



AUSTRALIAN CATHOLIC BISHOPS CONFERENCE
Australian Catholic Migrant and Refugee Office



A Submission from
the Catholic Bishops of Australia
to
Joint Select Committee on
Australia's Immigration Detention Network



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Beneath our radiant Southern Cross
We'll toil with hearts and hands;
To make this Commonwealth of ours
Renowned of all the lands;
For those who've come across the seas
We've boundless plains to share;
With courage let us all combine
To Advance Australia Fair

Who

Thank you for the opportunity to make a submission to this important Inquiry. The lengthy Terms of Reference, the substantial and complex issues to be examined and the relatively short time-frame are noted. The time-frame would appear to indicate that those who established the Inquiry either do not understand the complexities of the issues to be examined or seek only a cursory examination of the issues. This is not a criticism of members of the Committee but an acknowledgement of the magnitude of the task that you confront.

The work of the Catholic Church in caring for the marginalised and disadvantaged in Australia is well known. In particular, the Church and its agencies have a long history in assisting migrants and refugees to Australia. In recent years, while criticising many of the practices regarding detention centres, the Church has worked closely with those caught up in the process. For example, the Church has pastoral workers visiting every detention centre in Australia and works to assist asylum seekers both while they are in detention and after their release. The Church also works with others who find themselves in detention, such as people who have been trafficked into Australia. For example, when the practice of Temporary Protection Visas was in force, those subject to such visas were not permitted to work or to receive any assistance such as Medicare. Catholic welfare agencies provided them with food, clothing and accommodation. Church hospitals provided medical services and medicines pro bono to those suffering under that regime.

The Church works closely with the Government in seeking to provide services to asylum seekers and other marginalised and disadvantaged people. But the Government is in no doubt of our views re the policy and practice of mandatory detention for Irregular Maritime Arrivals (IMAs), also known as boat people.



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We mention these facts not to draw attention to our work but to illustrate that we come to this discussion about detention centres with a substantial involvement in the issue and well known views.

What

Australia has had Immigration Detention Centres (detention centres) in one form or another for as long as it has had an immigration policy. They have been places where individuals who have breached their visa conditions have been held in custody pending their removal from Australia, either by deportation or voluntary departure. Such individuals continue to be held in detention centres but have become a very small minority of inmates.

When Vietnamese boat people arrived in the 1970-80s they were usually housed for a very short time in detention centres before being moved into migrant hostels or into the community. However, almost 20 years ago, the policy changed. Almost without exception, boat people, "Irregular Maritime Arrivals" (IMAs) are now held in detention centres until all parts of their claims for asylum are settled. This can take many years. As the numbers in detention have grown and the complexity of the processes have increased, more detention centres have been constructed, many in remote locations, often on former (or mothballed) military bases. As the Committee will be aware, the Christmas Island facility was constructed to circumvent some of the legal rights that asylum seekers who reach the mainland can access.

But only a minority of asylum seekers who come to Australia are incarcerated in detention centres. The Committee will be aware of the DIAC publication, *Asylum Statistics Australia 2010-2011 (first six months)*. Page 4 of that publication lists the number of applications for Asylum lodged in the years 2005 through to 2011. To take the most recently completed year, 2009-2010, it is noted that 2172 asylum applications were lodged by IMAs but that 5978 applications were lodged by "non-IMAs". That is, about 25% were from IMAs whereas 75% came from non-IMAs.

So who are asylum seekers? Again, if one looks at the same DIAC publication (p7) one notes that the source country for the largest number of asylum seekers in 2009-2010 was China (1288), followed by Fiji (559), Iran (376) and Zimbabwe (371). The Committee will be aware that there are a number of asylum seekers from Iran in detention centres. But how many are there from the other largest groups, China, Fiji or Zimbabwe? The answer of course is: almost none. The reason is that asylum seekers in detention centres came by boat, ie as boat people, IMAs. The others, the majority of asylum seekers come by plane, ie they are non-IMAs.



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A comment re definition is required. Inmates of detention centres are often referred to as "illegal immigrants". This is inaccurate. Every person in the world is legally entitled to approach the borders of another country and seek asylum. The country in which asylum is being sought must then apply certain criteria as specified by the UNHCR in determining whether or not asylum will be granted. When an IMA approaches the border of Australia, they are very clear that they are seeking asylum and they are within their legal rights to do so. They may be many things but they are not "illegal immigrants". What they are doing is legal.

