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Submission to the Inquiry into Detention July 2008

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BY: MIG

The observations listed below have come from my experience as one of the Catholic Chaplains associated with the pastoral care of detainees at the Baxter Detention Center in Port Augusta from 2002 until it closed in 2007 and at the Residential Housing Projects at both Woomera and Port Augusta from 2005 until 2007.

I would also refer you to the "Peoples Inquiry into Detention" recently released.

I am sending this submission to you in the hope that this administration will make quite radical changes to the policies regarding asylum seekers.

I have attempted to address the criteria that you have set out.

Sister Claudette Cusack
Sisters of Mercy

Signed

[Signature]

Date

11/07/08

Accommodation:

Firstly I would suggest that separate arrangements be made for detainees according to the following categories.

1. Asylum Seekers**2. Visa Overstayers****3. Ex-prisoners awaiting deportation.****Asylum seekers**

Generally speaking, these people have fled their countries under duress, have suffered trauma both before and during their journey and need special care and consideration. In the recent past we have treated asylum seekers like criminals and have housed them in facilities designed for dangerous individuals. We will suffer the consequences of this policy for many years as the mental health problems of this group are on-going and will incur great cost to the community.

As soon as health and security checks have been completed, asylum seekers should be released into the care of, either family support groups, or individuals while their application for refugee status is being processed. Some kind of security monitoring and/or reporting regime could be set up for them during this time.

Health and security checks should be commenced as soon as the request for asylum has been lodged as delays caused by the difficulty of obtaining police checks from certain countries have caused considerable pain to refugees even after winning their case before the tribunal. Some have waited an extra 11 months in detention because the process was only started after they received a decision. If the rationale behind this process was financial, compare the cost of keeping a person in detention while awaiting the results, with the cost of an application for a police check from another country.

Duration of Initial Detention

Six months in initial detention should be the absolute maximum. I suggest this time because it was consistently obvious that after six months there was a marked deterioration in a person's ability to cope with confinement and uncertainty. We observed this repeatedly. A person's behavior on release and their ability to cope with life after detention was frequently linked to the amount of time spent in detention. For instance, many of the Iraqis who were in Baxter for six months or less fared very well on release, compared to so many of the Afghan and Iranian men and women and children who are still damaged by their experiences and in need of professional counseling. Some of these were in detention for over four years.

Health Care

It should be presumed that most asylum seekers will be in need of trauma counselling which needs to be available from the time of their arrival. Mental health and depression far exceed any physical health problems caused by prolonged detention. An organization such as STARRS would be of assistance in this area and needs to be given immediate access. Although mental health staff did their best, in most cases they were not skilled enough to deal with trauma.

The Family Unit

Fathers should never be separated from mothers and children on arrival. Accommodation needs to be suitable for the family unit. After security and Health checks families need to be sponsored into the community so that the children especially are not traumatized further.

Preparation for Life in Australia

As well as English tuition practical information needs to be given about Australia. I do not mean its History, sporting or otherwise. What they need is practical help for their possible future life in Australia.

Information needs to be given about

Australian currency: and the cost of living

Road rules including how to get a vehicle license and its importance.

Use of public transport e.g. How to purchase tickets, read timetables and maps.

Information around the rental of premises, bonds and obligations in renting.

Center Link information

The role of police

These are just some of the facts that they need to know before release. We have witnessed avoidable mistakes through ignorance of these basic rules.

Boredom

Psychologically, the lack of any meaningful activity and involvement with the community was one of the greatest causes of depression. If it can be ascertained that a person is not a security risk, this person should be permitted to become involved with the local community if that is appropriate to a person's skills and abilities.

Visa Over-stayers

Generally speaking, if these over-stayers have been working illegally in Australia, they are resigned to being deported back to their families. Accommodation could be basic and temporary with moderate security. Maybe this is how the ITA facilities could be used.

The one group that would be of special concern is trafficked workers and prostitutes who may have been brought here illegally by unscrupulous operators who have made misleading and false promises. Help needs to be offered in these very complex situations where danger to families back home can be a real concern. Access to sources of help need to be discretely available and the police who deal with these cases need to be especially trained for the task. There are groups within the community who could be trusted with some of these cases.

Ex prisoners

This group needs to be housed separately and appropriately, keeping in mind that they have already served their time according to our justice system. They should not be treated as if they are still under sentence. Once they have left prison, the time between prison and deportation should be brief.

They do need to be monitored in some effective way. However, only if they have been judged a flight risk, need they be housed in secure detention and then for as little time as possible.

However, one very important exception to this practice needs to be examined. When a person has come to Australia as a juvenile and lived in the community for a considerable time within a family unit or other group and subsequently committed a criminal offence, he or she should be Australia's responsibility even though not an Australian citizen. For some people a careless failure to obtain citizenship has resulted in deportation to a country which will not accept them and where they have no family or cultural connections. This is an unreasonable and unjustified punishment added to punishment.

Transparency within the System.

For as long as Detention facilities are operated by private companies with a culture of prison management, we will not fundamentally change the practices that have plagued the system over the last decade or so. Many of the reforms introduced lately seem to have had little affect on the daily misery of long-term detainees, some of whom are still in detention centers around Australia.

As a community we need to take back the control and management of our Immigration Detention System so that we have proper and transparent public accountability.

Another aspect concerning transparency is the operation of the assessment process, currently the responsibility of the Refugee Review Tribunal. The name Tribunal implies that three people review the persons claim. However, only one member sits in judgment on the claim.

At times, this person may have inadequate and inaccurate information about a particular country or religion or political situation. If this is the case, it is not possible to challenge this at the hearing. If a person does try to challenge a fact they are usually ruled out of order and left with the fear that this challenge will be used against them.

In video hearings it is almost impossible for a claimant to put his or her case adequately or to contradict assertions by the member. Attending a R.R.T. hearing is often an intimidating and disempowering experience both for the asylum seeker and for any support persons who may be present. We need significant changes to this structure .We need to acknowledge that for many, the decisions made are matters of life or death.

This decision making process is the aspect of our system most in need of fundamental change.

Other models

Internationally there are examples of more just and humane ways of receiving and processing the claims of refugees, and we should look to these as we re-organize our system.

I refer also to the Hotham Mission Asylum Seeker Project.

The Justice for Asylum Seekers Network from Melbourne proposed an alternative way for Australia to respond to refugees. "The Better Way" was published in June 2002 and outlines ways of dealing with refugees. It might be time to re-visit this proposal.