



Ecumenical Migration Centre

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Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600 Australia

8th August 2005

Dear Secretary,

Re: Inquiry into the administration and operation of the Migration Act 1958

Thank you for the extension granted to the Justice for Asylum Seekers (JAS) network for its submission to the Senate Legal and Constitutional References Committee's Inquiry into the administration and operation of the Migration Act 1958. We wish to draw to your attention our fully costed proposal for managing asylum seekers, which has been developed according to the experience of welfare agencies and organisations currently providing support to refugees and asylum seekers in Australia.

The 2004 Human Rights and Equal Opportunity Commission's Inquiry into Children in Immigration Detention has highlighted the harmful affect of high security immigration detention on the health and well being of children and families. The recently released Palmer Inquiry Report expressed further concern about the impact of a high security detention environment on the mental, physical and emotional health of vulnerable people.

Whilst the recent introduction of the *Migration Amendment (Detention Arrangements) Bill 2005* now permits children and families to be released into Residence Determination within the community, there remains no mechanism within the *Migration Act* compelling the Minister to exercise this discretionary power or specifying the minimum standards and conditions of release into Residence Determination (which remains a form of detention under the *Migration Act*). Furthermore, the avenue for review of long-term detention cases by a Commonwealth Ombudsman, introduced in the *Detention Arrangements Bill*, fails to introduce a review and accountability mechanism for DIMIA's operations and administration that is independent of the government and whose recommendations are binding on the Department and/or the Minister.

Importantly, HREOC's Inquiry into Children in Immigration Detention Report (2004) has emphasised the need to consult with experts working with asylum seekers when developing and implementing systems for managing unauthorised arrivals, and names the JAS network as one such body (www.humanrights.gov.au/human_rights/children_detention_report).

In response to the detrimental effects of long-term immigration detention, the JAS network has developed an alternative system of management that considers the welfare needs of unauthorised arrivals without compromising Australia's security concerns. Significantly, the HREOC Inquiry into Children in Immigration Detention Report (2004), *A Last Resort?*, has incorporated the JAS alternative model to mandatory detention into its recommendations, recognising that:





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JAS has developed a comprehensive model that deals with both adults and children. Its model suggests that, on arrival, every person should undergo a 'psychosocial risk assessment' which examines the health, psychological, security and absconding risks associated with individual asylum seekers. Depending on the outcome of that assessment, individuals should either be released on a structured community release program or be kept in closed detention centres. JAS recommends that unaccompanied children and pregnant single women receive immediate security clearance and that accompanied children and their primary carers be released from detention as soon as possible. [Section 17.4.3, Recommendation 2(b)(b)]

The *Reception and Transitional Processing (RTP) System* achieves the much needed balance between care and compliance in the treatment of unauthorised arrivals by combining three approaches:

- Early assessment of refugees to work out whether anyone poses a security risk and whether there is a risk of absconding if they live in the community while awaiting assessment of their refugee claim
- Case management by a social worker from a national welfare agency to work with people and families to ensure they understand Australia's refugee system and prepare them for all possible immigration outcomes
- Accommodation options that house people according to their care needs

In light of the seriousness of the issues surrounding the costs involved in building and maintaining immigration detention centres in Australia, we urge you to read the document providing a full costing of the RTP system, prepared by independent economist Dr Tony Ward of Milbur Consulting. The document, *Improving Outcomes and Reducing Costs for Asylum Seekers*, establishes that the RTP system is 18% cheaper than the current system of mandatory detention. Please find it attached.

A full outline of the RTP system is also attached (JAS, *Alternative approaches to asylum seekers: Reception and transitional processing system*, 2003) as is a condensed version entitled *The Better Way: Refugees, detention and Australians*. These documents can also be downloaded from the Brotherhood of St Laurence's website: <http://www.bsl.org.au/main.asp?PageId=15>

We believe that any inquiry into the administration and operation of the *Migration Act* ought to investigate *The Better Way* of managing unauthorised arrivals within a system that addresses systemic human rights issues and better integrates care and compliance needs.

We would be happy to discuss further the ideas set out in this letter.

Yours sincerely,



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Justice for Asylum Seekers (JAS)

