



UnitingJustice Australia

Submission

Australian Human Rights Commission

National Inquiry into Children in Immigration Detention 2014

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1 | INTRODUCTION

UnitingJustice Australia is the justice policy and advocacy unit of the Assembly of the Uniting Church in Australia (the national Council of the Uniting Church), pursuing matters of social and economic justice, human rights, peace and those concerning the environment. It works in collaboration with other Assembly agencies, Uniting Church synod (state) justice staff around the country, and with other community and faith-based organisations and groups. It engages in advocacy and education and works collaboratively to communicate the Church's vision for a reconciled world.

UnitingJustice Australia exists as an expression of the Uniting Church's commitment to working towards a just and peaceful world. This commitment arises from the Christian belief that liberation from oppression and injustice is central to the outcome of the work that God has undertaken through Jesus Christ. The Uniting Church in Australia is committed to involvement in the making of just public policy that prioritises the needs of the most vulnerable and disadvantaged in our society. In 1977, the Inaugural Assembly of the Uniting Church issued a Statement to the Nation. In this statement, the Church declared "our response to the Christian gospel will continue to involve us in social and national affairs."¹

In the Christian tradition of providing hospitality to strangers and expressing in word and deed God's compassion and love for all who are uprooted and dispossessed, the Uniting Church in Australia has been providing direct services to refugees and asylum seekers for many years through its network of congregations, employees, lay people and community service agencies. Through our ministers, lay and ordained, who provide ministry to the asylum seekers in detention centres and through our work with asylum seekers and refugees settling into the community, we have first-hand knowledge of the consequences of Government policies and the impact of asylum seeker children in detention.

In July 2002, the Uniting Church released its Policy Paper on Asylum Seekers, Refugees, and Humanitarian Entrants.² In this paper, the Church advocates for a just response to the needs of asylum seekers and refugees that recognises Australia's responsibilities as a wealthy

¹ <http://www.unitingjustice.org.au/uniting-church-statements/key-assembly-statements/item/511statement-to-the-nation>

² <http://www.unitingjustice.org.au/refugees-and-asylumseekers/uca-statements/item/477-asylum-seeker-andrefugee-policy>

global citizen, upholds the human rights and safety of all people, is culturally sensitive, and is based on just and humane treatment, including non-discriminatory practices and accountable transparent processes.

The Uniting Church is committed to working for a compassionate, socially responsible society and government that takes seriously its national and international obligations. It has consistently expressed its disappointment in the recent policy decisions of the current Government with regards to asylum seekers and refugees,³ and made a submission with UnitingCare Australia to the previous inquiry conducted by the Australian Human Rights Commission (AHRC) investigating the immigration detention of children in 2002.⁴ The Church is disappointed and disturbed that twelve years after the findings of the initial inquiry were released, young asylum seekers are still facing the physical and psychological trauma so clearly associated with indefinite and mandatory immigration detention.

As recently as 2012, the Joint Select Committee on Australia's Immigration Detention Network recommended that, "the Australian Government take further steps to adhering to its commitment to only detaining asylum seekers as a last resort and for the shortest practicable time."⁵ Accepting this recommendation, the then-Government went on to state in their response that, "the Department of Immigration and Citizenship is continuing to work on moving significant numbers of children and vulnerable family groups out of immigration detention facilities and into community-based accommodation."⁶

Despite commitments from both major political parties to remove children from detention,⁷ the election of a new government in late 2013 and the implementation of even more punitive policies have seen a rise in the number of children and families incarcerated.⁸ The ever-increasing hostility towards asylum seekers extends to the most vulnerable, all under the guise of deterrence and "stopping the boats". In blatant disregard of the international

³ <http://www.unitingjustice.org.au/refugees-and-asylumseekers/news>

⁴ <http://www.unitingjustice.org.au/refugees-and-asylum-seekers/submissions/item/609-inquiry-into-children-in-immigration-detention>

⁵ Joint Select Committee on Australia's Immigration Detention Network, "Final Report," August 2012, Recommendation 22.

⁶ "Government Response to the Recommendations by the Joint Select Committee on Australia's Immigration Detention Network," November 2012.

⁷ "Opposition backs community detention for child refugees," Sydney Morning Herald, 5 July 2013.

