

DUMPED AT THE GATE: From Detention to Despair

Recommendations for minimum standards for the
Post-Detention settlement of Asylum seekers

December 2005

www.asrc.org.au

ABN 64 114 965 815 Incorporation No. A0042918H

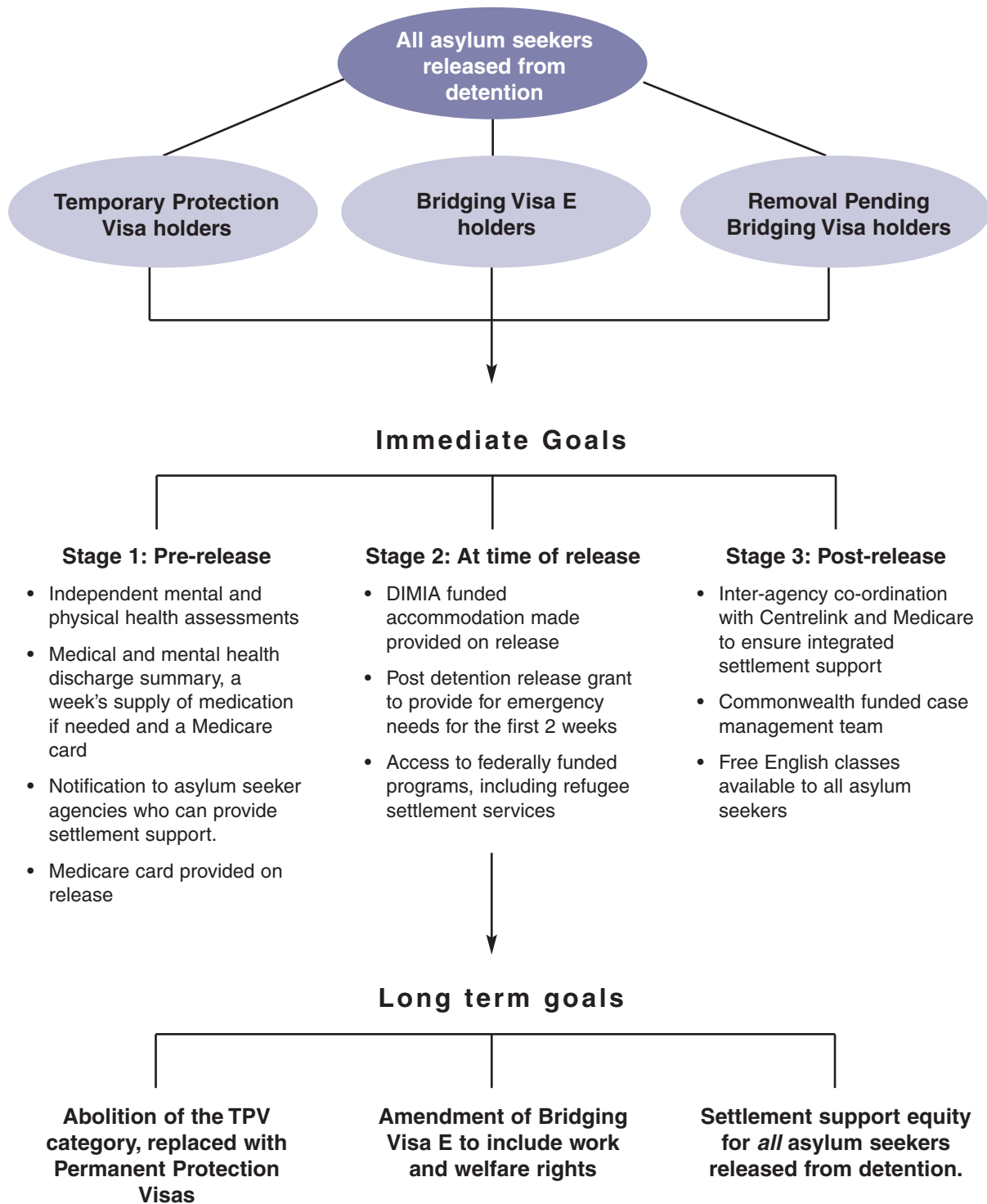
ASRC: 67 Jeffcott Street, West Melbourne VIC 3003 tel: 03 9326 6066 f:ax 03 9326 5199



Table of Contents

Model for the Post-Detention Settlement of Asylum Seekers	3
Executive Summary	4
Recommendations	6
1. Background & Agenda Setting	8
2. Policy Evaluation	10
2.1 Fulfilment of International Obligations	10
2.2 Duty of Care	10
2.3 Equity of Access	11
2.4 Human Rights	12
3. Systemic Barriers to Successful Post-Detention Settlement	12
3.1 Temporary Protection Visa Category	12
3.2 The Bridging Visa E	13
3.3 Settlement Support Equity	14
4. Release from Detention	16
5. Issues Facing Asylum Seekers Released from Detention	17
5.1 Mental & Physical Health Care	17
5.2 Medical Discharge Summaries	19
5.3 Access to Medicare	21
5.4 Housing & Homelessness	23
5.5 Employability	25
5.6 Access to Centrelink Benefits & Crisis Payment	27
5.7 Notification of Release	29
5.8 Post-Detention Case Management Team	31
6. Policy Formulation	32
6.1 Settlement Support Program Models: Review of Potential Responses	32
6.1.1 International Settlement Support Program for On-Shore Asylum Seekers	32
<i>Sweden</i>	32
6.1.2 An Overview of Commonwealth Government Initiatives	33
<i>Integrated Humanitarian Settlement Strategy (IHSS)</i>	33
<i>Asylum Seeker Assistance Scheme (ASAS)</i>	33
<i>Settlement Support for Families & Children Released on Residence Determination Visas</i>	33
<i>Settlement Support for Detainees Recently Released from Nauru</i>	34
6.1.3 State Initiatives	34
6.1.4 An Alternative Model of Post-Detention Settlement Support	35
<i>Australian Prisoner Release Programs</i>	35
6.2 Who Should Be Responsible?	36
7. Financial Impact of the Post-Detention Settlement Model	36
8. Conclusion	37
9. References	38

Model for the Post-Detention Settlement of Asylum Seekers



Executive summary

A The Asylum Seeker Resource Centre (ASRC) is Australia's largest asylum seeker aid, health and advocacy organization. This submission covers the main problems facing refugees released from detention and provides recommendations and an alternative model of care to ensure the successful resettlement of refugees in Australia.

B Some of the main problems facing asylum seekers released from detention are:

- The insecurity of Temporary Protection Visas (TPVs), Removal Pending Bridging Visas (RPBVs), and Bridging Visa E's (BVEs);
- Denial of Medicare rights and barriers to accessing Medicare for those who are eligible;
- Homelessness & difficulties in accessing adequate & affordable housing;
- Ineligibility to work and significant obstacles to finding employment for those with work rights;
- Denial of financial support and difficulties in securing timely access to financial support for those who are eligible for Centrelink;
- Failure of DIMIA in providing advance notification of release which would allow community organizations to make adequate preparations to support asylum seekers upon arrival;
- Failure of DIMIA to provide case management that would help to ensure the successful settlement of asylum seekers.

C Key Recommendations for ensuring the successful settlement of post-detention asylum seekers:

1. The Temporary Protection Visa category should be abolished. All those who fulfil the refugee criteria should be granted Permanent Protection.
2. Work rights, Medicare and financial support entitlements should be granted to all asylum seekers released from detention;
3. Eligibility for Commonwealth funded settlement support services should be extended to include all asylum seekers released from detention.
4. All asylum seekers should be provided with independent pre-release mental and physical health assessments, comprehensive medical discharge summaries, and follow-up medication and treatment if required.
5. DIMIA should build inter-agency partnerships with Medicare and Centrelink that would allow asylum seekers to register for benefits prior to release in order to ensure immediate access.
6. DIMIA should provide funding for the transitional housing needs of asylum seekers released from detention and should ensure secure adequate accommodation prior to release.
7. All asylum seekers should be eligible for vocational English classes and individualized employment training and assistance.
8. DIMIA should provide timely advance notification of release to appropriate community organizations.
9. DIMIA should provide Commonwealth funded caseworkers for all asylum seekers released from detention.

D This model ensures a more humane and functioning settlement system for post-detention asylum seekers, which would:

- Ensure that Australia is living up to its international obligations to asylum seekers.
- Acknowledge the duty of care DIMIA has to asylum seekers released from detention.
- Ensure equity of access for all asylum seekers.
- Ensure that Australia is supporting the fundamental human rights of all asylum seekers.

E Existing settlement support program models include the:

- International Settlement Support Program for On-shore Asylum Seekers in Sweden
- Integrated Humanitarian Settlement Strategy (IHSS)

- Asylum Seeker Assistance Scheme (ASAS)
- Settlement Support for the families and children released on Residence Determination Visas and for the asylum seekers recently released from Nauru.
- Various State Government Initiatives
- Australian Prisoner Release Programs

F The suggested model will contribute to a number of positive outcomes:

- Successful integration and settlement of all asylum seekers.
- Reduction of costs to the taxpayer of re-assessing refugee claims.
- Reduction of welfare dependency.
- Reduction of the pressure placed on over-stretched community organizations.

Recommendations

The ASRC's recommendations are numbered according to the section of the report in which they appear.

3.1 The Temporary Protection Visa Category

1. Australia should adopt a full and inclusive interpretation of the refugee Convention and should grant permanent protection to all those who fulfil the refugee criteria; permanent protection should not be contingent upon a refugee's mode of arrival.

3.2 The Bridging Visa E

2. All asylum seekers released from detention should have work rights, Medicare coverage, and should be eligible for welfare assistance.

3.3 Settlement Support Equity

3. Eligibility for Commonwealth funded Settlement Services should be extended to include *all* asylum seekers released from detention.
4. Settlement services should be the responsibility of the Commonwealth and should not be left to the discretion of State Governments or shifted to community and volunteer organizations.

5.1 Mental & Physical Health

5. DIMIA should make certain that pre-release mental and physical health assessments are made by independent health professionals.
6. DIMIA should be responsible for ensuring that any health needs highlighted by such assessments are appropriately dealt with post-release.
7. The Australian government and DIMIA should provide political leadership by adopting a welcoming and inclusive approach to asylum seekers.

5.2 Medical Discharge Summaries

8. All patients, including asylum seekers, have the right to have their medical records transferred to another practitioner. DIMIA therefore has an ethical duty to make sure that all relevant material is made immediately available. We recommend that DIMIA ensures that all detainees are provided with a medical discharge summary at the time of their release.
9. In order to ensure continuity of treatment, DIMIA should ensure that all asylum seekers who are released from detention are provided with a week's supply of medication as well as with a follow-up medical appointment.
10. A system of 'patient held' medical records is another option which would eliminate the need to apply for access to the medical records of asylum seekers upon release from detention. This could be implemented for all asylum seekers held in detention. Patient held medical records could include all immunization, treatment, diagnosis and medication records.
11. DIMIA should establish a clear process for requests of the medical records of former detainees.

5.3 Access to Medicare

12. TPV, RPBV and BVE holders should be provided with pre-release assistance in registering for Medicare benefits and should be released from detention with a working Medicare number.

5.4 Housing & Homelessness

13. Preparations for accommodation should begin in detention and within a reasonable timeframe prior to release.
14. DIMIA should ensure the right to adequate housing by funding transitional housing for all asylum seekers released from detention.
15. All asylum seekers released from detention be made eligible for Ongoing Arrival Accommodation (OAA).
16. In the absence of structural change that would allow all post-detention asylum seekers to access Commonwealth settlement services, emergency funding should be made available to assist those who are experiencing housing crisis.

5.5 Employability

17. All asylum seekers should have access to free vocational English training both in detention and upon release.
18. TPV, RPBV and BVE holders should be provided with the same intensive individualized job training that is offered to off-shore refugees.
19. TPV, RPBV and BVE holders should receive Centrelink benefits that do not act as a disincentive to work; that allows them to benefit from engaging in part time or casual work.
20. Asylum seekers should be provided with opportunities to do work in detention that can maintain and consolidate the skills they have.

5.6 Registering for Centrelink Benefits & Crisis Payment

21. DIMIA and Centrelink should establish a formal protocol in which DIMIA arranges for Centrelink officers to meet with TPV, RPBV and BVE holders prior to their release in order to secure their Special Benefits payment immediately. In addition, DIMIA should provide notification of release to Centrelink so that Centrelink can record the visa grant date, meaning that payment would begin as of that date.
22. The amount of money that asylum seekers are provided with upon release should be increased to at least \$500. This be supplemented by making a Centrelink crisis payment available to asylum seekers upon release.
23. Centrelink should provide all asylum seekers released from detention with the maximum *Special Benefit* payment available.

5.7 Notification of Release

24. DIMIA should notify relevant community organizations of the pending release of all asylum seekers as early as possible.
25. Upon a visa being granted or a decision made about an impending release, DIMIA should keep the asylum seeker in detention for a further 48 hours so that the necessary arrangements can be made to ensure their safe and dignified release into the community.

5.8 Post-Detention Case Management Team

26. DIMIA should fund a caseworker in each state to provide individualized case management and ongoing risk and needs assessment for post-detention asylum seekers.
27. These caseworkers should initiate their support while the asylum seeker is still in detention. Pre-release services should be on a continuum with post-detention needs. Immediately post-release, the asylum seeker should receive intensive support, followed by a period of progressively reduced levels of support.

1. Background & Agenda Setting

*"It was like a dream, not expecting it. We were very happy. We were very happy because we thought that we're finished and we're out of the prison, but unfortunately we found ourselves in a bigger prison, an open prison"*¹

Summary:

The current conditions of release from detention are inhumane. This paper seeks to redress the systemic failure to support asylum seekers that come out of detention. The Commonwealth Government should provide comprehensive settlement support for asylum seekers released into the community in order to ensure that they have the best chance of adjusting to life in Australia.

The recent case of an Iranian asylum seeker begging to be readmitted to Baxter Detention Centre has exposed the inadequacy of the current regime in dealing with asylum seekers who are released into the community after extended periods of detention. While the issue of mandatory detention has been the subject of much public and political debate, the inadequacy of the conditions of release from detention has remained a largely untold story.

Asylum Seekers are being released some after 5 and 6 years in Detention centres, with only a few hours notice. After being called to the DIMIA office to be told of their release, they are given an hour to pack their belongings and are then passed through the gates to freedom. In the past people have been dumped at the gate of Baxter which is 5 kilometres from the town of Port Augusta. As a result the Nuns and local community members have put in place a welcoming strategy and take care of people on their first night out. They also take them to the bus the next day for their journey to Adelaide. They rely on their own networks to find out when people are released. DIMIA do not assist.

The three types of visa categories that will be the subject of this document are the Temporary Protection Visa (TPV), the Removal Pending Bridging Visa (RPBV) and Bridging Visa 'E' (BVE). These are the visas commonly issued to asylum seekers upon release from detention.

Temporary Protection Visa

The TPV was introduced in 1999 and is granted for a period of 36 months to people who arrived in Australia unannounced, without valid documentation and who are subsequently recognized as refugees. A refugee with a TPV is treated as less deserving of Australia's protection despite having met the strict UN Convention criteria of a 'genuine refugee'.