On the other hand, when non-IMAs cross the Australian border at an airport, they rarely declare that they are seeking asylum. They most certainly do not do so when they apply for a visa to enter Australia, before boarding an aircraft. In almost all cases, it is only after they are in Australia that they subsequently seek to apply for asylum. It could be argued that at the time that they cross the border they are doing so illegally because they come for one reason while stating another on their visa application. But non-IMAs are rarely locked up in detention centres. Rather they advise DIAC of their address and subsequently DIAC contacts them at various stages of processing their application for asylum.

There is of course another difference between IMAs and non-IMAs. Anecdotal information indicates that a place on a boat costs an IMA about \$10,000. Anecdotal information indicates that the cost for a non-IMA is about \$50,000, often involving false passports, false identities and almost always incorrect information on the visa application. IMA is not the route of choice for asylum seekers; it is rather the cattle class version and the non-IMA route is business class. Note that the non-IMA route is referred to as business class, not as first class. There are many situations in which non-IMA asylum seekers must undertake work (not always of their choosing) or otherwise pay off a substantial debt to the trafficker.

While IMAs are locked up, non-IMAs live in the community. It is not suggested that non-IMAs should be locked up as well, because there is substantial evidence that the current arrangements by which they live in the community works for all parties, including DIAC.

Why

So, why are IMAs locked up and non-IMAs not? As noted, the means of arriving and the cost of a "ticket" are two differences between the groups. But, unless Australia has a policy of discriminating against the poor in favour of the rich, the differences in mode and cost of travel do not justify the difference. There are some differences in the countries of origin, but again this hardly justifies such an extreme difference in policy.



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It is suggested that the current policy of locking up some asylum seekers and not others is not based on any logical policy reason. The reasons for this inequitable approach are crass politics and latent racism, as will be explained.

So, what logic underpins the current, bi-partisan, policy regarding IMAs? A succinct summary of the logic was given in a lecture at La Trobe University on 5 May 2005 by Dennis Glover. A self-explanatory extract is quoted below:

"..... ask yourself: what is the most devastating, vote-harvesting political line of the last few decades in Australia, perhaps of all time. It was John Howard's statement in the 2001 campaign that:

"We determine who comes to Australia and the circumstances in which they come"

It was taken from a focus group conducted by John Howard's number one pollsters and spin doctors, Mark Textor and Lynton Crosby.....

.....During the 2001 federal election campaign, I worked as a policy adviser on the staff of the then Labor Leader Kim Beazley. Half way through the campaign, his speechwriter and I were called first to Canberra and then to Sydney to work on the Leader's speech for the major event of the campaign, the policy launch. We immediately requested a briefing from the party's chief pollster to determine what would work and what wouldn't. At one point of the meeting I asked him whether there was any way at all we could appeal idealistically to voters on the issue of asylum seekers. Surely, I quizzed, during the focus group sessions you must have noticed some rhetorical device people will respond to that doesn't begin with the premises that asylum seekers should simply be stopped or locked up or sent back. His response has stuck with me ever since - and I immediately wrote down in MY diary. In essence, this is what he had to say:

'Here's a typical focus group in a swinging seat in the western suburbs of Sydney. It consists of ten people. Of the ten, one reads The Sydney Morning Herald - the equivalent of our Age. Three more read The Daily Telegraph, although often only the T.V. guide. Almost everyone gets their political news - if any at all - from the tabloids, talkback radio and the television. With the



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exception of that one woman who reads a broadsheet, no one spends much time contemplating the morality of the leading issues of the day. The suburbs aren't what cosmopolitans like you wish they were; they're a spiritual void, where religion has been replaced by consumerism; the only thing people want to know about elections is 'what's in it for them'. And as regards to sympathy for asylum seekers, forget it. There was little sympathy for anyone, including the hundreds of parents and children who drowned on the SIEV X.' (Another party official told me that he heard one particularly angry focus group member offer to hold drowning children's heads under water just in case they were still breathing when they reached Australian soil.)

These people vote. They don't just vote; because they're in marginal electorates they largely determine the outcome."

Mr Glover's analysis of the rationale for the current asylum seeker policy remains accurate today, 10 years after those events of 2001. That is, both major parties accept the inherent self-centredness and latent racism of the average Australian voter. They seek to take advantage of these attitudes in order to obtain Government. In some cases, politicians (assisted by shock-jocks) seek to stir up these attitudes for their own crass purposes. Until the core values of Australian society change, one should not hope for a ground-swell of public opinion against the incarceration and forced deportation of IMAs. Until the leaders of Australian society political, church and the wider community, stand up and tell Australians that the policy is wrong, the status quo will remain.