⁸ <https://www.immi.gov.au/About/Pages/detention/about-immigration-detention.aspx?tab=3&heading=immigration-detention-and-community-statistics>

human rights treaties to which Australia is a signatory, the Minister for Immigration and Border Protection Scott Morrison has emphasised that all asylum seekers – including children – are to be subjected to the Government’s policy of indefinite offshore detention:⁹

It doesn’t matter whether you’re a child, it doesn’t matter whether you’re pregnant, it doesn’t matter whether you’re a woman, it doesn’t matter whether you’re an unaccompanied minor, it doesn’t matter if you have a health condition. If you’re fit enough to get on a boat, then you can expect you’re fit enough to end up in offshore processing.

UnitingJustice Australia firmly believes that the indefinite and mandatory detention of children is a gross violation of international human rights laws, including (but certainly not limited to):

- the Convention on the Rights of the Child (CROc), particularly articles 2, 3, 18, 22, 24, 27, 28 and 37;
- the International Covenant on Civil and Political Rights (ICCPR), particularly articles 2, 6, 9, 10 and 23;
- the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly articles 2, 10, 13 and 15; and
- the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees.

The United Nations High Commission for Refugees (UNHCR) has consistently stated that detention is harmful to all asylum seekers, particularly children, and has been a vocal opponent of Australia’s offshore detention network.¹⁰ The UNHCR has produced guidelines for the protection and care of refugee children to assist states in upholding the rights of this most vulnerable group.¹¹ We believe that the current detention centre network arrangements discount these guidelines in their entirety.

⁹ Minister for Immigration and Border Protection and Commander of Operation Sovereign Borders Joint Agency Task Force press conference, 15 November 2013, www.customs.gov.au/site/131115_osb_transcript.asp

¹⁰ “UNHCR reports harsh conditions and legal shortcomings at Pacific Island asylum centres,” 26 November 2013, www.unhcr.org/52947ac86.html

¹¹ “Refugee Children: Guidelines on Protection and Care,” www.unhcr.org/3b84c6c67.html

It is in light of the above-listed international human rights instruments, and our extensive history in advocating for the rights of vulnerable asylum seekers that we make the following submission to the Australian Human Rights Commission.

2 | ABOUT THIS SUBMISSION

Much of this submission is informed by interviews with young people and their families who have been detained within the immigration detention network, as well as regular volunteer visitors to those currently in detention.

Many interviewees expressed concern over the release of their identity for fear of reprisals and a denial of visiting rights and privileges. UnitingJustice has honoured all requests for confidentiality and the de-identification of those who assisted in the preparation of this submission, but remains deeply troubled by the culture of fear that has created these concerns.

While we acknowledge that the remit of the Australian Human Rights Commission's Inquiry does not extend to offshore detention facilities, the current Government remains determined to close onshore facilities and transfer detained asylum seekers to remote offshore centres. With that in mind, our assessment of the appropriateness of detention facilities necessarily extends to offshore centres where children are detained, including Christmas Island and Nauru.

3 | Comments Against the Inquiry's Terms of Reference:

THE APPROPRIATENESS OF FACILITIES IN WHICH CHILDREN ARE DETAINED

**“Five times a day they would come for roll call. They would just open the door
if we did not answer straight away.
My father promised us safety,
but I always felt scared and exposed there.”**

Azadah, aged 13

Despite the reclassification of immigration detention centres to more “family-friendly” facilities known as Alternative Places of Detention (APoDs)—a practice that has been occurring since 2007—UnitingJustice remains firmly committed to the position that all restrictive and secure detention centres are inappropriate places for children.¹²

At its core, the UN Convention on the Rights of the Child (CRoC) holds that any administrative action concerning a child must prioritise the child’s best interests. In terms of Australia’s immigration detention network, this requires the Government to develop and implement policies with the rights and interests of children as a primary consideration. A child’s right to the highest attainable standard of health and medical care, an adequate standard of living, access to quality education, and protection from violence, must be incorporated into every level of policy development and implementation where the lives of young asylum seekers are concerned. The detention of children is never in the best interests of the child, and so we believe that successive governments have done little to prioritise the rights of vulnerable young asylum seekers.