Removal Pending Bridging Visa

The RPBV was introduced in May 2005. This visa was introduced as a way to allow for the release, pending removal, of detainees who have been cooperative with efforts to remove them from Australia, but whose removal is not practicable in the foreseeable future. RPBV holders share many of the same settlement issues as TPV holders, however their situation is compounded by the fact that they are forced to cope with the added insecurity of knowing that their visa can be cancelled and that they can be removed from Australia at a moment's notice.

Bridging Visa E

Asylum seekers may also be released from detention on a Bridging Visa E (BVE) if they meet any of the requirements under regulation 2.20, particularly when released from detention for medical reasons.² While TPV, RPBV and BVE holders face insecurity and a lack of settlement support, BVE holders are offered no support whatsoever; they are ineligible for financial support and Medicare, and are denied the right to work.

¹ Marston, Greg. July 2003. "Temporary Protection Permanent Uncertainty: The Experience of Refugees Living on Temporary Protection Visas". Centre for Applied Social Research RMIT University. Pp.24. <http://mams.rmit.edu.au/k2vavbh0g5ik.pdf>

There is a marked discrepancy between the settlement experience of offshore refugees and those granted TPVs, RPBVs and BVEs. The Australian government has imposed a punitive funding model which restricts the access of TPV, RPBV and BVE holders to the settlement services and support offered to refugees with Permanent Protection, whilst reducing their access to government social services, and denying them the right to family reunion. Consequently, the post-detention experience is invariably characterized by bewilderment and relentless insecurity. Asylum seekers face a myriad of problems in establishing themselves within the community after they are released from detention. These include poverty, unstable tenancy or inappropriate accommodation, a lack of access to medical records and mainstream health services and a lack of recognition of vocational skills.

There is a proven relationship between how a person is treated throughout the immigration process and their ability to integrate into the community effectively.³ The impact of detention on long-term mental health is well documented. The deep uncertainty that is associated with both the TPV, RPBV and BVE categories severely restricts the capacity of asylum seekers to “recover from their traumatic past, as well as to dream and hope for a better future”⁴. Research has demonstrated that post-detention settlement support services can help to reduce anxiety and can help asylum seekers to regain a sense of dignity, control and independence. Such a system is therefore not only an ethical imperative, but is also of vital practical importance.

Furthermore, different support services are mutually beneficial as achieving standards in one area of an asylum seeker’s life will often influence and can even determine progress in other areas. For example, meeting the shelter and security needs of asylum seekers can contribute to restoring health and dignity as well as developing social and economic independence. It can also contribute to restoring confidence in human rights and the rule of law and will most certainly promote their capacity to rebuild a positive future here in Australia. This has obvious and positive implications for asylum seekers as well as the wider community.

Experience has shown that where refugees are marginalized – through negative media reports, lack of educational and employment opportunities and hostility from local communities, there is less socio-cultural integration and those who feel threatened or excluded from the host society instead of striving ‘to belong’, may seek to emphasise their difference through cultural or religious expression... Where individuals are unable to become self sufficient and build links with the local community, chronic dependency on state or voluntary services and ghettoisation and other social problems... are more likely, in turn, creating further public hostility and mistrust.⁵

The Commonwealth Government has shifted the responsibility for post-detention settlement onto State Governments, non-government agencies, community organizations and ethnic associations. These organizations are left with the daunting task of meeting the complex needs of asylum seekers released from detention. The ASRC has found asylum seekers released from detention to be consistently and without fail presenting with one or more of the following issues:

- Serious mental health issues (ie. Post Traumatic Stress Disorder, depression, anxiety)
- Homelessness
- Poverty
- Unemployment

The decision to release asylum seekers into the community without adequate settlement support raises critical ethical questions for the Australian community. The Commonwealth government should coordinate and fund an effective and complementary settlement support program for all asylum seekers released into the community. The Commonwealth government needs to ensure adequate protection and support is available post-detention in order to ensure the best possible outcome for asylum seekers, refugees, and the wider Australian community.

The goal of this paper is to outline a realistic and detailed reform agenda of the immigration post-detention system in response to many of the serious problems currently associated with making the transition from detention into the Australian community.

² These conditions include: minors with appropriate community arrangements, persons over the age of 75, people with special health requirements; survivors of torture and trauma, or spouses of Australian residents.

³ Justice for Asylum Seekers (JAS) Alliance Detention Reform Working Group. June 2002. “Alternative Approaches to Asylum Seekers: Reception and Transitional Processing System”. Pp.29. http://www.bsl.org.au/pdfs/Alternative_approaches.pdf

⁴ Marston, Greg. July 2003. “Temporary Protection Permanent Uncertainty: The Experience of Refugees Living on Temporary Protection Visas”. Centre for Applied Social Research RMIT University. Pp.4. <http://mams.rmit.edu.au/k2vavbh0g5ik.pdf>

⁵ European Council on Refugees & Exiles. 2002. “ECRE Position on the Integration of Refugees in Europe”. Pp.7 & 17. <http://www.ecre.org/positions/integ02.shtml>

2. Policy Evaluation

Summary:

In its treatment of asylum seekers, Australia is failing to live up to many of the international covenants and conventions to which it is signatory. The Australian Government also fails to acknowledge its duty of care obligation to asylum seekers released from detention and fails the test of equity by providing settlement support to some asylum seekers and denying it to so many others.

In order to evaluate the effectiveness or appropriateness of the existing policy regarding the release of asylum seekers from detention, we will briefly present our concerns with the Commonwealth Government's policy within the following four categories:

2.1 Fulfilment of International Obligations

Australia is signatory to a number of international covenants and conventions including:

- The Convention and Protocol Relating to the Status of Refugees⁶
- The Convention Relating to the Status of Stateless Persons⁷
- The Convention on the Reduction of Statelessness⁸
- The International Convention on the Elimination of All Forms of Racial Discrimination⁹
- The International Covenant on Civil and Political Rights¹⁰
- The International Covenant on Economic, Social and Cultural Rights¹¹
- The Convention on the Elimination of all Forms of Discrimination Against Women¹²
- The Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment¹³
- The Convention on the Rights of the Child¹⁴

Australia is currently failing to live up to many of its obligations under these treaties. The weight of legal scholarship views many of the Government's policies regarding the treatment of asylum seekers as in violation of one or more of these conventions.¹⁵ By interpreting aspects of these treaties in a minimalist and non-inclusive manner their original intent has been distorted and their spirit ignored.¹⁶

2.2 Duty of Care

While DIMIA acknowledges to a certain degree its duty of care obligation to all asylum seekers in Australia's detention centres, it fails to take any responsibility for the follow up care of detainees released into the community. This is despite the fact that the experience of mandatory detention is recognized as one of the root causes of the problems faced by asylum seekers released into the community. Paradoxically, DIMIA does acknowledge its duty of care obligation to those asylum seekers who applied for and received recognition of their refugee status offshore, by providing them with integrated settlement assistance.

⁶ *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force April 22, 1954); *Protocol Relating to Status of Refugees*, opened for signature 31 January 1967, 606 UNTS 267 (entered into force 4 October, 1967).

⁷ *Convention Relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force June 6, 1960).

⁸ *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December, 1975).

⁹ *International Convention on the Elimination of All Forms of Racial Discrimination*, opened for signature 21 December 1965, 660 UNTS 195 (entered into force 4 Jan 1969).

¹⁰ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

¹¹ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 999 UNTS 3 (entered into force 3 January 1976).

¹² *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).

¹³ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).

¹⁴ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹⁵ See, eg, Leanne McKay. October 2003. "Women Asylum Seekers in Australia: Discrimination and the Migration Legislation Amendment Act (No 6) 2001 (CTH)". *Melbourne Journal Of International Law* 4(2). Pp.439-466; Tara Magner. 2004. "A Less than 'Pacific' Solution for Asylum Seekers in Australia". *International Journal Of Refugee Law* 16(1). Pp.53-90; Tony Morris & Claudia Tazreiter. August 2005. "Human Rights Issues in the Return of Asylum Seekers". *Human Rights Defender* 14(2). Pp.18-29.

¹⁶ See generally, Spencer Zifcak, *Mr Ruddock Goes to Geneva*, Sydney : UNSW Press, 2003.

2.3 Equity of Access

Equity of access dictates that all refugees should have access to the same benefits, and should be treated equally by the Australian Government. Off-shore refugees are eligible for a series of benefits and settlement assistance programs that should be available for TPV holders who, by definition, have been found to be legitimate refugees by the Australian authorities. Similarly, RPBV holders who are released from detention should have access to the same settlement assistance programs that are made available to all people who are released from other forms of detention in Australia (ie. correctional services).

2.4 Human Rights

Listed below are excerpts taken from The United Nations Universal Declaration of Human Rights¹⁷ to which Australia is a signatory. These include:

*Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*¹⁸

*Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*¹⁹

*Everyone has the right to education.*²⁰

*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*²¹

*Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.*²²

A moral reading of these articles suggest that Australia's current post detention practices do not comply. This is most notable in the areas of health, employment, social security and education, and in the overarching discrimination that underpins the lack of fundamental human rights available to asylum seekers released from detention.

In Summary, it is the opinion of the ASRC that the Commonwealth Government's policy regarding the treatment of asylum seekers after their release from detention fails the test of adequateness on a number of different levels. In what follows, we will discuss many of the issues that asylum seekers face upon release into the community and will follow with a series of recommendations and justifications for policy change.

¹⁷ *Universal Declaration of Human Rights*, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

¹⁸ *Ibid*, article 23(1).

¹⁹ *Ibid*, article 25(1).

²⁰ *Ibid*, article 26(1).

²¹ *Ibid*, article 1.

²² *Ibid*, article 2.

3. Systemic Barriers to Successful Post-Detention Settlement

Summary:

The ASRC unreservedly advocates for the abolition of the TPV category. This will not only result in significant savings to Australian taxpayers, but will also provide all those who fulfil the refugee convention criteria with a measure of safety and security not afforded by the current regime. The ASRC also asserts the importance of granting BVE holders the right to work, welfare benefits, and Medicare rights. All asylum seekers released from detention should be entitled to Commonwealth funded settlement support regardless of their mode of arrival, and regardless of their visa category.

3.1 Temporary Protection Visa Category

Current Situation

Since 1999, the Australian Government has sought to dilute its obligations under the 1951 Refugee Convention by creating a system of legal apartheid that discriminates against refugees who arrive in Australia without proper documentation. "Australia is the only country to grant temporary status to refugees who have been through a full asylum determination system and who have been recognized as genuinely in need of protection for 1951 Refugee Convention reasons."²³

The current regime has promoted a false distinction between refugees holding Temporary Protection visas (TPV's) and those who are granted Permanent Protection Visas (PPVs), portraying TPV holders as somehow less deserving of Australia's protection. While the UN Refugee Convention does not assert a refugee's right to permanent protection, it *does* make clear that a refugee must not be discriminated against according to their mode of entry into a country of asylum. Of particular relevance is Article 31 of the Refugee Convention which states:

*The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*²⁴

Various social and medical studies have demonstrated that the uncertainty inherent in temporary protection is a major source of anxiety and stress for TPV, RPBV and BVE holders. In 1998, Michael Woolridge, the Federal Minister of Health acknowledged that 'creating uncertainty and insecurity... is one of the most dangerous ways to add to the harm that torturers do'.²⁵ Similarly, it has been argued that temporary visas do not offer 'meaningful protection' and "that the psychosocial harm which temporary status inflicts may in some cases amount to 'cruel, inhumane and degrading treatment' under the International Covenant of Civil and Political Rights".²⁶

Recommendations

1. Australia should adopt a full and inclusive interpretation of the refugee Convention and should grant permanent protection to all those who fulfil the refugee criteria; permanent protection should not be contingent upon a refugee's mode of arrival.

Motivation

Australia is also the only country which requires refugees who have already been recognized as genuine Convention refugees, to re-prove their refugee status. The *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status* states that a "refugee's status should not in principle be subject to frequent review to the detriment of his sense of security, which international protection is intended to provide".²⁷

²³ Human Rights Watch. 2003. "Commentary on Australia's Temporary Protection Visas for Refugees".

www.hrw.org/backgrounder/refugees/australia051303.pdf

²⁴ Convention relating to the Status of Refugees, opened for signature 28 July 1951, 189 UNTS 150 (entered into force April 22, 1954), article 31(i,ii).

²⁵ Peter Mares. 2001. *Borderline*. UNSW Press. Pp. 26.

²⁶ *Ibid*. Pp.27.

²⁷ UNHCR. 1979. "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees". www1.umn.edu/humanrts/instree/refugeehandbook.pdf

The cost to taxpayers of having to re-determine the refugee status of TPV holders when they make an application to the Refugee Review Tribunal for further protection, is considerable.

Potential cost to the Australian taxpayer for RRT reassessments of expired TPV holders who are already proven refugees (2004-2005)

According to the RRT Annual Report 2003-2004

Total actual expenses for the RRT:	\$22.9 million²⁸
Estimate of numbers of TPV reassessments to be heard:	3,500-4,000²⁹
Cost per finalised case for the period 2002-2004:	\$3,419³⁰
Cost estimate of total TPV reassessments:	\$11,966,500-13,676,000³¹

The cost of RRT reassessment could be eliminated altogether if onshore asylum seekers, once determined to be Convention refugees, were immediately granted Permanent Protection Visas. This would eliminate the double-handling effect of having to reassess TPV holders at the RRT level at considerable cost to the Australian public purse. The resulting budgetary savings could be reallocated to asylum seeker settlement programs.

In addition to the official costs at the RRT level, there are the undocumented costs associated with providing asylum seekers with pro bono legal assistance and representation. The overall cost of these services is unknown but significant. At the ASRC alone, the volunteer legal team provides over two million dollars worth of legal aid per year.

While it is important to consider the financial impact of the TPV, the human cost of temporary protection is arguably even more significant and devastating. Section 4 outlines the challenges faced by asylum seekers with temporary protection.

3.2 The Bridging Visa E Category

Current Situation

As discussed, asylum seekers may be released from detention on a Bridging Visa E (BVE) if they meet any of the requirements under regulation 2.20, particularly if they are released from detention for medical reasons.³² The irony is that despite being released in many cases for medical reasons, BVE holders are ineligible for Medicare. In addition, they are barred from working and are ineligible for financial support and are therefore unable to pay up-front for the medical care that they need. As a result BVE holders are forced to rely entirely on under-resourced community organizations and charities for all of their needs.

There are approximately 8000 asylum seekers living on Bridging Visa E in Australia, 31% of which have spent time in detention.³³ Research has shown that those released from detention on BVE's live in 'abject poverty with virtually no mainstream supports available to them'.³⁴ In a survey conducted by Hotham Mission of asylum seekers who had been assisted on BVEs, it was found that 68% of those surveyed were homeless and many suffered from poor dietary health.³⁵

The impact of these issues, coupled with the long waiting period and the prolonged passivity of this group, included high levels of anxiety, depression, mental health issues and a general reduction in overall health and nutrition. High levels of family breakdown, including separation and divorce, were also recorded.³⁶

²⁸ Refugee Review Tribunal (RRT). 2003-04. "RRT Annual Report 2003-2004". www.rrt.gov.au/publications/annrpts/0304/rrt_annual_report_2003-04.pdf

²⁹ Ibid.

