those being held are Hazara boys from Afghanistan and Pakistan and have been held in the motel since they were transferred from Christmas Island in April. The boys are now undergoing interviews for asylum, after a freeze on applications was recently lifted.

Pamela Curr, campaign co-ordinator from the Asylum Seeker Resource Centre, says that, due to a lack of facilities, there is not a lot to keep the boys occupied. The detainees have not been allowed to leave the DAL during the application process and, because they are over 15, not allowed to attend school.

English classes are being held onsite in the dining room for groups of 50 for 90 minutes daily, said

Curr, but these are often repetitive and at a beginner level. Furthermore, there are only a limited amount of computers, with each detainee allowed 20 minutes access every 48 hours. "In the past month some boys have been taken out to the beach and to a sports ground which is 1.5km around the corner from the DAL," she said. "The beach was a disappointment, as they were not allowed to swim, but the sports ground is always a winner."

Recently the boys were sent charcoals and paints by refugee advocates and asked to write their thoughts. Below are the stories from three Hazara teenage detainees. When asked why Howard figured so prominently in their stories, two of the boys said that he was the man who started what is happening to them.

I am Hazara. I left my family more than two years ago and am now 17. Before leaving I practised art and playing the piano. Since this time, I've not practised either, until now when I am drawing sometimes.

I learnt how to play cricket on Christmas Island from Tamil detainees. I like this game. If I saw this game as a metaphor for my life, my father would be the team coach. I would be captain and main bowler. I've bowled 17 overs and each one had involved much struggle. However, my mother has been behind the wicket as my keeper and she still is. My brother and sister are at leg and off leg, close to mother also with me in challenging the batsman, who is John Howard. Community advocates are at the slips, ready to catch the batsmen on any mistakes they make.

In the crowd are Hazara community, people I've met on my journey who gave small gestures of help, people in Australia struggling for me. Their banners read: 'Keep Going!' Thinking of my team helps me feel connected when I am so far from those I love. I am close to my friends that I share room with, but all people here are stressed.

Every day is the same, with no news, nowhere to go. I feel I am going crazy and would love to go to school and go outside the fences.

A second story from a teenage boy under detention:

I am Hazara like my friends. I am an excellent football (soccer) player. Last week my team won the tournament in the DAL. **I learnt some great skills in my childhood in Afghanistan, like how to properly strike a ball — this gem of wisdom came from the father of a boy in the neighbourhood.**

In the game of life, I am the goalkeeper in my team. I would be the last one to say 'No!' if John Howard wanted to break my spirit. In front of me, as central defence, is my mother who looks out for me all the time. She is joined in defence by my sisters and uncle.

Although my father, brother and uncle are deceased and this makes me very sad, they are in the midfield, together with my friend Ali. They are with me and move between attack and defence for me.

At the striker positions are community advocates .

It's clear not much has changed since the days of the attached reports from the first days of "community detention" so-called in South Australia back in 2002.

As with everything else to do with human rights in Australia I hold zero hope that things will change, that a commissioner of children will make a jot of difference and I believe this exercise is another lying and cynical exercise by an irrelevant and lying government.

