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Submission to the Senate Legal and Constitutional Legislation Committee's Inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

As an Australian citizen, I am utterly opposed to the changes proposed in this bill. I believe they are cruel, unnecessary, and will serve to further damage Australia's international reputation in terms of human rights.

1) INDEFINITE DETENTION

This bill will see a return to asylum seekers being detained for indefinite periods of time. Recent DIMIA protocols recommending 90 day deadlines for the processing of protection visas will not be applicable to any asylum seekers held offshore. Numerous studies have shown the long-term damage caused by indefinite detention, including depression, anxiety, despair, self-harm and suicide. If this bill is passed, Australia will be directly and wilfully responsible for causing unnecessary mental and emotional anguish to vulnerable people. This is clearly unacceptable for a nation concerned about justice and human rights.

2) OUTWITH THE OMBUDSMAN'S JURISDICTION

Any asylum seekers detained in offshore processing centres are not eligible for review by the Commonwealth Ombudsman. There is no other review process in place which will apply to asylum seekers held offshore. This means there is effectively no limit at all to the length of time for which asylum seekers might remain in offshore processing centres, and no guarantees that residents' needs will be properly serviced – especially concerning mental health care.

3) OUT OF SIGHT, OUT OF MIND

In offshore processing centres, asylum seekers are denied contact with members of the Australian public. This means that there is no incidental monitoring of general conditions or individuals' situations. This denies citizens the right to assess their government's practice. It also places asylum seekers at greater risk of harm, whether intentional or accidental.

4) MORE CHILDREN IN DETENTION

The Migration Act seeks to detain children only as a last resort; a change introduced in recognition of the seriously deleterious effects of detention upon children. This bill will see all children who arrive unlawfully held in offshore processing centres for indefinite periods of time.

5) NAURU

As one of the few Australians privileged to visit the camp on Nauru, I am appalled that any just government would consider placing more people there. When I was on Nauru in May 2005 conditions were terrible. Potable water, electricity and fresh food were scarce, medical assistance was rudimentary and there were areas without plumbing or sewerage. I visited schools which were falling down, where there were too few chairs and desks for the number of pupils and too few qualified teachers. I waded through sewage to enter the hospital, where sick children were lying on a concrete floor, because of the lack of beds. The processing centre on Nauru has brought some benefits to the Nauruan people: about 90 people were given comparatively well-paid employment, the camp kitchen provided food for the hospital, the presence of DIMIA, the consulate and the AFPPS brought income in terms of accommodation, airport taxes and day-to-day expenditure. But all of these are short-term gains, lasting only as long as the camp. This is a nation that needs assistance in developing long-term security. For a fraction of the cost of maintaining the current facilities on Nauru, Australia could revitalise the whole education system, providing hope and genuine options for the next generation.

For the asylum seekers held on Nauru, life was dismal. By the time I visited the camp, there were only 54 asylum seekers remaining and they were housed in the smaller, more central State House camp. The asylum seekers were free to leave the camp (under supervision) between 8am and 6pm, and many of them were enrolled in a course with the University of the South Pacific. This provided them with a much better standard of life than for the previous three years, when the majority were interned in Topside Camp, yet their life was still dismal. Nauru is a tiny and terribly poor island with little facility for leisure. It is the top of a submerged mountain, so there are no sandy beaches: the sea falls suddenly to a depth of 2km. There is only about 1km² of arable land in total on the island. The whole centre of the island has been gutted through phosphate mining: it is a lunar landscape of impassable pinnacles. The climate is relentlessly hot and muggy: 26-35°C throughout the day, which prohibits virtually all activity in daylight. By 8am, it is already too hot and humid to even walk about. There is so little to do on Nauru that the AFPPS staff prefer to work 12 hour shifts without a break. In their view, a day (or a night) off on Nauru is a day wasted: a day spent trying to stay cool and waiting for time to pass. For the asylum seekers this was, of course, exacerbated, since none of them had chosen to be on Nauru at all. But apart from the despair at not knowing for how much longer they would have to wait in limbo, the asylum seekers also suffered from terrible boredom.