³⁰ DIMIA. 2002-04. "Portfolio Budget: Agency Additional Estimates Statements". Pp. 2. www.immi.gov.au/budget/paes02_crrt.pdf

³¹ Refugee Review Tribunal (RRT). 2003-04. "RRT Annual Report 2003-2004". www.rrt.gov.au/publications/annrpts/0304/rrt_annual_report_2003-04.pdf

³² These conditions include: minors with appropriate community arrangements, persons over the age of 75, people with special health requirements; survivors of torture and trauma, or spouses of Australian residents.

³³ Hotham Mission. November 2003. "Welfare Issues & Immigration Outcomes for Asylum Seekers on Bridging Visa E: Research & Evaluation". *Asylum Seeker Project*. Pp.4. http://www.refugeecouncil.org.au/docs/current_issues/asp_research_jan04.pdf

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

DIMIA's justification for the controversial BVE category is that it is "typically used for short periods while people sort out their legal status".³⁷ However, this is contradicted by the fact that 55% of the asylum seekers interviewed by Hotham Mission had been waiting for four years or more for a decision on their visa status".³⁸

Recommendations

2. All asylum seekers released from detention should have work rights, Medicare coverage, and should be eligible for welfare assistance.

Motivation

On 3 November 2005, the House of Lords unanimously undermined the U.K. policy of 'enforced destitution' for asylum seekers when it upheld the Court of Appeal's 2004 decision that "any removal of benefits leading to destitution would be in breach of human rights and thus unlawful".³⁹ It was determined that by actively denying asylum seekers from both working and from accessing any welfare benefits, the State is violating human rights safeguards and is subjecting asylum seekers to 'inhumane or degrading treatment'.⁴⁰

This international precedent should be taken into account as DIMIA reviews its bridging visa policy. Australia has a moral obligation to avoid creating a cycle of unemployment, dependency and social exclusion for asylum seekers released into the community. It should instead promote dignity and encourage self-sufficiency among asylum seekers. This will foster benefits for both asylum seekers and the larger Australian community.

3.3 Settlement Support Equity

Current Situation

DIMIA recognizes the benefits of providing settlement services for refugees upon arrival to Australia. The services offered by Migrant Resource Centres and other Commonwealth funded settlement services organizations are based on the cumulative knowledge as to what is required to effectively assist newcomers in settling and successfully integrating in a new community. These services include the following:

- *On arrival reception and assistance* – meet people at the airport and in transit, transport them to their accommodation, organise emergency accommodation and medical assistance as required;
- *Case co-ordination* – pre- and post-arrival assessment, initiation and implementation of case co-ordination plan, co-ordination of client services;
- *Accommodation services* – arrange and manage initial accommodation, provide options for longer-term accommodation, arrange transfer of possessions to and from accommodation, tenancy training;
- *Household goods formation* – supply, delivery and installation of household goods, provision of emergency clothing, access to micro credit;
- *Information and referral* – provision of information, referrals, guidance and support, developing community networks, links to post IHSS services;
- *Advocacy and raising community awareness* – training, advice and consultancy services;
- *Assistance with recovery from trauma* – assessment of psychological health; short term torture and trauma counselling for individuals, families and children; provision of therapeutic group for adults, children and adolescents; training health professionals to understand the impact of torture and refugee experience on refugees.⁴¹

This support is available to people from off shore refugee and humanitarian categories for up to twelve months after arrival in Australia. "While settlement policies are, in theory, about how to include refugees and migrants

³⁷ Tom Noble & David Wroe. November 23, 2005. "Asylum Seekers 'Need Medicare'". *The Age*.

³⁸ Hotham Mission. November 2003. "Welfare Issues & Immigration Outcomes for Asylum Seekers on Bridging Visa E: Research & Evaluation". *Asylum Seeker Project*. Pp.4. http://www.refugeecouncil.org.au/docs/current_issues/asp_research_jan04.pdf

³⁹ Liberty. 3 November 2005. "Law Lords Scrap Section 55 of Asylum Act in Landmark Ruling to Spare Asylum Seekers from Utter Destitution". *In Liberty: Protecting Civil Liberties Promoting Human Rights*. www.liberty-human-rights.org.uk/press/2005/lords-scrap-section-55.shtml

⁴⁰ Ibid.

⁴¹ AMES Settlement. 2005. "AMES Settlement Fact Sheet". www.ames.net.au/articles/files/AMES_Settlement_Fact_Sheet.pdf

into Australian society, there are a range of people excluded both from various settlement services and from mainstream services".⁴² Commonwealth funding provisions prohibit DIMIA-funded service providers from assisting TPV, RPBV and BVE holders.

Asylum seekers released from detention are among those left to fend for themselves because they are not eligible for most existing settlement support services. This gap in services for TPV, RPBV and BVE holders has the potential to obstruct their access to the services to which they are entitled. "Lack of information about available services, lack of language skills and confidence to negotiate with services providers, lack of trust in dealing with Government service providers, and a range of other factors inhibit use of services which would be of use".⁴³

By systematically impeding the rights of asylum seekers to access the basic services to which they are entitled under their visa sub-category, DIMIA is aiding in the destruction of freedoms as outlined in Article 5(i) of the Covenant on Civil and Political Rights:

*Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.*⁴⁴

While we continue to advocate for *universal* access to Commonwealth settlement support services, the argument for equity of access for TPV holders is particularly strong. As mentioned above, asylum seekers granted TPV's have been found to be 'legitimate' refugees under Australian law per s.36 of the Migration Act. The TPV category makes use of exactly the same stringent Convention criteria as is required for offshore refugees. TPV holders should be offered the same entitlements as those granted refugee status offshore under the 1951 Refugee Convention: Commonwealth refugee support systems and community integration schemes. The Commonwealth's current failure to provide this support represents a breach of Article 26 as a form of discrimination under the International Covenant on Civil and Political Rights:

*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*⁴⁵

The long-term benefits of effective settlement support programs are well documented, yet TPV, RPBV and BVE holders released from detention are actively excluded from accessing these services.

Recommendations

3. Eligibility for Commonwealth funded Settlement Services should be extended to include *all* asylum seekers released from detention.
4. Settlement services should be the responsibility of the Commonwealth and should not be left to the discretion of State Governments or shifted to community and volunteer organizations.

Motivation

DIMIA recognizes the benefits of assisting new arrivals with the highest needs. In the *Report of the Review of Settlement Services for Migrants and Humanitarian Entrants*, DIMIA acknowledges that initial investments into successful settlement outcomes create "downstream savings by reducing later expenditure on social problems, [will] build social capital and help to maintain a successful and harmonious multicultural Australia".⁴⁶

Settlement services can help to build social capital within Australia... Where social capital is diminished, there is greater risk of isolation, social dislocation and the costs imposed by anti-social behaviour... Over the longer-term, a combination of interrelated problems such as unemployment continuing reliance on

⁴² Taylor, Janet. 2004. "Refugees and Social Exclusion: What the Literature Says". *Migration Action*. Vol.XXVI, No.2. pp. 16-31. www.bsl.org.au/pdfs/Taylor_MigActn_refugees&soc_exclusn_article.pdf

⁴³ Council of Social Service of NSW (NCOSS). 2003. "Supplementary Submission to the National Inquiry into Children in Immigration Detention. www.hreoc.gov.au/human_rights/children_detention/submissions/ncoss_supp.html

⁴⁴ International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), article 5(i).

⁴⁵ International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), article 26.

⁴⁶ DIMIA. May 2003. "Chapter Fourteen: Investing in Settlement". Report of the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.323. www.immi.gov.au/settle/settle_review/pdfs/chap14web.pdf

*income support, health issues and physical and social isolation can create a cumulative effect of social and economic exclusion from mainstream Australian society.*⁴⁷

*Without carefully targeted and considered action to support their participation, Australia risks the entrenchment of early disadvantage among the settlement services target group and the development of a potential threat to community harmony. These arrivals require focused, early intervention to improve their settlement outcomes.*⁴⁸

The assumed rationale of TPVs is that it is inappropriate to provide settlement services “that imply permanency to refugees who are likely to only remain in the country temporarily”.⁴⁹ However, even if this argument is accepted, three years is too long to allow asylum seekers in our community, to struggle with inadequate support. The appropriate policy response in dealing with these potentially long-term residents of Australia would be to provide all asylum seekers released from detention with the full range of settlement services that are available to Humanitarian Entrants and new migrants.

By acknowledging the benefits of settlement support, to both asylum seekers and to the larger Australian community, DIMIA implicitly acknowledges the purely punitive denial of settlement services for particular visa categories. DIMIA asserts that successful settlement outcomes will “support community cohesion and reduce disconnection and its associated costs”.⁵⁰ The benefits of an inclusive settlement assistance program are self-evident and should therefore be considered as DIMIA distribute its funding and services and implements policy change.

While broadening the scope of Commonwealth settlement services to include post-detention TPV, RPBV and BVE holders will not fundamentally tackle the problems inherent in temporary visas, it will address many of the immediate concerns that asylum seekers face upon release from detention.⁵¹

4. Release from Detention

“We expected welcome after our hardships.

*We expected warmth after our terrifying journey to Australia”*⁵²

Summary:

Asylum seekers are being released from detention without follow up prescriptions or medical appointments. This is inappropriate as many are dependent on psychotropic medications. It can be weeks before a refugee is provided with a Medicare number. This leaves them without medical assistance. Asylum seekers can also find themselves homeless and without financial support. This can further traumatise asylum seekers already affected by long stays in detention.

According to DIMIA’s *Immigration Detention Standards & Performance Measures* on the release and removal of detainees, there has been “no substantiated instance of a person who can be lawfully released or removed not being so released or removed in a timely, safe and dignified manner”.⁵³ This assertion is not borne out of the experiences of most post-detention asylum seekers, whose release has been neither timely, safe, nor dignified.

Many TPV, RPBV and BVE holders are released from detention without a medical discharge summary and without follow-up medication or medical appointments. This is an extremely dangerous practice as many asylum seekers in detention are on various psychotropic medications. To be released without any medication, or without any information that could inform mainstream medical staff about current medications and a detainee’s history of medical treatment demonstrates a reckless disregard for the health of asylum seekers released into the

⁴⁷ Ibid. Pp.321.

⁴⁸ Ibid.

⁴⁹ Dr. Diana Barnes. July 2003. “A Life Devoid of Meaning: Life on a Temporary Protection Visa in Western Sydney”. Centre for Refugee Research, University of New South Wales. Pp.3.

⁵⁰ DIMIA. May 2003. “Chapter Fourteen: Investing in Settlement”. Report of the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.321. www.immi.gov.au/settle/settle_review/pdfs/chap14web.pdf

⁵¹ Ibid.

⁵² Asylum Seeker, Age 11. “Education Kit”. Rural Australians For Refugees. www.ruralaustraliansforrefugees.org/tpv/education_kit.pdf

⁵³ DIMIA. February 2005. “Immigration Detention Standards & Performance Measures - Part Two: Detainees”. http://www.immi.gov.au/detention/standards_two.htm#two.3

community. There have been a number of cases in which TPV, RPBV and BVE holders have been unable to immediately access a Medicare number after having been released from detention. This means that former detainees are often left without appropriate health care for the three weeks between release and having a Medicare number mailed out to them.

To their credit, DIMIA does manage to release asylum seekers quickly after they have been granted a visa. However, the lack of pre-release support measures can make this seemingly laudable achievement dangerous. One RPBV holder recently released from 5 years in detention was given only three hours notice prior to his release. This gave him barely enough time to gather his belongings and to say goodbye to his friends remaining in detention. This is an unacceptable practice as it allows for little or no preparation for the transition from detention to the outside community.

The lack of support following release is also an affront to dignity. A recently released TPV holder recently said, "I feel like a beggar, begging here, begging everywhere". Another expressed the guilt he was feeling for taking up space in the home of a friend where there are three recently released asylum seekers all staying in one spare room while they wait for permanent accommodation to become available.

The experience of release is characterized by poverty, inadequate health care, relentless insecurity and the prospect of homelessness. All of these things exacerbate a history of trauma and persecution and a feeling of hopelessness and despair brought about by the experience in an Australian detention centre.

5. Issues Facing Asylum Seekers Released from Detention

Summary:

This section outlines a possible settlement model for post-detention asylum seekers. The ASRC has identified a number of serious problems which characterize the settlement experience of TPV, RPBV and BVE holders post-detention. We believe that any successful post-detention settlement assistance program should address the following issues that have been recognized as among the most urgent and critical: mental and physical health care, availability of medical discharge summaries, access to Medicare, housing and homelessness, employability, access to Centrelink benefits and crisis payments, notification of release, and post-detention case management.

5.1 Mental & Physical Health Care

Summary:

It is estimated that 80% of refugees have experienced torture or trauma in their homelands. This trauma and subsequent mental health conditions are prolonged and exacerbated by mandatory and indefinite detention, the temporary protection regime, and an often hostile reception from the Australian community. Despite these serious mental health concerns, there is no coordinate pre- and post-detention health care response. DIMIA should provide independent mental and physical health assessments prior to release. Any health needs found during such assessments should be adequately dealt with post-release. Furthermore, the Australian government should take a leading stand in encouraging a more accepting social climate.

Current Situation

It has been estimated that 80% of all refugees have experienced some form of torture and trauma in their country of origin.⁵⁴ Such torture and trauma frequently has prolonged negative effects, and often leads to Post-Traumatic Stress Disorder (PTSD). PTSD has been defined as "the name given to a number of symptoms- such as anxiety, flash backs to traumatic events, withdrawal from human contact, disturbed sleeping and psychoses, which have come to be recognised as often following exposure to horrific, usually life-threatening events"⁵⁵

⁵⁴ Australian Catholic Migrant and Refugee Office. 2003. "Response by Minister Philip Ruddock to the ACBC Statement on Refugees and Asylum Seekers with Comments by the Australian Catholic Migrant and Refugee Officer". www.acmro.catholic.org.au/policies/docs/ruddock.pdf

⁵⁵ Victorian Foundation for Survivors of Torture, 1998. "Rebuilding Shattered Lives", www.survivorsvic.org.au/pdfdocs/RebuildingShatteredLives/RebuildingComplete.pdf, p.32

Several studies have shown that mandatory and arbitrary detention as well as temporary protection prolong and exacerbate refugee fear, stress and anxiety as well as PTSD symptoms.

A recent article in *The Age* reported that over the last three years nearly 900 asylum seekers have attempted self-harm while in Australian detention centres, at a rate of about 1 in 20. "Between June 2003 and June 2004 alone, 305 detainees tried to harm themselves at Baxter" and more than 20% of detainees at Baxter were on tranquillisers and antidepressants. These figures have been challenged by Dr. Jon Jureidini, who has made psychiatric assessments of about 50 Baxter detainees. His observation is that "self-harm is universal in the population I've seen... I don't think I've seen anybody over the age of 11 who hasn't harmed themselves in some way".⁵⁶ It has been argued that many of the health problems associated with detention could be reduced if the length of stay was kept to an absolute minimum as levels of distress and psychological disability increase incrementally with the duration of detention.