There is overwhelming evidence that indefinite and mandatory detention damages the mental and physical health of children, and impairs their development.¹³ The

¹² <http://www.unitingjustice.org.au/refugees-and-asylum-seekers/news/item/945-uniting-church-offers-sanctuary-for-all-child-asylum-seekers-on-christmas-island>

¹³ The Australian literature alone on this issue is overwhelming. See, for instance: Newman, L. & Steel, Z. (2008). “The Child Asylum Seeker: Psychological and Developmental Impact of Immigration Detention,” *Child and Adolescent Psychiatric Clinics of North America* 17, 665-683; Hodes, M. (2010). “The mental health of detained asylum seeking children,” *European Child & Adolescent Psychiatry*, 19.7, 621-3; Newman, L. (2011). “Children seeking asylum: the psychological and developmental impact of the refugee experience,” in *International Perspectives on Children and Mental Health: Volume 1 Development and Context*, eds Hiram E

institutionalisation of young people who have already been exposed to varying degrees of trauma simply exacerbates pre-existing conditions, as well as directly contributing to new mental and physical health ailments. Compounding the inappropriateness of the existing facilities for children and young people is the lack of transparency into the operation of detention centres and the extremely limited oversight of conditions in detention available to the Commonwealth Ombudsman, the Australian Human Rights Commission, and independent healthcare professionals. The culture of secrecy around the operation of detention centres and often-arbitrary rule changes with regards to access to detained asylum seekers was a consistent complaint amongst volunteers and professionals interviewed by UnitingJustice for this submission.

“We are required to make a ‘best interest assessment’ – and so we do. Best interest is a primary consideration, not the primary consideration. We do it to stop others illegally entering Australia.”

***Mr. Mark Cormack, DIBP,
speaking on the transfer of unaccompanied minors
to offshore detention centres***

With children increasingly being held in detention for longer periods of time, the need for living environments that are age-appropriate is of vital importance. While children at different social and emotional developmental stages have varying needs, all children in detention should have access to appropriate recreational facilities and access to the natural environment. Meal preparation and access to food services should be flexible and in accordance with the needs of parents, particularly for babies and infants. All young people should have basic privacy rights established and maintained, and separate areas should be created for caregivers to attend to the needs of young children.

Fitzgerald, Kaija Puura, Mark Tomlinson and Campbell Paul, Praeger, USA, pp. 217-224; Dudley, M., Steel, Z., Mares, S. & Newman, L. (2012). “Children and young people in immigration detention,” *Current Opinion Psychiatry*, 25(4), 285-92; Newman, L.K. (2012). “Seeking asylum in Australia: Mental health and human rights of children and families,” *AIFS seminar series presentation*, Australian Institute of Family Studies, Melbourne Australia; Proctor, N., De Leo, D. & Newman, L.K. (2013). “Suicide and self-harm prevention for people in immigration detention,” *Medical Journal Of Australia*, 199: 11, 730-732; Newman, L.K. (2013). “Seeking asylum - trauma, mental health, and human rights: an Australian perspective,” *Journal of Trauma & Dissociation*, 14: 2, 213-223; and, Newman, L.K. (2014) “Back to the Future: revisiting the treatment of child asylum seekers,” *The Conversation*, 5 February.

“I was behind barbed wire, but I didn’t understand why. Was it to keep me safe? I felt like a prisoner. I saw many bad things, lots of people hurting themselves. I wanted to hurt myself but was too scared – I was told I would be sent back to the war.”

Fahran, aged 15

With regards to the facilities within detention centres, there are overwhelming disparities between the assurances provided by the Department of Immigration and Border Protection and eyewitness accounts. Updated in April 2014, the Australian Government Department of Immigration and Border Protection website notes that “it is government policy that children will not be held in immigration detention centres,” and goes on to detail a range of services and facilities that children and families have access to in detention. These include “access to health care at a standard generally comparable to the health care available to the Australian community... cultural and lifestyle classes, sporting activities, excursions such as fishing or shopping trips... art and craft supplies, a library with a variety of reading material in various languages... beverages and snacks available between meals.”¹⁴ None of these statements are consistent with the testimony of those interviewed for this submission, nor with reports of advocacy agencies such as the Australian Human Rights Commission, ChilOut and Amnesty International Australia.

“If you are a child in detention, then we will use techniques to manage your behaviour such as applying consequences.”