The majority of asylum seekers also felt completely alienated from the local population, and sometimes even threatened by them. The asylum seekers were all uninvited guests, who would never be eligible for citizenship and had no rights beyond temporary abode in the camp. Many Nauruans resented their intrusion. Others welcome the financial benefits of the camp, but feared its foreign residents. There were incidents of violence against the asylum seekers.

Legal advisers were not able to enter the camp on Nauru for years. When they finally did gain access, they were, of course, not able to visit regularly, so much of their work was conducted by phone and fax. There were no telephone lines into the

camp, and the asylum seekers required phone cards to call out. Only Telstra cards would work in the phones and their rates were prohibitively expensive. Many of the asylum seekers were only able to keep in regular touch with their lawyers because of the generosity of supporters in Australia. There were no official translation services in the camp. Staff and residents of the camp assisted with translation and interpreter services but, as none were trained, this was far from ideal. Individual asylum seekers were denied privacy and there was no guarantee that their cases were not compromised through misinterpretation.

One of the two asylum seekers remaining on Nauru continues to be in this situation, dependent upon the other remaining asylum seeker to represent his interests and to explain to him all that is happening.

By far the worst thing, though, for the asylum seekers, was the lack of any certainty about when they might leave Nauru. All 54 in the camp when I visited – including the children – were afraid that they might stay on Nauru until they died, and their levels of despair were dangerously high. Many were suffering mental health problems as a direct result of the indefinite nature of their detention: dependent on medication, engaging in self-harm, attempting suicide.

Before visiting Nauru I had engaged for some years in correspondence with a number of the asylum seekers on the island. Every single one of them described the same despair at being stranded in an unwelcoming place where they had never wanted to be, and not knowing whether they would ever be able to leave. All of this is very well documented. I am appalled that we would consciously inflict this very same torture upon a new generation of vulnerable people, while at the same time ignoring the plight of the Nauruan people.

I am also appalled by how few Australian politicians have bothered to visit the camp. In particular, neither the Prime Minister nor Minister Vanstone have been there. This is shameful. How can they hope to make informed decisions without seeing for themselves? More poignantly for those waiting in the camp on Nauru was the message this sent that they were totally forgotten.

6) UNNECESSARY

The number of unlawful arrivals in Australia is much less than can be processed within existing onshore facilities. Australia has a fully functioning system for processing asylum claims. There is no compelling reason for this to be further abandoned, and responsibility for handling claims to be passed to another nation.

7) CRUEL

In placing people in indefinite detention with little contact with outsiders, we cause them enormous mental and emotional harm. This has been very well documented (eg, with regard to Australia's immigration policies: Amnesty International 29/6/05; HEROC 17/5/04; Zachary Steel et al. *ANZJPH* 28, 6: 527-536, 2004). It is not possible for the Australian government to plead ignorance of the terrible consequences of indefinite detention. To willingly inflict this harm upon already vulnerable people constitutes cruelty beyond belief.

8) COSTLY

These proposed changes will come at a heavy economic and social price. The financial costs of maintaining offshore processing centres are significantly higher than those for Australian detention centres – which are, in turn, much higher than for residing in the community. The social costs are, of course, harder to quantify, but equally as difficult to recoup. Since about 84% of all asylum seekers are found to be refugees, the damage inflicted through indefinite definition is something to which we as a community will be required to respond: we will be required to heal the harm, and we will be denied the many contributions of which the person had previously been capable. Australia's national identity as a tolerant, multicultural, independent nation will be further eroded, as will our understanding of ourselves as a nation concerned with justice and providing a "fair go".

9) DAMAGING TO AUSTRALIA'S REPUTATION

These proposed changes will further damage Australia's record on human rights. We will be seen as a nation who exploits other countries' desperation in order to offload our own responsibilities. We will be seen as a nation who has no regard for preserving the health of vulnerable people in our care. We will be seen as an immigrant nation who has turned its back on its own history. And we will also be seen as allowing another nation to determine internal policy: a country so powerless and morally bankrupt that we place human rights as a poor second to all other concerns.

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