In Steel's *The Politics of Exclusion and Denial*, a 2003 study of the mental health of asylum seekers in detention and of refugees on TPVs, it was found that "all adults were diagnosed with a major depressive disorder and most with post-traumatic stress disorder".⁵⁷ Another study which compared TPV holding refugees with members of the same ethnic group who were granted permanent residency, found that TPV holders "experienced twice the risk of post-traumatic stress disorder as the permanent residents"⁵⁸.

As the Australian Catholic Migrant and Refugee Office states:

*There is no existing medication for such problems and no therapy can be effective in building the internal psychological safety of a sufferer of traumatic stress unless there is first an established external safety – when they know they will never have to face the same threat again. The denial of permanent safety in Australia and the threat of possible deportation, therefore, presents an insuperable obstacle to counsellors trying to rebuild the shattered internal worlds of refugees on temporary protection visas.*⁵⁹

In addition to the fundamental lack of security, dignity, control and hope, the construction of an 'ideal' refugee has served to both justify this inequity and exacerbate the sense of despair and isolation felt by TPV, RPBV and BVE holders post-detention. The Australian Government has consistently engaged in public debate that contributes to the creation and propagation of damaging asylum seeker stereotypes. Such stereotypes incite fear and mistrust of TPV, RPBV and BVE holders. As the European Council on Refugees & Exiles states:

*Within the context of a climate of intolerance, xenophobia and racism... ECRE specifically highlights the need to change public perceptions of refugees and promote positive messages based upon well-documented and comprehensive information.*⁶⁰

DIMIA has stated that "detainees who harm themselves are given medical assistance as soon as possible and follow-up treatment".⁶¹ However, this responsibility currently ends at the detention center gates, with no health assessments or plan for on-going treatment made available. Considering that asylum seekers frequently leave detention with serious mental and physical health needs, such an omission is remarkable.⁶²

⁵⁶ Jewel Topsfield. 19 September 2005. "Hundreds in Detention Attempt Self-Harm". *The Age*. <http://theage.com.au/articles/2005/09/18/1126981948047.html>

⁵⁷ Janet Taylor. 2004. "Refugees and Social Exclusion: What the Literature Says". In *Migration Act*, vol. XXVI, no.2. Pp.26-27.

⁵⁸ Ibid.

⁵⁹ Australian Catholic Migrant and Refugee Office. 2003. "Response by Minister Philip Ruddock to the ACBC Statement on Refugees and Asylum Seekers with Comments by the Australian Catholic Migrant and Refugee Officer". www.acmro.catholic.org.au

⁶⁰

⁶¹ European Council on Refugees & Exiles. 2002. "ECRE Position on the Integration of Refugees in Europe". Pp. 7. <http://www.ecre.org/positions/integ02.shtm> Jewel Topsfield. September 19, 2005. "Hundreds in Detention Attempt Self-Harm". *The Age*. <http://theage.com.au/articles/2005/09/18/1126981948047.html>

⁶² It is important to acknowledge that standard stress reduction procedures may be seriously undermined by the ongoing stressors that confront TPV, RPBV and BVE holders. Although medications and stress management programs are vital, they are likely to be less effective as they are not directly addressing the cause of these health problems. An effective approach to assuring the mental and physical wellbeing of refugees would be to replace the TPV regime with an equitable system of refugee provision that provides these all asylum seekers with security, control and opportunity.

Case Study #1

Sadeh, a 35 year old TPV holder from Afghanistan, spent 4 years in detention. He was released from detention a few months ago and was provided with a few days worth of medication. It was not however, explained to him that he needed to go to a doctor and continue his medication. Two weeks later Sadeh presented at the ASRC. His meds had run out and he was experiencing anxiety, extreme distress and he was not sleeping. Through discussions with Sadeh, the ASRC doctor was able to establish that he had probably been on a combination of sedatives and anti-depressants while in detention. Sadeh also presented with severe headaches and very high blood pressure, a condition which requires daily medication. Despite his urgent health needs, Sadeh was not provided with any assistance in accessing follow-up health care upon his release from detention. As a result, he was without important medication for 11 days.

Recommendations

5. DIMIA should make certain that pre-release mental and physical health assessments are made by independent health professionals.
6. DIMIA should be responsible for ensuring that any health needs highlighted by such assessments are appropriately dealt with post-release.
7. The Australian government and DIMIA should provide political leadership by adopting a welcoming and inclusive approach to asylum seekers.

Motivation

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁶³

Australia has an ethical duty of care to do everything it can to ensure the highest possible standard of health for asylum seekers not only while they are in detention but also after their release.

5.2 Medical Discharge Summaries

Summary:

Currently medical discharge summaries are not consistently made available to asylum seekers on release and community organizations have had difficulty obtaining such summaries on behalf of asylum seekers. This is a dangerous situation as asylum seekers are often unaware of what medications and treatments they have been given in detention and what follow-up treatment they require. Medical discharge summaries should be provided to all asylum seekers upon release from detention. This can be in the form of hand held cards like the current immunisation system for children.

Current Situation

Despite official DIMIA policy stating that detainees are to be released with a medical discharge summary, there is little consistency in the application of this policy. For example, while detainees from Maribyrnong are generally released with adequate medical discharge certificates and a week's worth of medication, the situation appears much less reliable for detainees released from Baxter.

As discussed earlier, many detainees are using medication for pain relief, tranquillisers, and/or psychotropic medications and are developing a level of dependency on them while in detention. There have been many instances where detainees have been medicated while in Baxter and have then been released without a discharge summary, without any medication or awareness of the types of medications they were on, and without any follow-up treatment arranged. This poses a real danger for asylum seekers. It makes it very difficult for

⁶³ Australian Catholic Migrant and Refugee Office. 2003. "Response by Minister Philip Ruddock to the ACBC Statement on Refugees and Asylum Seekers with Comments by the Australian Catholic Migrant and Refugee Officer". www.acmro.catholic.org.au

medical staff to identify the appropriate medication and to provide continuity of treatment and demonstrates a disregard for the duty of care that DIMIA owes to asylum seekers.

Requests for health records, made to Baxter staff on behalf of asylum seekers, have been met with a considerable delay in accessing these records. This again makes continuity of treatment very difficult.

Case Study #2

Muhammed is a 28 year old asylum seeker from Afghanistan who presented at the ASRC Health Clinic. He provided the attending physician with the Medical Discharge Summary (MDS) that he had received upon release from detention. The MDS was very brief, stating only that the client had been treated with antibiotics for a sexually transmitted infection that the client had tested positive for. The MDS failed, however, to reference any of the negative tests that had been done. As Sexually Transmitted Infections (STI) tend to be clustered together it would have been helpful if the MDS had included a summary of all of the tests that had been performed along with their results, whether positive or negative. As a result of this omission, Muhammed was forced to undergo more tests, for STI's which he may have already been tested for. The MDS also failed to specify what treatment Muhammed had underwent while in detention. Additionally, while the MDS stated that the client was in need of follow-up treatment, no such follow-up appointments were made. As Muhammed cannot read English, he was unaware that follow-up treatment was necessary.

Case Study #3

John, a young man from Africa spent 5 months in detention and presented at the ASRC a few weeks after his release suffering from anxiety, distress and depression. While he was aware that he had been on medication while in detention, he was unsure of what type of medication it was, and he was unable to produce a Medical Discharge Summary (MDS). The ASRC medical staff, along with John, tried to access John's MDS but were unable to find any clear information on-line or on the phone as to how to process this request. They were advised to fax in a Freedom of Information (FOI) request which would take about a week or so to process. Despite requesting to see the policy on this, the ASRC still has not been provided with it. This is not good practice as such a delay is a serious detriment to client's care and well-being.

Recommendations

8. All patients, including asylum seekers, have the right to have their medical records transferred to another practitioner. DIMIA therefore has an ethical duty to make sure that all relevant material is made immediately available. We recommend that DIMIA ensures that *all* detainees are provided with a medical discharge summary at the time of their release.
9. In order to ensure continuity of treatment, DIMIA should ensure that all asylum seekers who are released from detention are provided with a week's supply of medication as well as with a follow-up medical appointment.
10. A system of 'patient held' medical records is another option which would eliminate the need to apply for access to the medical records of asylum seekers upon release from detention. This could be implemented for all asylum seekers held in detention. Patient held medical records could include all immunization, treatment, diagnosis and medication records.
11. DIMIA should establish a clear process for requests of the medical records of former detainees.

Motivation

DIMIA's *Report on the Review of Settlement Services for Migrants and Humanitarian Entrants*, raises the issue of health referrals. The suggestion is made that in order to facilitate continuity of personal medical information between health services accessed by entrants themselves, and between pre-migration and post-migration health assessments and services, a system of 'patient held' medical records could be implemented.⁶⁴ The Northern

⁶⁴ DIMIA. May 2003. "Chapter Eight: The Integrated Humanitarian Settlement Strategy". Report on the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.186. www.immi.gov.au/settle/settle_review/pdfs/chap08web.pdf

Territory Centre for Disease control recommends that “given the special vulnerability of humanitarian entrants, DIMIA could consider mechanisms for addressing these issues. In particular, it should consider the use of hand-held health care records for asylum seekers that are being trialed in the United Kingdom. There is widespread acceptance of such hand-held records in Australia, including childhood milestone health assessment booklets, and personal immunisation cards”.⁶⁵

While it is well accepted that the Commonwealth Government must provide asylum seekers with appropriate medical care while they are detained, it remains a grey area as to what the Commonwealth’s responsibilities are after they are released. In the United States, the case of *Wakefield v. Thompson* concluded the state has a duty to provide a prisoner with adequate medication for a time after their release.

*Although many patients must take their medication one or more times a day, it may take a number of days, or possibly even weeks, for a recently released prisoner to find a doctor, schedule an examination, obtain a diagnosis, and have a prescription filled. Accordingly, the period of time during which prisoners are unable to secure medication ‘on their own behalf’ may extend beyond the period of actual incarceration. Under the reasoning of Estelle and DeShaney, the state’s responsibility to provide a temporary supply of medication to prisoners in such cases extends beyond that period as well... A state’s failure to provide medication sufficient to cover this transitional period amounts to an abdication of its responsibility to provide medical care to those, who by reason of incarceration, are unable to provide for their own medical needs.*⁶⁶

This same argument can be used in the case of asylum seekers released from detention.

5.3 Access to Medicare

Summary:

Asylum seekers often experience delays in obtaining Medicare cards. This can lead to unacceptable delays for follow up treatment for significant health issues. There needs to be better inter agency protocols to ensure that asylum seekers have immediate Medicare access upon release from detention.

Current Situation

In addition to a lack of treatment continuity, there are systemic flaws that hinder the access of TPV and RPBV holders to mainstream health care services.⁶⁷ While TPV and RPBV holders are entitled to Medicare, these entitlements are fundamentally flawed because Medicare cards are inaccessible for at least 7-10 ten days after release from detention. In some cases it has taken up to two months thereby preventing them from seeking medical attention.⁶⁸ Medicare recommends that asylum seekers wait at least one week after being released before applying in order to allow time for Medicare to receive their visa details from DIMIA.⁶⁹ A client will not be given a Medicare number or card prior to Medicare receiving this information from DIMIA. This means that TPV and RPBV holders are systematically barred from accessing Australia’s health care system during this period, despite being entitled to it. This is unacceptable as TPV and RPBV holders, particularly those who are long-term detainees, are coming out of detention with very urgent mental and physical health needs.

*I just wanted to recover from my mental and physical health problems which, crippled my life after being tortured. I hoped that I would be treated. Once again I was terribly disappointed, as I could not access any of the services I required for five months. The general practitioners would not see me because I did not receive my Medicare card for two and a half months. It took the same amount of time to get a referral to see the appropriate specialist.*⁷⁰

⁶⁵ DIMIA. May 2003. “Chapter Eight: The Integrated Humanitarian Settlement Strategy”. Report on the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.186. www.immi.gov.au/settle/settle_review/pdfs/chap08web.pdf

⁶⁶ *Wakefield v. Thompson*. (1999) 177 F.3d 1160 (9th Cir.) at 36/37. http://biotech.law.lsu.edu/cases/prisons/Wakefield_v_Thompson.htm

⁶⁷ BVE holders are not discussed in this section because they are ineligible for Medicare. The ASRC unreservedly advocates for BVE holders to be granted Medicare rights.

⁶⁸ Fethi Mansouri. 2002. “Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria”. The Centre for Citizenship and Human Rights (CCHR): Deakin University.

⁶⁹ Medicare. www.medicareaustralia.gov.au

⁷⁰ Anonymous TPV Holder. As quoted in Fethi Mansouri. 2002. “Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria”. The Centre for Citizenship and Human Rights (CCHR): Deakin University. Pp.54.

In addition to this immediate lack of access, Medicare officers are highly discretionary when it comes to assigning Medicare numbers. A phone call to Medicare's Enrolment Department confirmed that it is impossible to know whether or not an eligible asylum seeker will leave the Medicare office with a number even if DIMIA has forwarded their visa details through. If the Medicare office is not busy they will process the application immediately and the asylum seeker will leave with a valid Medicare number, but if it is busy the applications are sent away to head office for processing and the applicant leaves with nothing.

The ASRC has also found that TPV and RPBV holders have on many occasions, faced Medicare officers who have insisted that they are not entitled to Medicare, and who have demanded to see a passport and proof of address documents. While Medicare policy states otherwise, at the office level it can be very difficult to ensure that a TPV or RPBV holder receives their entitlements, in particular if they do not have a strong command of the English language.

As TPV and RPBV holders do not have the resources to pay for medical services up-front it is of vital importance that they have access to a Medicare number immediately. It is unacceptable that bureaucratic deficiencies can leave vulnerable asylum seekers without access to fundamental health services.

Case Study #4

Habiba & Faisal, a Nigerian couple released from detention on TPVs, were given no advice about how to access Australia's public health care system. They managed to find their way to a Medicare office where they were told that they were not eligible. They returned to the same Medicare office a few days later, this time with a community advocate, and were told that yes, they were eligible but they would need to return with a passport and two documents proving their current residence. This is not in fact, Medicare policy, which requires only that TPV holders bring their immigration document and that RPBV holders bring in both their visa evidence card and the letter that they received from DIMIA offering them an RPBV. The policy however, differs greatly from what actually happens at the office level.

Finally, after many phonecalls and much advocacy, five weeks after their release from detention, Habiba and Faisal received the Medicare numbers to which they were entitled.

Recommendations

12. TPV, RPBV and BVE holders should be provided with pre-release assistance in registering for Medicare benefits and should be released from detention with a working Medicare number.

Motivation

By blocking eligible asylum seekers' immediate access to the medical services to which they are entitled, the Commonwealth government is violating its duty of care towards asylum seekers and is also in breach of the *International Covenant on Economic, Social and Cultural Rights* to which they are signatory. Article 12(2d) states that:

The Steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for...