Mr Mark Cormack, DIBP, in response to accusations of child asylum seekers being harassed

In its 2011 summary of observations from visits to immigration detention facilities at Villawood in Sydney, the Australian Human Rights Commission noted that while children may have access to limited and supervised excursions, “during the remainder of their time they are restricted to the detention facility.”¹⁵ The Commission also noted that despite assurances to the contrary, at the time of their visit, no external excursions had been

¹⁴ Australian Government, Department of Immigration and Border Protection. “Fact Sheet 82 – Immigration Detention,” last reviewed 29 April 2014. www.immi.gov.au/media/fact-sheets/82detention.htm

¹⁵ Australian Human Rights Commission (2011). “Summary of observations from visit to immigration facilities at Villawood,” p. 24, www.humanrights.gov.au/publications/2011-immigration-detention-villawood

conducted for detained asylum seekers for “around a year.” While the Commission was told that excursions were soon to be run, they would only be offered to those in detention for periods over six months.¹⁶ In a 2011 report, the Australian Children’s Commissioners and Guardians revealed that conditions for children and young people throughout the detention network did not meet the standards outlined by the then Department of Immigration and Citizenship:¹⁷

- at Inverbrackie APOD, notwithstanding the best efforts of the childcare worker, the children’s Playgroup is a perfunctory arrangement with very little thought given to the experiences that children have when they attend. The environment is dark, unstimulating and uninviting and appeared to be used more as an area for adults than for children. The conflicting advice about attendance has done little to engender confidence in the Playgroup being used to its full potential;
- also at Inverbrackie APOD, the health services appear to be provided primarily for adults with little attention paid to the physical and emotional needs of children. While two of the nursing staff are reported to have trained in child health there was little evidence that children’s health was considered a core component of the health service;
- at Leonora APOD, despite efforts by Serco and DIAC staff, the harsh circumstances of the living conditions are compounded by the extreme weather conditions and the remote location. There was a significant lack of adequate social and recreational activities that, given the lack of purposeful activity and the indefinite periods of detention, contributes significantly to the stress and anxiety experienced by both adults and children; and
- while torture and trauma services are present in the detention centres, such as the Association for Services to Torture and Trauma Survivors (ASeTTS) in Western Australia, there is limited access to mental health services with specialist expertise in responding to children’s and parents’ needs.

¹⁶ Ibid, p. 27.

¹⁷ Australian Children’s Commissioners and Guardians’ Submission to the Joint Select Committee on Australia’s Immigration Detention Network, August 2011.

During a 2013 visit to the Darwin Alternative Places of Detention, child advocacy group ChilOut noted several detention network policies and procedures that stand in direct contradiction to the assurances provided by the Department of Immigration and Border Protection, including:¹⁸

- the lack of indoor recreational facilities – a vital alternative to the heat given the location of many of the detention facilities used to house families;
- restrictive meal plans that were neither culturally nor age-appropriate, and limited access to snacks including fruit;
- no support offered to breastfeeding mothers;
- separation of mothers who have given birth from their partners and other children;
- shipping containers used as “playrooms”; and
- limited to know access to excursions and recreational outings.

“I am so deeply ashamed every time I visit them. What they have been through and what we continue to put them through as a country. The horror of it all overwhelms me. They have endured decades of suffering, and yet welcome me with open arms into their ‘prison’. How do I face them when my Government is responsible for their suffering?”

Sara, volunteer at Villawood Detention Centre

Several individuals who volunteer within the detention network visiting asylum seeker families commented on the high levels of detachment that they witnessed amongst children and young people. The general consensus was that children did not engage in play not only because of the inappropriateness of the facilities or the lack of activities on offer, but also because many young people were overly-attached to their parents who themselves were unable to interact with their children to the best of their abilities, an assessment that is supported by Australian and international literature.¹⁹

UnitingJustice is deeply troubled by the recent revelations of the conditions for children detained on Nauru. The report, compiled by five medical specialists and presented to the

¹⁸ ChilOut. (2013). “Darwin Detention: Damaging Children,” www.chilout.org

¹⁹ The impact of immigration detention on parents and their ability to care for their children will be discussed in Section 4 of this submission.

Physical and Mental Health Subcommittee of the Joint Advisory Committee for Nauru Regional Processing Arrangement, contained disturbing details of the conditions faced by children on Nauru, including:²⁰

- children in the Nauru detention centre are not adequately screened for disease, resulting in the likelihood that many are carrying undiagnosed blood-borne diseases and up to 50% are carrying latent tuberculosis;
- there are no paediatricians employed in the centre and no paediatric life support available on Nauru;
- there is no clear child protection framework for children inside the centre and it is unclear what child protection checks are undertaken for Nauruan staff. This, according to the report, “places them [asylum seeker children] at significant risk of sexual abuse”;
- most pregnant women are suffering from depression;
- immunisation courses are not properly completed, increasing the risk of transferable diseases;
- in a 14-month period between 2012 and 2013 there were 102 cases of self-harm, including 28 hanging attempts by 18 detainees; 6.3% of the asylum seekers are on psychotropic medication to treat mental illness;
- living conditions are “crowded, hot and humid” with children having “limited meaningful play”. Children play with stones; and
- there is an apparent significant risk of groundwater contamination as a result of poor waste management at the detention centre.