Note that political leaders are not the only ones to support the current policy regarding IMAs. Some church leaders have expressed support for policies that impose harsh treatment on IMAs. The Catholic Church does not support such policies. But the attitude is entrenched in mainstream Australia. Until leaders admit that such attitudes are wrong and seek to lead Australians away from the gutter, the current policies will remain in place. If vision and leadership in Australia is limited to the findings from the latest focus group then one wonders about the future of Australian society.

So is there an alternative to the universal detention of IMAs? The policy regarding non-IMAs works quite efficiently and effectively. But, as noted, political leaders are reluctant to upset the shock jocks and their audiences. Therefore a policy of allowing IMAs to live in the community alongside non-IMAs is probably not achievable in the short term.



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So, why not a compromise of only detaining those considered a danger to society or a risk of absconding? With such a scheme, IMAs living in the community could be required to report regularly to DIAC. Failure to report to DIAC when required would result in cancellation of their parole and return to detention. It works with the criminal justice system, why not with those who have not been convicted of a crime?

How

Having discussed what one could reasonably expect in a modern, ethical, prosperous, educated society, let us now move to discuss the reality in Australia in 2011 as outlined in the Terms of Reference (TOR/s) for the Committee.

For simplicity of discussion, all of the TORs are listed below. But it is not proposed to discuss all of the TORs. Some have been discussed at length elsewhere and other people are more qualified to comment on others. The above pages discussing what ought to be rather than what is, fit under TOR (1)(s) and a number of other TORs.

(1) a Joint Select Committee on Australia's Immigration Detention Network be appointed to inquire into and report on:

(a) any reforms needed to the current Immigration Detention Network in Australia;

There are many reforms needed to the current detention network. As noted above, the optimum would be to follow the current efficient and effective model for processing non-IMAs. But, if such a reform is unachievable, then all initiatives to introduce humanity into the processing of IMAs would be better than the current arrangements.

(b) the impact of length of detention and the appropriateness of facilities and services for asylum seekers;

The impact of length of detention and the trauma of detention in isolated locations has been well documented by others. Catholic Church workers, both in detention centres and those assisting asylum seekers after release, see much evidence of the impact of such treatment on vulnerable people.

(c) the resources, support and training for employees of Commonwealth agencies and/or their agents or contractors in performing their duties.

As with any large and complex organisation, workers in the detention centre network range from the very good to the very inappropriate. There are many dedicated Commonwealth officers and employees of agencies seeking to use their skills to manage the network efficiently and effectively while inflicting the minimum of damage on the vulnerable



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detainees. These people deserve much praise and help. In particular, they need assistance to protect their own well being in such a stressful work environment. Unfortunately, there are some, especially among the agents and contractors, who are inappropriate for such sensitive work and who are only in the job for the money. Filtering these people out of the system is very important. But, while they remain, they must receive assistance and training to do their job while minimising the damage that they can do.

(d) the health, safety and wellbeing of asylum seekers, including specifically children, detained within the detention network:

This matter has been well documented elsewhere.

(e) impact of detention on children and families, and viable alternatives:

The impact of detention on children and families has been well documented. A few years ago, there was outrage in the media when a young child was observed banging her head against the fence at Villawood. However, such occurrences are common in detention centres, out of sight of the media. Living in the community while claims are processed should be the norm for such people. It works for non-IMAs, why not for IMAs? Community detentions should only be used when living in the community is not appropriate. Detention within a detention centre must be only used as a last resort for children and families.

(f) the effectiveness and long-term viability of outsourcing immigration detention centre contracts to private providers:

Outsourcing has been a mantra for various Australian Governments. For some it is to reduce costs by minimising conditions of employees, with a larger casualised workforce and lower costs. For others it is the blind belief that the private sector can always do it better than the public sector.

This Inquiry is not the forum for a detailed discussion of the merits of outsourcing and private versus public service delivery. However, the evidence is clear that the only areas in which outsourcing functions from public to the private sector is ever successful are areas in which there is a tangible measure of success at every stage of the process. Such tangible measures are usually available, for example, in engineering or manufacturing areas. They are sometime effective in service delivery areas, eg hospitals, but again tangible measures must be very clear and relevant. (It is noted, that there is continual debate in the health sector about the appropriateness of measures for success.) They are rarely successful in service delivery areas in which there is complex service delivery that cannot be itemised and where success cannot be clearly measured. The privatisation of jails has rarely been successful because it is difficult to identify genuine measure of success. Most claimed successful privatisations of jails have been in cultures in which punishment and law and order are dominant political agendae.