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.⁷¹

DIMIA State and Territory offices "have reported that delayed processing of Medicare cards for humanitarian entrants can exacerbate problems with immediate health issues".⁷² As a result of these problems, "DIMIA has been working with the Health Insurance Commission (HIC) on expedited processing of Medicare cards for these entrants. DIMIA is now transmitting relevant data to the HIC on a daily basis and out to Medicare offices within one week. The HIC has agreed to encourage Medicare offices to manually enrol entrants requiring medical care as soon as they arrive and to place a high priority on entrants with a refugee category visa".⁷³

⁷¹ International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 999 UNTS 3 (entered into force 3 January 1976), article 12(2d).

⁷² DIMIA. May 2003. "Chapter Eight: The Integrated Humanitarian Settlement Strategy". Report on the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.180.

⁷³ Ibid.

This demonstrates both the need for improved inter-agency coordination, and the possibility for such arrangements. If DIMIA is able to advocate and coordinate expedited services for humanitarian entrants, surely they could and should do the same for asylum seekers released from detention.

5.4 Housing & Homelessness

Summary:

Asylum seekers released from detention are denied access to support programs to help them find accommodation. This leads to many being homeless or living in temporary and precarious accommodation. DIMIA should fund transitional accommodation for asylum seekers upon release from detention.

Current Situation

Securing accommodation is one of the major problems facing asylum seekers after they are released from detention. The *Australian Housing and Urban Research Institute* argues that asylum seekers are being released into a situation of homelessness, which is “caused by the Commonwealth government’s decision not to provide assistance and by their ineligibility for a range of settlement assistance”.⁷⁴

The Supported Accommodation Assistance Act (1994) defines homelessness by stating that “a person is homeless if, and only if, he or she has inadequate access to safe and secure housing”⁷⁵. Another widely accepted definition of homelessness is “a state in which people have no access to secure housing, and/or shelter of a standard that does not damage their health or further marginalise them... This includes those living on the street, in squats, in refuges and shelters. It also includes those moving about between relatives and friends, since ‘such accommodation is necessarily temporary, usually insecure and fails to offer protection and support’”.⁷⁶

The policy of restricting settlement services for particular visa categories has increased the risk of housing crisis for TPV, RPBV and BVE holders. The accommodation problems faced by asylum seekers released from detention are well documented. As they are not eligible for on arrival accommodation, they are forced to make their own way through the complicated housing market without the support available to conventional refugees. San Pedro (2001) and Tuohey (2001) suggests that TPV holders are experiencing increasing difficulties in accessing adequate housing and are at a high risk of facing homelessness.⁷⁷ BVE holders are particularly vulnerable to housing crisis as they are barred from working and from accessing mainstream financial assistance. Not surprisingly, research has demonstrated that “personal issues such as financial and employment difficulty, social isolation and emotional stress accumulated, add increased vulnerability to housing crisis”.⁷⁸ It is further suggested that these difficulties are likely to have “long-term impacts on their settlement and integration in Australia”.⁷⁹

*When we first got out of detention, for 40 days we didn't have a flat to live in – we couldn't get one because we didn't have documents. When I was writing applications, they needed references etc. They asked me if I worked, and I said no; if I had a driver's license, and I said no; if I had any references from previous occupancies, and I said no. It was no, no, no – so they refused my applications. It happened so many times.*⁸⁰

ASRC casework records found that asylum seekers released from detention on average live at eight different addresses before they finally find permanent accommodation. This only further exacerbates their sense of insecurity and instability.

⁷⁴ Paul Foley & Andrew Beer. April 2003. “Housing Need and Provision for Recently Arrived Refugees in Australia”. For the Australian Housing and Urban Research Institute (AHURI). www.ahuri.edu.au/attachments/40048_pp_refugees.pdf

⁷⁵ Australian Government: Attorney General's Department. 1994. Supported Accommodation Assistance Act. No.162, Section 4. <http://scaletext.law.gov.au/html/comact/8/4450/top.htm>

⁷⁶ Human Rights & Equal Opportunity Commission (HREOC). 1987. In Andrew Beer & Paul Foley. April 2003. “Housing Need and Provision for Recently Arrived Refugees in Australia”. For the Australian Housing and Urban Research Institute (AHURI). Pp.7. www.ahuri.edu.au/attachments/40048_pp_refugees.pdf

⁷⁷ Ibid. Pp.18.

⁷⁸ Eve Kelly. 2004. “A New Country - But No Place to Call Home: The Experiences of Refugees and Asylum Seekers in Housing Crisis and Strategies for Improved Housing Outcomes”. Hanover Welfare Services. Pp.XIV. www.hanover.org.au/fiftheestate/archives/070.040/70/HRASS%20Report.pdf

⁷⁹ Ibid.

⁸⁰ Anonymous Asylum Seeker. As quoted by Dr. Diana Barnes. July 2003. “A Life Devoid of Meaning: Life on a Temporary Protection Visa in Western Sydney”. Centre for Refugee Research, University of New South Wales. Pp.29.

In contrast, offshore refugees and humanitarian claimants are provided with on-arrival accommodation and with settlement workers who offer assistance in accessing public housing. The fact that certain refugees are provided with on-arrival accommodation highlights the fact that the Commonwealth Government considers these new arrivals at high risk and in need of assistance in securing adequate housing. For TPV holders, duty of care obligations and equity standards suggest that the Commonwealth Government has the responsibility to provide these 'legitimate' refugees with the same housing assistance as is made available to off-shore refugees. For those released on RPBVs and BVEs, Commonwealth duty of care obligations should also apply.

By denying TPV, RPBV and BVE holders access to settlement support services, the Commonwealth government effectively breaches Article 11 of the Covenant in regard to 'the right of everyone to an adequate standard of living. Article 11 states:

*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of the international co-operation based on free consent.*⁸¹

Like other settlement issues, the responsibility for housing provision has been shifted to state governments and to community organizations who face an uphill battle trying to find accommodation for asylum seekers released from detention. Were it not for the hard work and dedication of these already stretched community organizations, many more asylum seekers would undoubtedly find themselves homeless.

It is important to acknowledge the crucial role that access to housing plays in ensuring a successful transition into the community. Satisfying a person's need for privacy, space, safety, and security through adequate housing arrangement is essential in assisting TPV, RPBV and BVE holders to regain a sense of dignity and self-respect that has been denied to them over and over throughout the entire refugee process.

Case Study #5

Hassan, Mahmoud and Ayad, three asylum seekers from Iraq, showed up at the ASRC, homeless, two months after their release from detention. They explained that for the last week they had been sleeping on the streets or in train stations. Until this time they had been staying in spare rooms, on the floors of sympathetic members of the community, and even in a friend's car for a few nights. None of these options were sustainable and as each offer ran out, they became more and more desperate. None of the three could speak English well enough to navigate themselves through Melbourne's complex housing market, they had very little money, and had no idea where to go for help.

Recommendations

13. Preparations for accommodation should begin in detention and within a reasonable timeframe prior to release.
14. DIMIA should ensure the right to adequate housing by funding transitional housing for all asylum seekers released from detention.
15. All asylum seekers released from detention be made eligible for Ongoing Arrival Accommodation (OAA).
16. In the absence of structural change that would allow all post-detention asylum seekers to access Commonwealth settlement services, emergency funding should be made available to assist those who are experiencing housing crisis.

Motivation

The ASRC believes that DIMIA has set a precedent by providing settlement services for the 25 detainees who were recently released from detention on Nauru. In doing so, DIMIA has acknowledged not only their duty of care to secure adequate housing for asylum seekers released from detention, but also that the necessary infrastructure is available and could be used to provide housing for *all* asylum seekers released from detention. This urgent need has been recognised by DIMIA's provision of on-arrival accommodation for off-shore refugees.

⁸¹ International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 999 UNTS 3 (entered into force 3 January 1976), article 11(1).

We believe that it is unacceptable to provide housing for some asylum seekers post-detention and then to refuse these same services to others who are equally in need.

While housing options exist for unaccompanied minors, single mothers and people considered to be at high risk psychologically, there are many who fall through the cracks. Commonwealth funding is obviously required to establish housing for asylum seekers released from detention. However, considering these services have been made available in the past it is clear that DIMIA does have the capacity to liaise with housing agencies in order to have transitional on-arrival accommodation secured for people released from detention if this were made a priority.

The provision of Commonwealth-funded caseworkers and guaranteed prior notification of release is fundamental in alleviating the housing pressure faced by community organizations whilst ensuring that preventable situations such as those faced by asylum seekers mentioned earlier are not repeated.

5.5 Employability

Summary:

Asylum seekers released from detention face a number of systemic challenges in securing work. To combat these challenges, they should be entitled to free vocational English classes during and after their periods in detention to assist in finding work. They should also be entitled to the same intense vocational support received by off shore refugees. A benefit scheme that does not discourage employment should be implemented.. This will ensure that asylum seekers do not fall into a cycle of unemployment and poverty.

Current Situation

Asylum seekers released from detention on TPVs and RPBVs are entitled to work.⁸² These rights, however, are grossly undermined by the obstacles that are faced in finding work. Their ability to find employment is affected by a number of key systemic problems including:

- A general lack of vocational English skills. Language is one of the most significant barriers to finding work and successful establishment within the Australian community. A large proportion of post-detention asylum seekers are unable to read job advertisements, communicate with prospective employers, or make use of the skills and qualifications that they may have. RPBV holders face an additional barrier as they remain ineligible for the free English classes provided by the Commonwealth Government.
- The complete absence of individualized employment assistance and support both in detention and upon release. TPV and RPBV holders are ineligible for most employment assistance programs, with the exception of the use of Centrelink's job-matching database. This small assistance, however, is meaningless in the context of a lack of English and computer skills.
- A lack of understanding of the Australian job market and a lack of understanding about the process of looking for work, such as writing a resume and looking for work advertised in newspapers.
- A fundamental loss of skills, confidence, and experience due to time spent in detention. Long-term detention has the additional effect of causing and exacerbating mental health problems and the experience of institutionalisation.
- The temporary nature of the TPV and the RPBV themselves poses a challenge to finding work as employers prefer to hire people with more permanency.
- TPV, RPBV and BVE holders are eligible for Special Benefits payments through Centrelink. Special Benefits payments, however, act as a disincentive to finding employment as any earnings are deducted dollar for dollar from the fortnightly Special Benefit payment. This discourages asylum seekers from accepting part time or casual employment.

The denial of services and the systemic challenges that characterize the TPV and the RPBV prevent asylum seekers (potentially long-term residents) from participating in the Australian community in a meaningful way and condemns them to a cycle of poverty and dependency.

⁸² Again, BVE holders are not discussed in this section because they have no work rights. The ASRC unreservedly advocates for BVE holders to be granted the right to work.

Case Study #6

Fatima, a TPV holder from Iraq with a degree in finance and 8 years of banking experience, was unable to find employment in a bank due to the temporary nature of her visa. The stated policy of many Australian banks is that they will only offer permanent jobs to applicants with permanent visas. A TPV is valid for a period of three years, after which an asylum seekers claim is reassessed. During 2004-2005, 91.5% of Iraqi asylum seekers were eventually granted Permanent Protection Visas. This means that a large number of TPV holders are in fact permanently living in Australia and yet are denied the benefits associated with this.

Case Study #7

Abdul, a university educated RPBV holder from Iran, was recently released after 5 years of detention. Abdul is lacking the vocational English skills necessary to find employment but is not eligible for free English classes. He is also ineligible for mainstream employment assistance leaving him dependent on community organisations to assist him. Abdul has also had problems adjusting to life in the community as he suffers from depression, anxiety and the institutionalisation that is the result of years in detention.

Last week, Abdul was offered a part-time job in a factory. The position required that Abdul purchase safety boots, at a cost of about \$90. Further complicating things, if Abdul accepts this position, he will have one dollar deducted from his Centrelink Special Benefits for every dollar that he earns. This acts as a disincentive to accepting casual or part-time work because if he accepts this position, Abdul could end up with less money than if even less if you factor in the cost of transport to and from work.

Recommendations

17. All asylum seekers should have access to free vocational English training both in detention and upon release.
18. TPV, RPBV and BVE holders should be provided with the same intensive individualized job training that is offered to off-shore refugees.
19. TPV, RPBV and BVE holders should receive Centrelink benefits that do not act as a disincentive to work; that allows them to benefit from engaging in part time or casual work.
20. Asylum seekers should be provided with opportunities to do work in detention that can maintain and consolidate the skills they have.

Motivation

A number of reports have highlighted the importance of English language skills and particularly the relationship between securing such skills and entrance into the labour market (Jones & McAllister 1991; Stromback & Preston 1991; Plimer & Chandlin 1996). It has been known for many years that refugees are the most disadvantaged of immigrant groups and that much of this disadvantage is the result of poor English language skills and the relative recentness of their arrival (Wooden, 1990:236). It is clear that the restriction... in accessing English language tuition is, and will be, a significant contributing factor to their continued struggle to establish themselves in Australia.⁸³

Asylum seekers want to become contributing members of society. There is a strong desire to work that is underpinned by a variety of motivations. For many, economic self-sufficiency is necessary in order to maintain self-esteem, and helps asylum seekers to view themselves as contributing to, rather than being a drain on, Australian society.⁸⁴ This matches well with Commonwealth Government ideology and policy, which seeks to eliminate welfare dependency. The importance of eradicating such dependency has been clearly emphasised by the current Minister for Employment and Workplace Relations who state that: "The scourge of welfare dependency is without doubt a lead contributor to creating and even institutionalising disadvantage."⁸⁵

⁸³ Fethi Mansouri. 2002. "Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria". The Centre for Citizenship and Human Rights (CCHR): Deakin University.

⁸⁴ Dr. Diana Barnes. July 2003. "A Life Devoid of Meaning: Life on a Temporary Protection Visa in Western Sydney". Centre for Refugee Research, University of New South Wales.

⁸⁵ Hon. Kevin Andrews, Minister for Employment and Workplace Relations, Dinner Address and Presentation of the Bennelong Medal, <http://www.bennelong.com.au/papers/Conference2005/Andrews2005.html>

These sentiments have been echoed by DIMIA, which has stated that:

*The Australian population is ageing. The median age of the Australian population is rising and fertility rates are falling and are expected to fall further: The net effect of these factors is that the ratio of dependants to the working population is increasing. These two factors make it essential that all members of the Australian community are equipped to participate fully in the economic and social life of the community.*⁸⁶

It is in the best interest of asylum seekers and the Australian community as a whole to make changes to a policy that is creating a situation of poverty, discrimination and alienation for a segment of people living within our community. As the Commonwealth Government Reference Group on Welfare Reform stated in their final report in March 2000, "Australia's social support system should activate, enhance and support people's capacities for economic and social participation".⁸⁷ Without access to language classes and employment assistance, it will be very difficult to enter the workforce in any meaningful way and post-detention asylum seekers will remain trapped in a cycle of poverty and dependency with little opportunity for escape. The social and economic repercussions of this on the entire community are self-evident.