We believe that the fundamental human rights of the 190 child asylum seekers on Nauru are in grave danger, and we support the urgent transport of the children and the families to the Australian mainland.

²⁰ Proctor, N., Sundram, S., Singleton, G., Paxton, G. & Block, A. (2014). “Physical and Mental Health Subcommittee of the Joint Advisory Committee for Nauru Regional Processing Arrangement, Nauru Site Visit Report, 16 – 19 February 2014,” <http://www.theguardian.com/world/interactive/2014/may/29/nauru-family-health-risks-report-in-full>

4 | Comments Against the Inquiry's Terms of Reference:

THE IMPACT OF THE LENGTH OF DETENTION ON CHILDREN

“Medical ‘access’ is not just about being there. Traumatized parents are not proactive. The health services need to be proactive – not sitting there waiting for a client to go to them...

People don't feel empowered to look after themselves and their children – there is no motivation to maintain wellness because they have no hope. They have no hope because of how long they have been held in detention.”

Dr. Karen Zwi

The wealth of evidence-based literature—both in Australia and internationally—suggests that the longer a child is detained, the more severe and long-lasting the negative mental and physical impacts of their detention. While providing testimony in Sydney during the Australian Human Rights Commission Inquiry, Dr Mark Parrish, the Regional Medical Director of International Health and Medical Services (IHMS) confirmed that the Department of Immigration and Border Protection is aware that asylum seekers are more vulnerable to mental health conditions the longer they remain in detention.²¹

Children are dependent upon caring relationships for their emotional, social and physical development. The current arrangement of indefinite and mandatory detention—particularly in offshore detention centres—precludes parents from appropriately caring for their children. While many parents initially express relief after escaping the traumas of conflict and persecution in their homeland, the process and practice of detention necessarily means that parents – and their children – are unable to heal their wounds of the past. The lack of a nurturing and supportive environment prevents parents from engaging fully with models of

²¹ The International Health and Medical Services (IHMS) is contracted by the Australian Government to oversee and implement all healthcare arrangements within the detention centre network. Dr. Parrish's testimony was provided during the Sydney hearings under questioning from Professor Gillian Triggs, President of the Australian Human Rights Commission, on Friday April 4.

recovery from trauma.²² These ill-effects of detention are prolonged, and highly likely to be carried by children well into their lives as adults.²³

Rates of attempted suicide are alarmingly high in immigration detention, with one study situating them at 10 times the rate of the general population, while another found rates at 26 times the national average.²⁴ Children exposed to these incidents of self-harm are more likely to engage in those practices themselves, a conclusion supported by Immigration Department documents released in 2013 detailing 26 cases of self-harm in children as young as nine over a two-month period in the Darwin Airport Lounge and Botanic Apartments. UnitingJustice is concerned that many serious self-harm incidents are being reported as minor, while others are overlooked entirely.²⁵ In a 2013 Report investigating self-harm incidents within the immigration detention network, the Commonwealth Ombudsman noted that with regards to the data collected on children and incidents of self-harm, “the data collected and reported by the department [is] poor in quality and breadth.”²⁶ The Report additionally noted that existing Serco policies are inadequate in terms of their definitions of self-harm and their categorisation and reporting of incidents.

“I still feel guilty all the time. My Dad did not cope with detention – he lost all hope. I tried to help him and my mother and my brothers. But what could I do? I was just a child. Now we are living here and all I can think of is why did they punish us for so long? Why did we waste all that time living in a prison when we did nothing wrong?”

Nasiba, aged 20 years

²² Dudley, M., Steel, Z., Mares, S. & Newman, L. (2012). “Children and young people in immigration detention,” *Current Opinion in Psychiatry*, 2012: 25(4), 285 – 292.

²³ Newman, L., Proctor, N. & Dudley, M. (2013). “Seeking asylum in Australia: Immigration detention, human rights and mental health care,” *Australian Psychiatry*, 21:4, 316 – 320.