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The privatisation of detention centres is inappropriate because measures of success with consequent incentive payments are difficult to measure. How does one measure genuine success for the detention of IMAs? As noted, the main motivation for IMA detention is neither punishment nor rehabilitation. Rather it is crass politics and racism. As one would not seek to measure such motivations, the alternative KPIs used to measure privatised detention centres are artificial at best and likely to lead to distortion in the delivery of services at worst.

(g) the impact, effectiveness and cost of mandatory detention and any alternatives, including community release; and

Much has been written on the total and the per capita costs of mandatory detention. Much has also been written on the human cost of mandatory detention. (Less has been written on the political benefits of mandatory detention). On all measures, community release is more cost effective, although it may not be as beneficial to crass politics.

(h) the reasons for and nature of riots and disturbances in detention facilities;

Many have commented on the reasons for the riots and disturbances. Such disturbances in facilities that impose significant psychological stress on inmates should not surprise anyone. Remove the causes and disturbances will not occur.

(i) the performance and management of Commonwealth agencies and/or their agents or contractors in discharging their responsibilities associated with the detention and processing of irregular maritime arrivals or other persons;

See comments at (c) above.

(j) the health, safety and wellbeing of employees of Commonwealth agencies and/or their agents or contractors in performing their duties relating to irregular maritime arrivals or other persons detained in the network;

See comments at (c) above. The Commonwealth has considerable OH&S responsibilities and obligations for staff placed in harm's way. Staff undertaking many of the tasks related to the detention of IMAs are at some risk of physical harm and considerable risk of psychological harm.

(k) the level, adequacy and effectiveness of reporting incidents and the response to incidents within the immigration detention network, including relevant policies, procedures, authorities and protocols;

Others have commented on this matter.



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(l) compliance with the Government's immigration detention values within the detention network;

With respect, it is difficult to comment on this TOR without sarcasm. Accordingly, we leave it to others to comment.

(m) any issues relating to interaction with States and Territories regarding the detention and processing of irregular maritime arrivals or other persons;

The multiplicity of jurisdictions and levels of government is a major problem in almost all government functions. The multiplicity results in accepted but unacceptable levels of complexity and inefficiency across wide areas of government administration. It is a feature of the detention of IMAs, especially when they are detained on the mainland. Church workers dealing with trafficked people see frequent examples of the absurdities of conflicts between Commonwealth and State jurisdictions. Some of the starkest such examples of such conflicts occur with people who have been trafficking into Australia and forced to work in brothels.

(n) the management of good order and public order with respect to the immigration detention network;

Others have commented on this issue. See comments at (h) above.

(o) the total costs of managing and maintaining the immigration detention network and processing irregular maritime arrivals or other detainees;

As noted previously, one can only wonder at the per capita cost of managing and maintaining the detention network and processing IMAs. It is difficult to justify such costs against whatever benefits might be identified. The difficulty is illustrated by the much lower per capita cost of processing non-IMAs. How is the considerable difference justified?

(p) the expansion of the immigration detention network, including the cost and process adopted to establish new facilities;

Australia is the Lucky Country. But there are still many challenges in Australian society, especially regarding the need for much greater Social Inclusion. There are many such areas of need. It is difficult to justify spending money locking up IMAs when the money could be much better spent on many more important areas. Of course, the shock jocks and the focus groups in marginal seats may not agree.

(q) the length of time detainees have been held in the detention network, the reasons for their length of stay and the impact on the detention network;

The impact of long incarceration on detainees has been discussed at length by many others.



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(r) processes for assessment of protection claims made by irregular maritime arrivals and other persons and the impact on the detention network; and,

The complex patch work quilt that is the process for assessing and reviewing protection claims by IMAs is a major cause of the long average duration of incarceration of IMAs. Successive governments have been either unwilling or unable to simplify the process. The process is one of the many deliberate obstacles imposed to deter IMAs. As Gladstone noted "justice delayed is justice denied".

(s) any other matters relevant to the above terms of reference

As noted elsewhere, the first pages of this submission address some of this TOR. It is to be hoped that much of the Committee's discussion will be taken up looking at viable alternatives to the current arrangements that are unacceptable in any civilised society.

Conclusion

On behalf of the Catholic Church, thank you for the opportunity to make this submission to this important Inquiry.

As noted, the Catholic Church is very active in many areas working with IMAs and other asylum seekers. If any Bishop or official of any Catholic Church agency can assist the Committee in any way, they will be happy to do so.

We wish the Committee well in its important task.

Most Rev. Gerard Hanna

Bishops Delegate for Migrants and Refugees

Australian Catholic Bishops Conference

11 August 2011