5.6 Access to Centrelink Benefits & A Crisis Payment

Summary:

Currently asylum seekers are released from detention with \$200 and a bus ticket. This amount is expected to be adequate until their Special Benefit Payments commence.. this amount is grossly inadequate and should be increased to a minimum of \$500. This could be supplemented by making a Centrelink crisis payment available to asylum seekers upon release similar to that made available to prisoners being released from correctional facilities around Australia. There needs to be better inter agency protocols to ensure that asylum seekers Special Benefits payments can commence immediately.

Current Situation

Asylum seekers are released from detention with \$200 and a bus ticket. If they have any points (money earned in detention) saved, this is deducted so that they only have \$200 when they walk out the gate. This amount is expected to be adequate until their Centrelink Special Benefit Payment begins. This benefit is highly discretionary and the amount granted depends on the Centrelink officer. While TPV and RPBV holders are entitled to Centrelink benefits, the ASRC has found that it can take weeks until these payments are initiated. DIMIA now make an appointment with a Centrelink office, post release but refugees may have to wait 10 days for this appointment. Without the letter from Centrelink they are unable to even try to rent a house. They also need the Centrelink letter to open a Bank Account. Refugees released from detention need an advocate to negotiate Centrelink, Medicare, bank and real estate agent because they are frequently denied their entitlements.

The Special Benefits payment offered to TPV and RPBV holders provides only a minimal standard of living, is highly discretionary, and acts as a disincentive to finding casual or part-time employment . TPV and RPBV holders receive payments ranging from \$120 - \$390 per fortnight, hardly enough to live on. Centrelink officers have been known to significantly reduce payments to asylum seekers who are staying with friends or family, and to asylum seekers who are between the ages of 18 and 22. It is the experience of the ASRC that intervention and/or advocacy from community members is essential for accessing correct payments. Even accompanied by an advocate there is no guarantee that an asylum seeker will be provided with the correct payment as Centrelink officers are unable to disclose, upon registering for benefits, what the payment will be. The client must wait for their first payment to arrive. If this initial payment is incorrect, the client and advocate must return to the Centrelink office, wait in a queue, make an appointment, and then return on the day of the appointment to discuss the payment.

Centrelink has expressed a desire to establish and build stronger links with those responsible for immigration and with refugee service providers in order to provide 'quality outcomes' and 'seamless service' for customers.

⁸⁶ DIMIA. May 2003. "Chapter Fourteen: Investing in Settlement". Report of the Review of Settlement Services for Migrants and Humanitarian Entrants. Pp.319. www.immi.gov.au/settle/settle_review/pdfs/chap14web.pdf

⁸⁷ Reference Group on Welfare Reform. July 2000. "Participation Support for a More Equitable Society: Final Report". Canberra.

It has been demonstrated that inter-agency coordination can be an effective method for dealing with post-detention settlement in a proactive way. This would allow detainees to have their claims processed more quickly so that upon release TPV and RPBV holders will have immediate access to income support. Creating a formal protocol and developing a clear line of communication between Centrelink and DIMIA will increase the likelihood of a successful transition from detention into the community.

Case Study #8

Amal & Karim are a middle-aged, married Iraqi couple, who were released from detention 7 months ago. Upon arrival in Melbourne, they went to Centrelink to register for the Special Benefits to which they are entitled. They were subsequently granted \$120 each per fortnight. This left them facing destitution and homelessness as they were unable to secure tenancy with such a minimal income. A community advocate accompanied them to Centrelink to question their initial decision. During this appointment, the Centrelink officer and manager engaged in an argument during which the officer was instructed to grant Amal & Karim a higher payment.

Case Study #9

Godfrey, a 21 year old asylum seeker from Zimbabwe, was released from detention a few months ago. Accompanied by a community advocate, he went to Centrelink to register for the benefits to which he was entitled. Approximately two weeks later, he received his first fortnightly payment of \$214.90. Godfrey and his advocate returned to the Centrelink office to question this decision as \$107.45/week is not enough to provide an adequate standard of living. The Centrelink officer explained their decision had been made for the following reasons: 1) TPV and RPBV holders between the ages of 18 & 22 are granted a Youth Allowance payment rather than Special Benefits, which means that they receive a significantly smaller payment; and 2) If an asylum seeker is thought to be staying for free with a friend community member, a portion of their allowance is deducted.

After much negotiation and advocacy, Godfrey's Youth Allowance was upgraded to \$326.50/fortnight. While this was an important improvement, it still provides Godfrey with \$63.50 less than if he was granted Special Benefits.

Recommendations

21. DIMIA and Centrelink should establish a formal protocol in which DIMIA arranges for Centrelink officers to meet with TPV, RPBV and BVE holders prior to their release in order to secure their Special Benefits payment immediately. In addition, DIMIA should provide notification of release to Centrelink so that Centrelink can record the visa grant date, meaning that payment would begin as of that date.
22. The amount of money that asylum seekers are provided with upon release should be increased to at least \$500. This be supplemented by making a Centrelink crisis payment available to asylum seekers upon release.
- 23 .Centrelink should provide all asylum seekers released from detention with the maximum *Special Benefit* payment available.

Motivation

Centrelink has expressed a desire to "link with others inside and outside the organization to provide quality outcomes and seamless service for our customers" by:

1. Increasing cross-agency services for multicultural customers;
2. Expanding links to client and other relevant agencies including those responsible for immigration;
3. Building stronger relationships with migrant/refugee service providers.

Centrelink has demonstrated the potential for effective inter-governmental partnerships through protocol agreements with a number of State correctional service organizations. In Victoria's correctional service facilities, a Centrelink Liaison Officer is available to meet with prisoners who are soon to be released. This officer provides the prisoner with information relevant to his/her needs and Centrelink's service eligibility. In this way, prisoners are able to start claiming benefits 21 days prior to release. In 2003, Centrelink signed partnership agreements with the WA State Government's Department of Justice⁹¹ and with the NSW Department of Corrective Services⁹² allowing Centrelink staff to visit prisons in order to help prisoners access timely payments and services on release. In that same year, Centrelink set up the Prison & Offenders Servicing Unit to ensure that SA prisoners re-entering society have the necessary support services to make the transition.⁹³ In 2005, a new agreement between Centrelink and the SA Department for Correctional Services was established. This formalized current arrangements which have Centrelink staff meet with prisoners at all State prisons in the lead-up to their release, assisting them with accommodation needs, Centrelink payments, linking them to employment services, and ensuring access to a cash payment on the day that they are released from prison. Similar agreements have been signed and implemented in Queensland and in the Northern Territory.⁹⁴

Cessnock Centrelink in partnership with the NSW Department of Corrective Services is working at making the transition from prison to community easier by organizing an information expo for inmates as part of their pre-release program. The expo provides inmates with assistance in accessing housing, Medicare, and Centrelink payments and services. Centrelink provides weekly servicing for prisoners to help them deal appropriately with any issues that might put them at risk after their release into the community.⁹⁵

The benefits of providing holistic service support to prisoners prior to their release have included improved communication, reduced anxiety and reduced poverty immediately after release.⁹⁶ The well documented effectiveness of these inter-agency protocols provide evidence of their potential and the need for improved cooperation between DIMIA and Centrelink in order to improve settlement outcomes for asylum seekers released from detention.

5.7 Notification of Release

Summary:

Currently relevant community organizations are not notified of the impending release of asylum seekers. This can result in asylum seekers being released with no support or assistance and thus finding themselves in crisis situations. Furthermore, this lack of notification puts an unnecessary burden on community organizations, who are left to deal with the needs of asylum seekers at short notice. DIMIA should notify relevant community organizations of the impending release of detainees so that appropriate support can be provided. This has been done in the past for certain groups of asylum seeker, proving it to be possible and practicable.

Current Situation

Amnesty International condemns the Australian Governments refusal to provide notification of an asylum seekers release from detention and argues that this "amounts to a serious violation of the rights to liberty and freedom from arbitrary detention".⁹⁷ This failure appears also to breach Australia's own *Immigration Detention Guidelines* which states that:

*Each immigration detainee should have the opportunity to inform his or her family of his or her detention, release from detention... as soon as possible.*⁹⁸

⁹¹ Centrelink. 2003. "Inter-governmental Partnerships: Area Western Australia Centrelink and the Department of Justice Partnership Agreement". Centrelink Annual Report 2002-03. www.centrelink.gov.au

⁹² Centrelink. 26 November 2003. "Centrelink and Corrective Services Sign Historic Agreement". Centrelink News Room. www.centrelink.gov.au

⁹³ Centrelink. 27 July 2005. "Released Prisoners in South Australia get a Hand-up". Centrelink News Room. www.centrelink.gov.au

⁹⁴ Centrelink. 2003. "Chapter 6: Our Community and Business Relationships". 2002-2003 Centrelink Annual Report. [www.centrelink.gov.au/internet/internet/nsf/filestores/ih0203/\\$file/ihch8_0210en.rtf](http://www.centrelink.gov.au/internet/internet/nsf/filestores/ih0203/$file/ihch8_0210en.rtf)

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Amnesty International. "Mandatory Detention of Asylum Seekers: Fact Sheet". www.amnesty.org.au/resources/fact_sheets/mandatory_detention_of_asylum_seekers_-_fact_sheet

⁹⁸ Human Rights and Equal Opportunity Commission (HREOC). March 2000. "Section 12.4: Immigration Detention Guidelines". www.hreoc.gov.au/word/human_rights/asylum_seekers/idc_guidelines.doc

Given that current Commonwealth policy shifts the burden of post-detention settlement assistance to NGOs, ethnic and community organizations and, in some cases, state governments, it is of utmost importance that these groups are notified of the pending release of a detainee. If community organizations were notified, they would be provided with an important head start in trying to organize appropriate housing, health assessments and interventions and assistance with registering for Centrelink and Medicare benefits. By failing to provide notification of their pending release, the Commonwealth government not only denies TPV, RPBV and BVE holders access to fundamental settlement support services but also creates formidable barriers which hinder their access to supportive community organizations.⁹⁹ Notification of release from detention would be in accordance with UNESCO's Standard Minimum Rules for the Treatment of Prisoners which state that:

80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralized or co-ordinated as far as possible in order to secure the best use of their efforts.¹⁰⁰

Case Study #10

Only a few days ago, George, an TPV holder from the Congo, was released from detention. He was provided with \$15 (because he already had \$185) and a flight to Melbourne. He was met by a DIMIA officer at the Tullamarine airport, who signed off on his visa, gave him a Centrelink appointment for one week's time, and then left him to fend for himself.

Through friends of friends, he managed to get the phone number of someone connected with the African community in Melbourne, who arranged a few nights accommodation with a local family. The following day, he rang a friend who was still in detention, to ask him if he knew where he could go for assistance. The detainee gave George the number of a former detainee who he thought lived in Melbourne. George contacted this former detainee who happened to be a client of the ASRC.

Currently, George is facing homelessness as his current accommodation is very temporary. If the ASRC would have been provided with advance notification of George's pending release, an airport pickup could have been arranged, housing arrangements could have been made in advance, and the entire situation could have been made a lot less stressful for George.

Recommendations

24. DIMIA should notify relevant community organizations of the pending release of all asylum seekers as early as possible.
25. Upon a visa being granted or a decision made about an impending release, DIMIA should keep the asylum seeker in detention for a further 48 hours so that the necessary arrangements can be made to ensure their safe and dignified release into the community.

⁹⁹ Ideally, the Commonwealth Government will assume responsibility for many of these required areas of assistance, such that the detainee would receive pre-release assistance regarding housing, Medicare and Centrelink registration, etc.

¹⁰⁰ Standard Minimum Rules for the Treatment of Prisoners, ESC res. 663C, UN Doc E/3048 (1957), amended ESC res. 2076, UN Doc E/5988 (1977), articles 1, 2, 3.

Motivation

DIMIA has set a precedent for prior notification on a number of occasions:

- In July 2000, DIMIA provided notification to community organizations regarding the release of a number of TPV refugees that were going to be released to Melbourne.
- The Ecumenical Migration Centre received notification of the release of a number of asylum seekers from Christmas Island so that they could organize the central coordination of an emergency response to the settlement needs of these released TPV holders.¹⁰¹

These examples prove that prior notification is immediately practicable. This will ensure the best possible settlement outcomes for asylum seekers and will ease the stress on community organizations

5.8 Post-Detention Case Management Team

Summary:

Release from detention is often the most difficult and precarious time for asylum seekers. Asylum seekers are often unaware of their rights and entitlements, or of the community organizations that can assist them. DIMIA should implement post-detention case management for asylum seekers. Such case management would provide settlement assistance, advocacy and coordination of services. This support should be initiated pre-release.

Current Situation

The point of release can be one of the most difficult stages in the asylum process for long-term detainees. While detention is familiar and relatively stable, the experience of the outside world can be overwhelming and uncertain. Currently, the responsibility for asylum seekers post-detention falls upon already stretched ethnic and community organizations. Asylum seekers would benefit from having a caseworker who would provide them with flexible settlement assistance, advocate on their behalf and play an integral role in ensuring a coordinated approach to the delivery of post-release services.

Case Study #11

The Al Asadi's, an Iraqi family of five, were released from detention a few months ago. Upon release, they were provided with no orientation or information about settling in Australia. They immediately moved into overcrowded and unsustainable living arrangements with some relatives in Kynton. By the time they presented at the ASRC four months after their release, they had a number of urgent needs.

They were facing homelessness, as their current living arrangements were unsustainable. they had no understanding of how to navigate through the complex housing market. They were also experiencing financial hardship because Centrelink had deducted a significant portion of their Special Benefits payment when they found out that they were staying with relatives. Although they had registered for Centrelink and Medicare, they were unfamiliar with their entitlements and obligations, and had no idea how to access free health care as they did not understand the concept of bulk billing.

They heard of the ASRC through some friends, and expected that the ASRC would be able to provide them with a house and income support. The ASRC has advocated on their behalf for an increased Special Benefit payment, and is now helping the family to find affordable private rental accommodation.

Recommendations

26. DIMIA should fund a caseworker in each state to provide individualized case management and ongoing risk and needs assessment for post-detention asylum seekers.
27. These caseworkers should initiate their support while the asylum seeker is still in detention. Pre-release services should be on a continuum with post-detention needs. Immediately post-release, the asylum seeker should receive intensive support, followed by a period of progressively reduced levels of support.

¹⁰¹ City of Darebin. Temporary Protection Visa Holder's Project: Information Kit for Services Providers. P.4.

Motivation

In order to implement these recommendations it would be useful to use the infrastructure and inter-agency coordination that already exists between DIMIA and the Australian Red Cross. The Australian Red Cross already provides case management for several thousand asylum seekers in the community under the Asylum Seeker Assistance Scheme (ASAS). The ASAS is funded by the Commonwealth Government, through DIMIA. ASAS provides the following support to this limited number of asylum seekers: crisis intervention and needs assessment; administration of some emergency relief and financial assistance; access to health care and pharmaceutical programs; referral to other agencies; general casework and advocacy.¹⁰² These services could be extended through the development of a comprehensive transitional support project which would be committed to meeting the needs of all asylum seekers released from detention.