²⁴ It should be noted that the different parameters of the studies accounts for the differences in the findings. Steel, Z., Momartin, S. & Bateman, C. (2004). “Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia,” *Australian and New Zealand Journal of Public Health*, 28:6, 527 – 536, and Dudley, M. (2003). “Contradictory Australian national policies on self-harm and suicide: The case of asylum seekers in mandatory detention,” *Australasian Psychiatry*, 11, S102 – S108.

²⁵ <http://www.abc.net.au/lateline/content/2013/s3693193.htm>

²⁶ Commonwealth & Immigration Ombudsman (2013). “Suicide and Self-harm in the Immigration Detention Network,” Report No 02, May 2013.

There is a direct correlation between the length of time spent in detention and the prevalence and severity of mental ill-health.²⁷ There was a substantial increase in self-harm incidents within the detention centre network in 2011, which corresponded with the period when the number of people spending more than six months in detention increased dramatically.²⁸ When parents or caregivers are themselves suffering from deteriorating mental health as a result of these increased incarceration periods, children are often forced to act as ‘surrogate parents’ for their younger siblings. This increased responsibility at an early age has a long-term and detrimental effect on the development of children, with many ex-detainees interviewed by UnitingJustice for this submission noting that they continue to carry feelings of guilt well into their own adulthood for not being able to adequately help their parents when they were younger.

An Australian study into the mental health of parents and children in immigration detention found that all of the individuals assessed met diagnostic criteria for at least one current psychiatric disorder, despite very little support or intervention offered by International Health & Medical Services.²⁹ UnitingJustice believes that no level of specialised mental health services will be able to negate the fact that an individual cannot move on or heal from their trauma while they are being forced to relive it every day through the experience of indefinite incarceration within the Australian detention network.

²⁷ Ipsos Social Research Institute (2013). “Evaluation of the Psychological Support Program (PSP) Implementation,” June, 50 – 51.

²⁸ Commonwealth & Immigration Ombudsman (2013). *Report*.

²⁹ Mares, S. & Jureidini, J. (2004). “Psychiatric assessment of children and families in immigration detention,” *Australian and New Zealand Journal of Public Health*, 28:6, 520 – 526.

5 | Comments Against the Inquiry's Terms of Reference:

PROVISION OF EDUCATION, RECREATION, MATERNAL AND INFANT HEALTH SERVICES

“The young people I have worked with are hungry for school – I think they see education as the only way forward; as if by absorbing all knowledge available, they will somehow be able to understand or make sense of what they have been through. How do I tell them that no matter how hard they try, it will never be enough to make sense of what we have done?”

Richard, Teacher in Melbourne, Victoria

UnitingJustice is gravely concerned that very little progress has been made towards the implementation of access to education for children and young people in detention since the last Inquiry conducted by the Australian Human Rights Commission over a decade ago. Access to quality education is a key indicator of success in adult life. Across a range of factors, from socio-economics to health, the evidence overwhelmingly suggests that young people who are denied educational opportunities are more likely to experience poorer outcomes at all stages of their development.³⁰

Not only does the current immigration detention network preclude children from a normal educational environment, most are receiving a far lower quality education than Australian children. Primary-age students who are transported daily to and from school within the community, have spoken to the volunteer visitors interviewed for this submission. They spoke of feeling “different” because they were not allowed to go to a “normal home” like other children. For those asylum seekers who are of high-school age, access to education varies dramatically between detention facilities, with the revelation in 2013 that young asylum seekers housed at Pontville did not attend school, had not been provided with written information in their language, and had no access to recreational or sporting facilities.³¹

³⁰ Ross, C. & Mirowsky, J. (1999). “Refining the association between education and health: Effects of quantity, credential and selectivity,” *Demography*, 36:4, 445 – 460.

³¹ “Ashford reports on Pontville youth,” *The Examiner*, 4 March 2013, www.examiner.com.au/story/1339239/ashford-reports-on-pontville-youth/

“Every time I visit, she begs me to take her baby. She tells me that she can’t take care of her and that she doesn’t want her to grow up like an animal in a cage. I have never seen anyone supporting her as a mother or giving her the help that she needs. I’m too scared to report it, because what if they take her child away from her? That last thread of hope she is holding on to will suddenly disappear.”