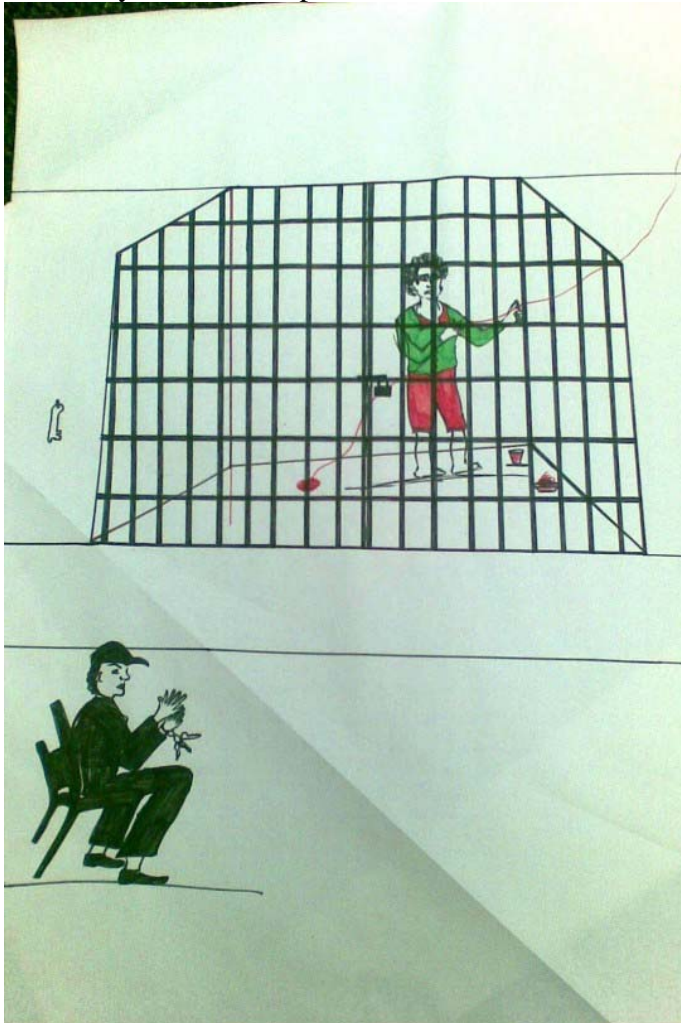
Marilyn Shepherd

here in Australia. They make constant attacks for me, and fed by the spirit of other teammates, they score goals for me. These are all the people I can

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think of right now who would help me. Other memories and people don't come to me. But the crowd in the stadium have community members who barrack for me, for my team. We are looking for more supporters for our team...would you join the crowd, or even substitute, referee positions?

Below is a drawing from a third detainee and a story about why he drew the picture:



Before leaving my family, I used to practise as an artist and wanted to be an accomplished artist. I had not painted until a volunteer brought me some paints about one month ago.

At times this helps. I have a lot of pain and want to share messages with the Australian public, hoping they will join with me as fellow human beings and speak up for me. Mostly though, I am not in a mood to do anything. I am constantly worried and nervous. I had an interview about my application last week and await an outcome. Although I hear that unaccompanied minors will be released into the community, we are told it would not affect us until

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June next year. Anything can happen in that time. I so badly want to be outside, seeing how people live. I want to learn to live again. Being detained is unbearable. I hope that you will take my message to your leaders. I write this poem for you:

In this world, some are in prison, some are at home, some are happy, some are upset, some are singing, some are crying, some are alone, some are together, some are enjoying, some are suffering, some are rich, some are poor, some are hopeless, some are hopeful, some are thirsty for freedom, some are not, some are stressful, some are not. And guess what am I!

**The boys' names have been kept anonymous to ensure their protection.*







here in Australia. They make constant attacks for me, and fed by the spirit of other teammates, they score goals for me. These are all the people I can think of right now who would help me. Other memories and people don't come to me.

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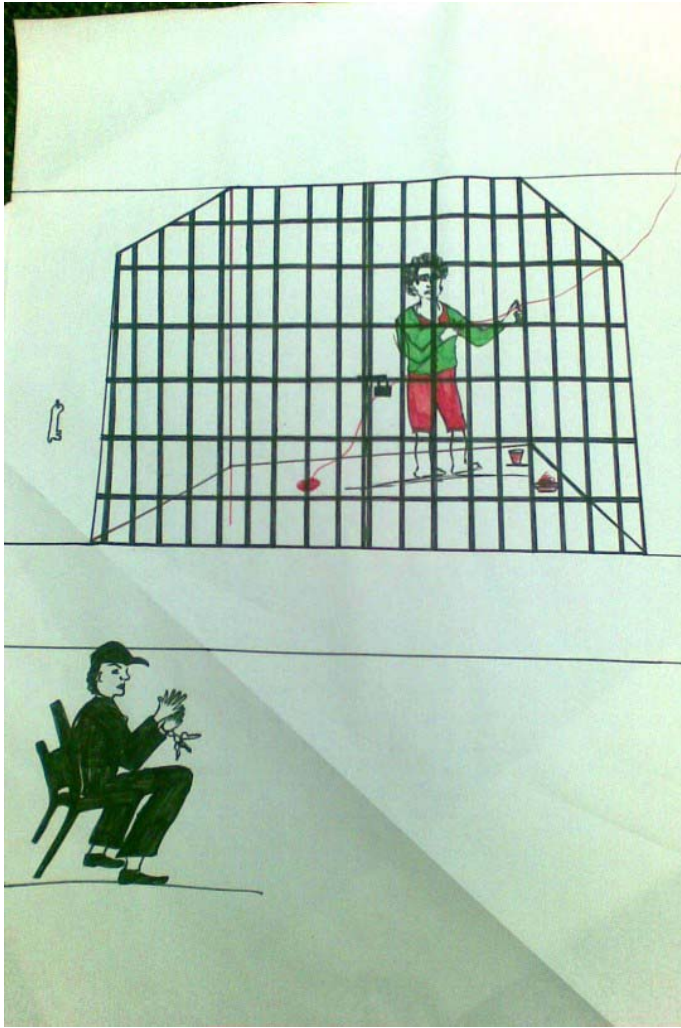
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