A similar and highly successful case management system operates in Sweden. It has been noted that this system is one of the key aspects in successful asylum seeker settlement. The Swedish case management system “oversees an asylum seeker’s journey throughout both reception and detention and onwards to either return or settlement. It is a system based on informing and empowering the asylum seeker and involves a clear understanding that the asylum seeker experience cannot be bureaucratically controlled and planned but demands flexibility and compassion”.¹⁰³

The benefits of this model to the larger community are self-evident. Having caseworkers follow asylum seekers through from detention into the Australian community will ensure continuity of care, will lead to a decrease in levels of welfare dependency, and will result in greatly improved integration and settlement outcomes, the benefits of which are acknowledged by DIMIA.

6. Policy Formulation

Summary:

The Commonwealth must take responsibility for the services provided to asylum seekers after detention. The Swedish model and other systems such as the Red Cross Asylum Seeker Assistance Scheme and the prisoner release scheme in Australia are used as illustrations to demonstrate how possible it is for the Commonwealth to fund and implement such a scheme.

6.1 Settlement Support Program Models: Review of Potential Responses

6.1.1 International Settlement Support Program for On-shore Asylum Seekers

Sweden

Sweden receives approximately double the number of asylum seekers per capita as Australia does. Additionally, up to 80% of asylum seekers that arrive in Sweden arrive without proper documentation. Despite this, Sweden has been very successful in implementing a “functioning reception process that allows for a just and humane treatment of asylum seekers while they await a decision, addresses national concerns and effectively removes failed refugee-claimants”.¹⁰⁴

In Sweden, the majority of asylum seekers live freely in the wider community. The Migration Board assign all asylum seekers with a caseworker whose job it is to explain the immigration process and the rights and entitlements they have until their case has been processed, whilst providing needs and risk assessments, and referring clients for medical care, counselling and other services. The caseworkers also ensure that their asylum application is processed correctly and will source interpreters and legal representation if needed. All asylum seekers are offered free housing, except in instances where they are financially able to provide for themselves. “Sweden now has the lowest levels of illegal immigrants living in the community in Europe, with research showing that resettled refugees integrate quickly into the community with no increase in levels of welfare dependency or crime... The link between immigration and settlement is taken seriously in Sweden, with the way

¹⁰² Australian Red Cross (ARC). 2005. Asylum Seeker Assistance Scheme (ASAS). www.redcross.org.au/ourservices_acrossaustralia_asas_default.htm

¹⁰³ Grant Mitchell. August 2001. “Asylum Seekers in Sweden: An Integrated Approach to Reception, Detention, Determination, Integration and Return”. Australian Fabian Society. www.fabian.org.au/library/event_papers_2001/1081751207_29216.html

¹⁰⁴ Ibid.

individuals are treated during the immigration process directly relate to how they adjust and settle into the new country”.

6.1.2 An Overview of Commonwealth Government Initiatives

Integrated Humanitarian Settlement Strategy (IHSS)

The Integrated Humanitarian Settlement Strategy (IHSS) is a Commonwealth Government initiative that “aims to ensure that entrants have the information, the skills and the basic material requirements to rebuild their lives in Australia”¹⁰⁵ and to “achieve self-sufficiency as soon as possible”¹⁰⁶. The IHSS provides the following specialized settlement services on a needs basis to Refugees (offshore) and Special Humanitarian Program (SHP) entrants:

- meeting entrants on arrival and providing for their immediate needs;
- arranging accommodation to meet entrants’ immediate and longer term requirements;
- assisting entrants to sign on for Medicare and access Centrelink benefits and other services;
- referrals for health and other services as required;
- provision of initial settlement information and orientation to the local community;
- provision of basic household goods; and
- provision of short-term counselling for torture and trauma survivors.¹⁰⁷

The Commonwealth Government recognises the benefits of providing these services for off-shore refugees and humanitarian entrants.

*Many humanitarian entrants are severely traumatised by the experiences which have caused them to leave their home countries. The Australian Government recognises that entry into Australia marks only the beginning of the resettlement process. Humanitarian entrants must be provided with government assistance to become acquainted with the Australian environment and to become fully participating members of the Australian community.*¹⁰⁸

Asylum Seeker Assistance Scheme (ASAS)

The Commonwealth funded *Asylum Seeker Assistance Scheme* is administered by the Commonwealth Government through contractual arrangements with the Red Cross. ASAS was set up to act as a safety net to protect asylum seekers with limited visa rights. Currently the program provides income support to those asylum seekers within the community who are still awaiting a primary decision after 6 months, and who have not yet appealed past the Refugee Review Tribunal. ASAS does not extend to those who are in the final stages of the appeals process or to those who have been in detention.

ASAS provides eligible asylum seekers with health support, counselling, accommodation, material aid, education and legal referrals as well as social support. In 2002-03, ASAS assisted 1865 clients at a cost of \$9.566 million.¹⁰⁹

Settlement Support for Families & Children Released on Residence Determination Visas

In July/August 2005, DIMIA released all children and families from detention on residence determination visas. The handling of these post-detention asylum seekers indicates that DIMIA does indeed have the resources available to assist with the settlement of asylum seekers released from detention. Residence determination arrangements were put in place in partnership with NGOs, which were funded by DIMIA, to provide families with pre-release assessment, accommodation, income support, and health care. The NGOs also provided DIMIA funded caseworkers to assist the families to ensure that they had access to appropriate services.¹¹⁰

The Australian Red Cross (ARC) was called upon to coordinate this support. Their role in dealing with the families

¹⁰⁵ Austender: The Australian Government Tender System.

www.tenders.gov.au/federal/shared/frgdetail.cfm?p_id=401&p_criteria=DIMIA%2004%2F24&p_advert=1

¹⁰⁶ DIMIA. 2005. “Integrated Humanitarian Settlement Strategy”. www.immi.gov.au/facts/66ihss.htm

¹⁰⁷ Austender: The Australian Government Tender System.

www.tenders.gov.au/federal/shared/frgdetail.cfm?p_id=401&p_criteria=DIMIA%2004%2F24&p_advert=1

¹⁰⁸ DIMIA. 2005. “Integrated Humanitarian Settlement Strategy”. www.immi.gov.au/facts/66ihss.htm

¹⁰⁹ DIMIA. 2005. “Assistance for Asylum Seekers in Australia”. www.immi.gov.au/facts/62assistance.htm

¹¹⁰ Amanda Vanstone, Minister for Immigration. Friday 28 July 2005, Media Release, “New Community Arrangements for Families in Detention”. www.chilout.org

released from detention was “to work directly with detainees to determine their needs and to develop a care plan with [DIMIA] to meet those needs. With the support of non-government organizations the ARC is coordinating help with housing, living expenses, health care, education, transport and community support”.¹¹¹

Settlement Support for Asylum Seekers Recently Released from Nauru

On November 1st, 2005, DIMIA released 25 of the remaining 27 detainees from the Nauru Immigration Detention Centre. DIMIA agreed to take full responsibility for the settlement of these asylum seekers. This again, indicates that the Federal Government does indeed have the capacity to take responsibility for the settlement of asylum seekers released from detention. It has also highlighted the discriminatory nature of DIMIA's support. If DIMIA is willing and able to provide post-detention settlement support for some asylum seekers released from detention, it is only reasonable that the same level of support should be available for all asylum seekers.

6.1.3 State Initiatives

Research has demonstrated that Commonwealth TPV policy is putting asylum seekers released from detention at a severe disadvantage and is placing a huge strain on community and volunteer organizations.¹¹² As a result of this policy, state governments around Australia have been faced with the financial burden of providing for the settlement needs of asylum seekers released from detention. The Commonwealth Government has actively discouraged state governments from providing assistance to TPV holders and the response of the various state governments has been varied. While most states do not have formally articulated policies, a number of state governments have expressed their opposition to the punitive TPV policy that places such a heavy fiscal burden on local governments and community organizations. The Queensland Government has formally articulated its position by introducing progressive policies that give approval to all Queensland Government agencies to provide the same support and services to TPV holders as are provided to refugees with Permanent Protection.¹¹³

*The Commonwealth Government has, therefore, created two classes of refugees. The lack of help from the Commonwealth Government means these people will have added difficulties in finding accommodation, finding work and making a positive contribution to our society. This is both inhumane and a device to shift the costs of service provision to the States and the already stretched community sector... My Government... will do the right thing by these refugees and give them what help we can to become self-supporting and make a positive start to their life here.*¹¹⁴

Some state governments have demonstrated a willingness to support TPV holders. Western Australia for example, has made TPV holders eligible for all state government services¹¹⁵ and in Tasmania, the State Government bears the cost of the first two weeks of accommodation for all newly arrived TPV holders.¹¹⁶ The Victorian Government has also opposed Commonwealth TPV policy, but has not yet adopted a formal position. It has however, taken measures aimed at supporting the settlement of post-detention TPV holders by encouraging a review of TPV eligibility to state-funded settlement services¹¹⁷ and by allocating a grant of \$100,000, which was shared between 6 community agencies to assist with their on-arrival settlement.¹¹⁸

Other state governments, such as New South Wales and South Australia have stayed in line with the Commonwealth Government and have not demonstrated opposition to TPV policies.

The Victorian Government has also taken steps to support BVE holders. In November 2005, Health Minister Bronwyn Pike instructed her department to tell all public hospitals to stop charging asylum seekers for medical

¹¹¹ Australian Red Cross. 28 July 2005. “Australian Red Cross Support for Families Released from Detention Facilities”. <http://1.redcross.org.au/?fuseaction=newsroom.latestnews&sub=393>

¹¹² Peter Beattie MP. 2001. In “Temporary Protection Visa Holders in Queensland: A Research Report by Renae Mann on the Impact of Visa 785”. Multicultural Affairs Queensland, Department of the Premier and Cabinet. Pp.3.

¹¹³ Ibid:11.

¹¹⁴ Peter Beattie MP. 2001. In “Temporary Protection Visa Holders in Queensland: A Research Report by Renae Mann on the Impact of Visa 785”. Multicultural Affairs Queensland, Department of the Premier and Cabinet. Pp.3.

¹¹⁵ Western Australia Department of Premier and Cabinet. 2004. “Annual Report 2003/2004”. Pp.69. www.dpac.wa.gov.au/documents/annual_report/2004/Promotion_Support_of_Multiculturalism_in_WA.pdf

¹¹⁶ Tasmania Department of Premier and Cabinet. 2002. “Annual Report 2001/2002”. www.dpac.tas.gov.au/documents/annualreport/2001-2002/annualreport01-02.pdf

¹¹⁷ Fethi Mansouri. “Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria”. www.deakin.edu.au/arts/cchr/rsg/publications_files/TPVreport.pdf

¹¹⁸ Ibid.

services. So while the BVE category still exists and there are still many asylum seekers without Medicare, the Victorian Government is taking an important stand against a Commonwealth policy that refuses health care to some of the most vulnerable members of the Australian community.¹¹⁹

6.1.4 An Alternative Model of Post-Detention Settlement Support

Australian Prisoner Release Programs

Australian prisoner release programs provide an interesting model for consideration. While asylum seekers are faced with the complete absence of settlement support after their release from detention, prisoners released after periods of incarceration receive comprehensive settlement support that begins the moment they are incarcerated and follows through their settlement.

In Victoria, prisoners in correctional facilities receive extensive information and advice regarding a series of settlement programs available to them upon release.¹²⁰ Each prison provides pre-release preparation information sessions as part of the Transitional Assistance Program. Prisoners are assigned a case manager, caseworker or contract worker who assists them throughout the process of release and settlement. They also receive assistance in looking for and securing housing, through the Transitional Housing Management Programs and the Corrections Housing Pathways Initiative. They also have access to a Centrelink Liaison Officer who can assist them through the process of registering for and claiming any Centrelink benefits that they are eligible for. Victorian correctional facilities also provide prisoners with employment assistance through the provision of pre-release training and individualized employment case management.

*An all-compassing, close-knit network of support and transition services comes into operation when the jailhouse door closes behind someone completing a prison term, and a casework plan stages all aspects of life for a former prison inmate, with support services and case workers, counsellors and career guides in place, so the chance of failure after the term of incarceration is all but eliminated. In this it is acknowledged that institutionalisation is one of life's most damaging forms of psychological abuse, and that incarceration behind bars has a seriously damaging effect on one's social persona – and that is for those who according to western society's 'code', deserve it because of what they have done.*¹²¹

Prisoners are also provided with a comprehensive information booklet prior to their release. The booklet provides information on the above mentioned services and also includes a compiled list of free or low cost counselling services. It identifies and explains areas of potential psychological conflict during the post-release settlement process and provides general advice on how to cope.

The Victorian policy regarding correctional facilities' post-release settlement assistance identifies the principal areas of need that prisoners face upon release. Most of these areas coincide with those that have been highlighted in this document as problems with the current DIMIA policy regarding asylum seekers' release from detention centres. Thus, the Victorian policy considers the needs that emerge when a person who has been isolated from the community is confronted with reintegration. Prisoners are provided with information on the potential difficulties they face and with the practical aid they may need, as well as establishing links between the released prisoner and organizations that can provide him with assistance.

Asylum seekers and prisoners face very similar issues upon release. Both groups have been kept in isolation from the community and have for one reason or another, been deprived of their liberties. Asylum seekers face additional burdens as they often lack vocational English skills and are being released into a community that is completely foreign to them. A policy for post-detention settlement assistance for all asylum seekers released into the community should take these issues into account and provide services and support accordingly.

¹¹⁹ Tom Noble. 26 November 2005. "Free Care for Asylum Seekers". In *The Age*. www.theage.com.au/news/national/free-care-for-asylum-seekers/2005/11/25/1132703376892.html

¹²⁰ Victorian Association for the Care and Resettlement of Offenders (Vacro). 2005. "Getting Out and How to Survive It". 3rd Ed. www.justice.vic.gov.au

¹²¹ Jack H Smit. 18 August 2005. "When the Baxter Fence Closes: Life After Permanent Detention". www.safecom.org.au/life-after-baxter.htm

6.2 Who Should be Responsible?

The responsibility for the provision of settlement services for post-detainee asylum seekers has been shifted to community and volunteer organizations along with some state and local governments. By shifting the cost burden for settlement services to community organizations and state governments, considerable variation has developed in the level of services accessible to asylum seekers across Australia.¹²² This situation is inequitable and has placed a substantial extra burden on the resources of these organizations. The reluctance of the federal government to meet its responsibilities in settlement service provision has promoted “the return to a traditional third sector reliance on volunteers, rather than paid social workers and professionals. Community sector organizations are then faced with daunting tasks of operating on a kind of ‘moral economy’, in which services are provided even when there is no proper funding in order to meet the pressing needs of refugees”.¹²³

The increase in demand for settlement services provided to asylum seekers has not been matched by funding increases and resource allocations to community organisations.¹²⁴ This is despite a clearly identified need for an increased level of funding for community sector organizations, as well as a more coordinated approach to service provision.¹²⁵ Community organizations recognize that it is unacceptable to allow further trauma to be inflicted on asylum seekers, whilst acknowledging that by providing these services, they are allowing the Federal Government to continue to avoid its responsibilities.