Vanessa, volunteer at Villawood Detention Centre

Of all the concerns expressed by interviewees for this submission, the issue of maternal health of asylum seekers was of greatest concern. Pregnant women held in detention must have access to basic primary healthcare, including antenatal education, options during birth, support for breastfeeding, and adequate screening and treatment of postnatal depression. There is little to no evidence of the provision of any of these services across the immigration detention network. Inadequate provision of qualified and specialist staff—particularly for women with high-risk pregnancies—would ensure that new mothers receive appropriate care and attention and that their children receive all relevant infant and childhood checks.

During their 2013 visit to detention facilities in Darwin, advocacy group ChilOut revealed several disturbing aspects of the lack of care available to pregnant women and new mothers, including:

- women in their third trimester of pregnancy being transferred from Christmas Island to Inverbrackie Detention Centre without their husbands;
- women being taken to hospital to give birth without any medical files, no interpreter present, and an “overbearing presence of Serco guards” at the hospital;
- no formal documentation of the baby’s birth being given to the mother;
- limited clinical experience of obstetrics for the three GPs charged with caring for the new mothers once they are returned to detention;
- high levels of detachment and post-natal depression in new mothers;
- for those who bottle-feed their children, a lack of access to sterilisation equipment, and the need to locate and request permission from a guard for assistance in night-time preparation of bottles; and

- while a six-week check up for both mother and baby is standard clinical practice in Australia, new mothers are being transferred to offshore detention centres when the baby reaches 4 weeks of age.

Compounding these distressing insights into the lives of new mothers in detention is the lack of oversight or independent review mechanisms. In December 2013, the Government disbanded the Immigration Health Advisory Group (IHAG), which had been previously charged with reviewing the delivery of healthcare to children in detention centres, and advising on best-practice models. UnitingJustice remains critical of the decision to abolish this advisory body and holds grave concerns for the safety and wellbeing of mothers and their infants in detention.

6 | Comments Against the Inquiry's Terms of Reference:

THE GUARDIANSHIP OF UNACCOMPANIED CHILDREN IN DETENTION IN AUSTRALIA

“In my own country, the Taliban would come and shoot at me. I would be killed straight away. But the Australian Government, they will kill you very slowly, very slowly, with your mind.”

Bashir, aged 17

Unaccompanied minor presenting evidence at the AHRC Inquiry

UnitingJustice has long been concerned with the role of the Minister for Immigration and Border Protection as legal guardian of unaccompanied children. The power of the Minister to detain children and young people *and* to determine their refugee status is highly inappropriate. The Minister may – and indeed routinely does – delegate guardianship powers to the Department of Immigration and Border Protection. It is simply not possible for the Minister nor an officer of the DIBP to ensure that the best interests of an unaccompanied child, while they are simultaneously the detaining authority and the visa decision-maker.

UnitingJustice is aware that the DIBP currently contracts MAXimus Solutions to provide support for children without parents in detention. However, too often these services are not adequately encoded into detention centre management policies, resulting in children being left without independent observers during interviews, and no written policies on who is responsible for the supervision of unaccompanied children in detention. The situation for children and young people relocated to offshore centres is even more dire. The Australian Churches Refugee Taskforce, of which UnitingJustice is a member, released a discussion paper in October 2013 noting the gross inadequacies of the guardianship arrangements for children in detention. The paper noted that, “guardianship of these vulnerable children and young people is not merely a legislative function to be discharged. It is a multifaceted responsibility that encompasses statutory duties, duties under common law, the fulfilment of Australia’s international obligations, and a serious moral and ethical concern for the wellbeing of a child that flows from such responsibility.”³²

7 | CONCLUSION

UnitingJustice Australia does not support the current practice of mandatory and indefinite detention of children – under any circumstances. The evidence overwhelmingly suggests that there is tremendous damage being inflicted on the mental and physical health of vulnerable young asylum seekers, a situation we find intolerable. While we are deeply disappointed that a decade on, we are required to provide a submission on the detention of children, we applaud the Australian Human Rights Commission for their determination to overcome the culture of secrecy that shrouds the treatment of too many young asylum seekers in detention. We will continue to advocate for justice for all men, women and children who seek refuge in Australia from persecution and conflict, and encourage the Australian Government to honour our nation’s commitments under international human rights treaties to ensure that young people in particular are treated with the dignity and respect they deserve.

³² Australian Churches Refugee Taskforce (2013). “All the Lonely Children: Questions for Policy Makers Regarding Guardianship for Unaccompanied Minors,” Draft Paper, October 2013, National Council of Churches in Australia.

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