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SUBMISSION TO SELECT COMMITTEE
Allegations relating to Conditions and Circumstances
at the Regional Processing Centre in Nauru

Submitted by
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INTRODUCTION

This submission is presented on behalf of the Josephite Justice Office, a ministry of the Congregations of the Sisters of St Joseph. The Sisters of St Joseph and our Associates (numbering approximately three thousand women and men) were founded in the mid-nineteenth century by Mary MacKillop and Julian Tenison Woods to work with those suffering from poverty and social disadvantage. We educate, advocate and work for justice, for earth and for people, and especially for those pushed to the margins of our world.

Our submission to the Select Committee has been developed out of concern for those individuals and families whose lives are being damaged and destroyed by the Australian Government's legislation and policies regarding asylum seekers and refugees. These policies, we believe, contradict the values we profess to be at the heart of the Australian character – justice, a fair go for all, and the right of every person to dignity and a full life.

There is little doubt that those affected by the harsh conditions in Nauru have had their health and lives placed in severe jeopardy. It is on their behalf that we present this analysis and submission.

PURPOSE OF CONSULTATION

The Government has identified the purpose of this consultation as being:

- To examine the recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru
- To report on the responsibilities of the Commonwealth Government in connection with the management and operation of the Centre.

Consequently, this submission will focus on:

- The Commonwealth Government's failure in its obligations to asylum seekers in Nauru, especially as outlined in the Moss Report
- The urgent need for reform in Australia's responsibility to asylum seekers, clearly indicated in the condemnation of conditions in Nauru

THE GOVERNMENT'S OBLIGATION TO ASYLUM SEEKERS IN NAURU

The Memorandum of Understanding between The Republic of Nauru and the Commonwealth of Australia states clearly a commitment to:

- a process by which transferees will be treated with dignity and respect and in accordance with relevant human rights standards.
- The development of special arrangements for vulnerable cases, including unaccompanied minors.

It is clear that these commitments have not been honoured. In fact, the Moss Review has been scathing in its indictment of the level of care of asylum seekers in Nauru. Harsh physical conditions, physical and sexual abuse of vulnerable people, reinforced by ongoing refusals to accept complaints of mistreatment, have created a situation which shames Australia and undermines the rights and the dignity of individuals and families.

THE MOSS REVIEW

The Moss Review is a well-documented, careful and compelling analysis, leading to indefensible condemnation of the treatment of Asylum seekers in Nauru. It confirms the earlier findings of the Human Rights Report, which expressed alarm at the conditions in Nauru and the particular mistreatment of children in detention.

Five areas are highlighted by the Moss Review as causes of serious concern:

1. The physical conditions in Nauru, characterised by over-crowded accommodation, in situations of extreme heat
2. Distressing incidents of physical and sexual abuse
3. Failure to report incidents of abuse because of justified concerns about damaging repercussions
4. A resultant culture of intimidation and fear
5. Failures in the operation and management of the Detention Centre

Asylum seekers in Nauru live with constant fear, in unsanitary conditions and unbearable heat. There have been multiple reports of assault and sexual abuse. Self-harm and suicide attempts are common. Physical violence, sexual harassment, abuse and intimidation from guards, as well as from locals and other inmates, are shown to be endemic to the centre. Combined with these indefensible hardships are prolonged periods without processing, and little prospect of release, of family reunion or employment. All have led to the well

documented accounts of mental illness, self-harm and suicide.

These incidents of abuse, both physical and sexual, are clearly established and confirmed in the Moss Review. They highlight the extent of the Government's failures

- to establish relevant human rights standards,
- to take action when complaints have been made,
- to oversee the behaviour of the company to whom it has outsourced the responsibility of the Detention Centre and the care of asylum seekers.

At the same time, an examination of the complaints of fabricated evidence initiated by the Save the Children has been found to have no substance. Incendiary government claims from last October that Save the Children employees had been involved in coaching detainees to manufacture sexual abuse allegations as part of a wider discrediting of government asylum-seeker policies, have been discounted.

A clear and convincing conclusion has therefore emerged that abuse has occurred, that appropriate action has not been taken, and that by outsourcing its responsibilities for people fleeing for their lives, the Australian Government has failed to honour its obligations to the asylum seekers in Nauru, as well as elsewhere.

FUNDAMENTAL ISSUES FOR US AS THE AUSTRALIAN COMMUNITY

The effects of Australia's failure to exercise justice and compassion in its treatment of asylum seekers are real and corrosive, and have been clearly demonstrated in the destructive and abusive situation that has developed in Nauru. Both major parties, by maintaining politically expedient policies, must bear responsibility for this.

The evidence from the Moss Review has reinforced the findings of the Human Rights Report, and validated the recent UN Report. Released in March, this scathing condemnation of Australia's asylum policy has found that aspects of Australia's border protection policies have breached the International Convention against torture.

The culture of fear, misinformation, and silence regarding the truth of the asylum seeker situation, here and in other asylum seeker centres, shames us as Australians, and undermines what is best in our national character

CONCLUSION

The Commonwealth Government has clearly failed its responsibilities in connection with the management and operations of the Regional Processing Centre in Nauru. More fundamentally, it has failed in its duty to take reasonable care of asylum seekers. This failure has included both its responsibilities for asylum seekers who have fled to this country for refuge, and its responsibilities for the centres to which it has outsourced its responsibilities.

The Moss Review reads like a review of a prison. Here are people who have escaped from terror and torture in their own countries, being treated like criminals, although they have committed no criminal act, and have sought asylum in accordance with international law. For Australia to have exempted itself from that law is reprehensible. To have outsourced its responsibilities for asylum seekers is inexcusable.

There is no doubt that Royal Commissions in the future will hold Governments and their officials to account for the harsh cruelty of their policies, the abandonment of their international obligations, and their abuse of power. The recorded complaints of concerned Australians and of international bodies will hold them unequivocally to account. The role of Government is to protect its people. We know that any person, community or Government is judged by its care for the most vulnerable, and for this Australia needs to be held to account.

We urge all members of Parliament therefore to commit initially to an asylum seeker policy, which acknowledges the rights of each person seeking asylum, which demands careful administration of programs dealing with asylum seekers, and which honours its original contractual agreement with Nauru:

- To a process by which transferees will be treated with dignity and respect
- To the development of special arrangements for vulnerable cases, including unaccompanied minors.

More fundamentally, we urge Government and Opposition to put aside short-term political advantage and work together to solve this critical issue. The question for all of us must be faced. What sort of country and planet will our children, grand children and great grand children inherit, if current policies are pursued?

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