*Ongoing reliance on community based NGOs and ethnic organisations for meeting basic needs has many inherent weaknesses... It would be better for these organisations to be relieved of responsibilities that more appropriately belong to federal and state governments, and supported (through government subsidies) in the things they do best.*¹²⁶

The human cost of not meeting the basic survival needs of post-detention asylum seekers would be catastrophic. Community organizations do not see it as a viable option. As a result, organisations like the ASRC have become de facto settlement service and support providers, but are offered no Federal funding for assuming this critical role.

The Commonwealth Government must take responsibility for ensuring the successful post-detention settlement of asylum seekers in our community. Migration and settlement services are a Federal issue and responsibility for them should be accepted and fulfilled by the Commonwealth. Likewise, whilst meeting Australia’s obligations under the Refugee Convention is a federal and state responsibility, it should primarily be a responsibility for the Federal Government to ensure compliance is achieved.

7. Financial Impact of the Post-Detention Settlement Model

The success of these recommendations requires the implementation of robust inter-agency coordination, and requires the employment of a DIMIA-funded case management team who will take on the responsibility for developing and coordinating individualized support programmes. This will require a contractual agreement between DIMIA and an organization like the Red Cross. It will require strong links with services like Centrelink and Medicare. This initiative will also require improved and supportive links between DIMIA and a variety of voluntary sector partners.

It is clear that increased resources will be required to successfully deliver the above recommendations. The overall costs of these improvements will be kept to a minimum by extending existing services systems, rather than investing in infrastructure development. This will have the added benefit of increasing efficiency and decreasing inconsistencies and duplication of resources.¹²⁷

¹²² Ibid. Pp.24.

¹²³ Ibid. Pp.22.

¹²⁴ Ibid. Pp.14.

¹²⁵ Ibid. Pp.18.

¹²⁶ Dr. Diana Barnes. July 2003. “A Life Devoid of Meaning: Life on a Temporary Protection Visa in Western Sydney”. Centre for Refugee Research, University of New South Wales.

¹²⁷ Brotherhood of St. Laurence. Contribution to the “senate legal and constitutional committee’s inquiry into the administration and operation of the migration act 1958”. www.aph.gov.au/senate/committee/legcon_ctte/migration/submissions/sub175.pdf

8. Conclusion

Although the policy of mandatory detention has received significant media attention and has been the subject of much criticism, the Australian public remains largely uninformed of the barriers imposed on asylum seekers after release. Asylum seekers released from detention and into mainstream society are confronted with a range of personal, economic and social challenges. The challenges that they face can minimise the likelihood of a successful integration with the broader community. Practitioners and researchers have recognised a relationship between how a person is treated throughout the immigration process and their ability to integrate into the community.¹²⁸ Settlement services and support provided both before and after release can greatly improve an asylum seeker's chance of successful integration.

However, adequate provision of support services does not address the ongoing uncertainty and precarious citizenship status that is characteristic of the TPV, RPBV and BVE categories. The transient nature of these visa categories is a serious barrier to recovering from a traumatic past or building any kind of normal life. The only solution is the complete abolition of temporary protection.

The failures of Australia's asylum seeker policy outlined above are festering sores on the country's credibility. Our embryonic national identity – tenuously attached to notions of egalitarianism, 'a fair go', and 'mateship' – is made ridiculous. The Commonwealth Government is the only institution in the country with the power to define national values. Its current policies define the country in terms of division, xenophobia and bureaucratic cold-heartedness. By addressing the issues outlined in this document in the ways suggested some more commendable values could be given prominence: namely respect for human rights, compassion, and competence.

¹²⁸ Justice for Asylum Seekers (JAS) Alliance Detention Reform Working Group. June 2002. "Alternative Approaches to Asylum Seekers: Reception and Transitional Processing System". Pp. 29. http://www.bsl.org.au/pdfs/Alternative_approaches.pdf

9. References

- AMES Settlement. 2005. "AMES Settlement Fact Sheet".
www.ames.net.au/articles/files/AMES_Settlement_Fact_Sheet.pdf
- Amnesty International. "Mandatory Detention of Asylum Seekers: Fact Sheet".
www.amnesty.org.au/resources/fact_sheets/mandatory_detention_of_asylum_seekers_-_fact_sheet
- Andrews, Hon. Kevin. (Minister for Employment and Workplace Relations). 2005. Dinner Address and Presentation of the Bennelong Medal,**
<http://www.bennelong.com.au/papers/Conference2005/Andrews2005.html>
- Asylum Seeker, Age 11. "Education Kit". Rural Australians For Refugees.
www.ruralaustraliansforrefugees.org/tpv/education_kit.pdf
- Austender: The Australian Government Tender System.
www.tenders.gov.au/federal/shared/frgdetail.cfm?p_id=401&p_criteria=DIMIA%2004%2F24&p_advert=1
- Australian Catholic Migrant and Refugee Office. 2003. "Response by Minister Philip Ruddock to the ACBC Statement on Refugees and Asylum Seekers with Comments by the Australian Catholic Migrant and Refugee Officer". www.acmro.catholic.org.au
- Australian Government: Attorney General's Department. 1994. *Supported Accommodation Assistance Act*. No.162, Section 4. <http://scaletext.law.gov.au/html/comact/8/4450/top.htm>
- Australian Red Cross. 28 July 2005. "Australian Red Cross Support for Families Released from Detention Facilities". <http://1.redcross.org.au/?fuseaction+newsroom.latestnews&sub=393>
- Australian Red Cross (ARC). 2005. *Asylum Seeker Assistance Scheme (ASAS)*.
www.redcross.org.au/ourservices_acrossaustralia_asas_default.htm
- Barnes, Dr. Diana. July 2003. "A Life Devoid of Meaning: Life on a Temporary Protection Visa in Western Sydney". Centre for Refugee Research, University of New South Wales.
- Beattie, Peter (MP). 2001. In "Temporary Protection Visa Holders in Queensland: A Research Report by Renae Mann on the Impact of Visa 785". Multicultural Affairs Queensland, Department of the Premier and Cabinet.
- Brotherhood of St. Laurence. Contribution to the "Senate Legal and Constitutional Committee's Inquiry into the Administration and Operation of the Migration Act 1958".
www.aph.gov.au/senate/committee/legcon_ctte/migration/submissions/sub175.pdf
- Centrelink. 2003. "Chapter 6: Our Community and Business Relationships". *2002-2003 Centrelink Annual Report*. Pp.149. [www.centrelink.gov.au/internet/internet.nsf/filestores/ih0203/\\$file/ihch8_0210en.rtf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/ih0203/$file/ihch8_0210en.rtf)
- Centrelink. 2003. "Inter-governmental Partnerships: Area Western Australia Centrelink and the Department of Justice Partnership Agreement". *Centrelink Annual Report 2002-03*. www.centrelink.gov.au
- Centrelink. 26 November 2003. "Centrelink and Corrective Services Sign Historic Agreement". *Centrelink News Room*. www.centrelink.gov.au
- Centrelink. 27 July 2005. "Released Prisoners in South Australia get a Hand-up". *Centrelink News Room*. www.centrelink.gov.au
- Centrelink. 2005. "Centrelink Multicultural Directions 2005-2009: Making a Difference to Multicultural Australia". [www.centrelink.gov.au/internet/internet.nsf/filestores/pr823_0502/\\$file/pr823_0502en.rtf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/pr823_0502/$file/pr823_0502en.rtf)
- City of Darebin. "Temporary Protection Visa Holder's Project: Information Kit for Services Providers".
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).
- Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981).
- Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December, 1975).
- Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
- Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force April 22, 1954).

Convention Relating to the Status of Stateless Persons, opened for signature 28 September 1954, 360 UNTS 117 (entered into force June 6, 1960).

Council of Social Service of NSW (NCOSS). 2003. "Supplementary Submission to the National Inquiry into Children in Immigration Detention." www.hreoc.gov.au/human_rights/children_detention/submissions/ncoss_supp.html

DIMIA. 2002-04. "Portfolio Budget: Agency Additional Estimates Statements". www.immi.gov.au/budget/paes02_crrt.pdf

DIMIA. May 2003. "Chapter Eight: The Integrated Humanitarian Settlement Strategy". *Report on the Review of Settlement Services for Migrants and Humanitarian Entrants*. www.immi.gov.au/settle/settle_review/pdfs/chap08web.pdf

DIMIA. May 2003. "Chapter Fourteen: Investing in Settlement". *Report of the Review of Settlement Services for Migrants and Humanitarian Entrants*. www.immi.gov.au/settle/settle_review/pdfs/chap14web.pdf

DIMIA. February 2005. "Immigration Detention Standards & Performance Measures – Part Two: Detainees". http://www.immi.gov.au/detention/standards_two.htm#two.3

DIMIA. 2005. "Integrated Humanitarian Settlement Strategy". www.immi.gov.au/facts/66ihss.htm

DIMIA. 2005. "Assistance for Asylum Seekers in Australia". www.immi.gov.au/facts/62assistance.htm

European Council on Refugees & Exiles. 2002. "ECRE Position on the Integration of Refugees in Europe". <http://www.ecre.org/positions/integ02.shtml>

Foley, Paul & Andrew Beer. April 2003. "Housing Need & Provision for Recently Arrived Refugees in Australia". For the *Australian Housing & Urban Research Institute (AHURI)*. http://www.ahuri.edu.au/attachments/40048_pp_refugees.pdf

Hotham Mission. November 2003. "Welfare Issues & Immigration Outcomes for Asylum Seekers on Bridging Visa E: Research & Evaluation". *Asylum Seeker Project*. Pp.4. http://www.refugeecouncil.org.au/docs/current_issues/asp_research_jan04.pdf

Human Rights and Equal Opportunity Commission (HREOC). March 2000. "Section 12.4: Immigration Detention Guidelines". www.hreoc.gov.au/word/human_rights/asylum_seekers/idc_guidelines.doc

Human Rights Watch. 2003. "Commentary on Australia's Temporary Protection Visas for Refugees". www.hrw.org/backgrounder/refugees/australia051303.pdf

International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 21 December 1965, 660 UNTS 195 (entered into force 4 Jan 1969).

International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 999 UNTS 3 (entered into force 3 January 1976).

Justice for Asylum Seekers (JAS) Alliance Detention Reform Working Group. June 2002. "Alternative Approaches to Asylum Seekers: Reception and Transitional Processing System". http://www.bsl.org.au/pdfs/Alternative_approaches.pdf

Kelly, Eve. 2004. "A New Country – But No Place to Call Home: The Experiences of Refugees and Asylum Seekers in Housing Crisis and Strategies for Improved Housing Outcomes". *Hanover Welfare Services*. Pp.XIV. www.hanover.org.au/fifthestate/archives/070.040/70/HRASS%20Report.pdf

Liberty. 3 November 2005. "Press Release: Law Lords Scrap Section 55 of Asylum Act in Landmark Ruling to Spare Asylum Seekers from Utter Destitution". In *Liberty: Protecting Civil Liberties Promoting Human Rights*. www.liberty-human-rights.org.uk/press/2005/lords-scrap-section-55.shtml

Magner, Tara. 2004. "A Less than 'Pacific' Solution for Asylum Seekers in Australia", *International Journal Of Refugee Law* 16(1).

Mansouri, Fethi. 2002. "Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria". The Centre for Citizenship and Human Rights (CCHR): Deakin University.

Mares, Peter. 2001. *Borderline*. UNSW Press.

- Marston, Greg. July 2003. "Temporary Protection Permanent Uncertainty: The Experience of Refugees Living on Temporary Protection Visas". Centre for Applied Social Research RMIT University.
<http://mams.rmit.edu.au/k2vavbh0g5ik.pdf>
- McKay, Leanne. October 2003. "Women Asylum Seekers in Australia: Discrimination and the Migration Legislation Amendment Act (No 6) 2001 (CTH)". *Melbourne Journal Of International Law* 4(2).
- Medicare Australia. 2005. www.medicareaustralia.gov.au
- Mitchell, Grant. August 2001. "Asylum Seekers in Sweden: An Integrated Approach to Reception, Detention, Determination, Integration and Return". *Australian Fabian Society*.
www.fabian.org.au/library/event_papers_2001/1081751207_29216.html
- Morris, Tony & Claudia Tazreiter. August 2005. "Human Rights Issues in the Return of Asylum Seekers", *Human Rights Defender* 14 (2).
- Noble, Tom & David Wroe. 23 November 2005. "Asylum Seekers 'Need Medicare'". In *The Age*.
- Noble, Tom. 26 November 2005. "Free Care for Asylum Seekers". In *The Age*.
- Protocol Relating to Status of Refugees*, opened for signature 31 January 1967, 606 UNTS 267 (entered into force 4 October, 1967).
- Reference Group on Welfare Reform. July 2000. "Participation Support for a More Equitable Society: Final Report". Canberra.
- Refugee Review Tribunal (RRT). 2003-04. "RRT Annual Report 2003-2004".
www.rrt.gov.au/publications/annrpts/0304/rrt_annual_report_2003-04.pdf
- Smit, Jack H. 18 August 2005. "When the Baxter Fence Closes: Life After Permanent Detention".
www.safecom.org.au/life-after-baxter.htm
- Standard Minimum Rules for the Treatment of Prisoners*, ESC res. 663C, UN Doc E/3048 (1957), amended ESC res. 2076, UN Doc E/5988 (1977).
- Tasmania Department of Premier and Cabinet. 2002. "Annual Report 2001/2002".
www.dpac.tas.gov.au/documents/annualreport/2001-2002/annualreport01-02.pdf
- Taylor, Janet. 2004. "Refugees and Social Exclusion: What the Literature Says". In *Migration Act*, vol. XXVI, no.2.
- Topsfield, Jewel. 19 September 2005. "Hundreds in Detention Attempt Self-Harm". *The Age*.
<http://theage.com.au/articles/2005/09/18/1126981948047.html>
- UNHCR. 1979. "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees".
www1.umn.edu/humanrts/instreet/refugeehandbook.pdf
- Universal Declaration of Human Rights*, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).
- Vanstone, Amanda, Minister for Immigration. Friday 28 July 2005, Media Release, "New Community Arrangements for Families in Detention".www.chilout.org
- Victorian Association for the Care and Resettlement of Offenders (Vacro). 2005. "Getting Out and How to Survive It". 3rd Ed. www.justice.vic.gov.au
- Victorian Foundation for Survivors of Torture, 1998. "Rebuilding Shattered Lives",
www.survivorsvic.org.au/pdfdocs/RebuildingShatteredLives/RebuildingComplete.pdf Pp.32
- Wakefield v. Thompson. (1999) 177 F.3d 1160 (9th Cir.) at 36
http://biotech.law.lsu.edu/cases/prisons/Wakefield_v_Thompson.htm
- Western Australia Department of Premier and Cabinet. 2004. "Annual Report 2003/2004".
www.dpc.wa.gov.au/documents/annual_report/2004/Promotion_Support_of_Multiculturalism_in_WA.pdf
- Zifcak, Spencer, *Mr Ruddock Goes to Geneva*, Sydney : UNSW Press, 2003.