

Asylum Seekers in Australia

‘Asylum Seekers are often called ‘illegal immigrants’. This is a misnomer. They do not claim to be migrating but to be seeking refuge from persecution. Calling them illegal undermines public sympathy and creates an unwillingness to listen to their story.’

(Australian Catholic Bishops Conference, April 1997)

‘Using terms such as ‘illegals’ in both policy discussion and in the media is misinformation, since asylum seekers have not committed any criminal act and are exercising their rights. The Government has a responsibility to inform and provide leadership and not to inflame public opinion.’ *(Migration Action, April 2000)*

FREQUENTLY ASKED QUESTIONS

□ What happens to asylum seekers upon arrival in Australia?

Any person who enters Australia without an appropriate visa is apprehended by an officer of the Department of Immigration and Multicultural Affairs (DIMA) and mandatorily detained. They are then kept in detention until either granted a Temporary Protection Visa (TPV) or deported from Australia.

Some people who enter Australia on approved visas before seeking asylum are granted bridging visas while their claims are processed.

□ Who are the asylum seekers?

People who have grounds to believe that they should be granted refugee status in Australia. They may come by boat or by plane, be rich or poor, children or adults. What all asylum seekers have in common is the belief that Australia may be a safe haven from the turbulent situations in their own countries

As of January 1st 2001 the five main nationalities in detention were Iranian (22.3%), Afghan (22%), Iraqi (15.6%), Palestinian (6.3%) and Chinese (4.4%). There were, however, some 84 different nationalities present.

□ **How long do people remain in detention?**

The length of time asylum seekers remain in detention depends upon administrative factors, such as the time taken to complete entry screening, the time taken by DIMA to process applications for asylum, and whether or not appeals have to be made.

**Periods in Detention for People
in Detention on 1 January 2001**

	Children	Adults	Total	Total as %
< 1mth	119	497	616	30.4
1-3mths	47	355	402	19.9
4-6mths	47	219	266	13.2
7-9mths	11	171	182	9.0
10-12mths	14	182	196	9.7
>12mths	40	321	361	17.8
	278	1745	2023	100

(Figures courtesy of DIMA)

□ **Where are the detention centres located?**

- Port Hedland, Western Australia (nominal capacity 950 persons)
- Villawood, Sydney New South Wales (nominal capacity 700 persons)
- Maribyrnong, Melbourne Victoria (nominal capacity 80 persons)
- Perth, Western Australia (nominal capacity 40 persons)
- Curtin RAAF, Derby Western Australia (nominal capacity 1200)
- Woomera, South Australia (nominal capacity 2000)

It should be noted that the centres holding the largest numbers of people are in remote and inhospitable locations.

According to Australian law, any asylum seeker may also be detained in a State or Territory prison or remand centre, a police station or watch house, a vessel, or another place approved by the Minister in writing.

□ **What are the actual conditions and entitlements of asylum seekers while in detention?**

While it can be determined that general living conditions within detention centres have improved during recent months, the fact remains that asylum seekers still have fewer rights and services, and live under worse conditions, than convicted criminals.

Some of the key issues are:

Legal: *(In violation of Principle 2 of the U.N. Commission on Human Rights, Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment regarding the situation of immigrants and asylum seekers)*

- people not being told of their right to request access to legal advice when they are taken into detention (this is only provided if specially requested).
- delays in people receiving responses to requests for legal assistance to make applications to stay in Australia
- the fact that new arrivals are not allowed to make telephone calls or correspond with people in Australia until having lodged an application for a protection visa.
- A court may not order a person to be released from detention. *(The Migration Act, Section 183).*

Medical:

- The lack of specialist health and psychological services.
- The effects on detainees' physical and mental health of the length and indefinite nature of detention. Often this has led to self-mutilation attempts and attempted suicides.

Management of Centres

- Some Australian Integration Managements Systems (AIMS) staff are inadequately trained, particularly the staff transferred from AIMS' private prison system.
- This lack of training means that some staff show a particular insensitivity towards the asylum seekers, treating detainees as criminals and uttering racial abuse and inappropriate comments.
- Force is used to control disturbances and restrain people. Observation rooms have been misused, physical and chemical

restraints [over]used and more people than necessary transferred to police cells and prisons.

- In many cases the length of time taken to process applications, and thus how long people are held in detention, is unreasonable. The U.N. Commission on Human Rights states that a maximum period [concerning detention] should be set by law and that custody may in no case be unlimited or of excessive length.

Educational and Recreational Opportunities

- Educational opportunities are informal and inadequate. Many children have spent up to two years in detention without formal education and without the associated development of social skills.
- There are few organised activities or recreational facilities at most centres. Women and children are rarely taken out of the centre, and men never.

Children

- Despite the fact that the Convention of the Rights on the Child requires children to only be incarcerated as a 'measure of last resort' and for 'the shortest period of time', children are in fact being kept for horrendously long periods of time in detention (see table on periods of detention, above).
- Many children have been physically and sexually assaulted while in detention, primarily by other detainees. There have, however, been reports that children as young as three have been hand and leg cuffed by detention centre staff.
- The manner in which DIMA has dealt with allegations of the sexual abuse at Woomera have been piteous, along with the attempts by ACM to suppress allegations of abuse.
- There is a lack of ACM staff who are qualified to work with children.

Meeting Our Responsibilities

To date, while governments have acknowledged that there are certain problems *within* the current system of detention, they have not been willing to consider that the problem may in fact be the policy of mandatory detention itself. For example, The recent Flood Report (February 23rd 2001) and Ombudsman's Report (March 1st 2001), while giving an important insight into the conditions found in detention centres, merely offer suggestions as to how to improve these conditions, rather than proffering alternatives to the current model.

Placing asylum seekers in detention places Australia in breach of the International Covenant on Civil and Political Rights. This practice must be ceased in order to ensure people within our country (whether visitors or otherwise) can be assured of humane treatment and the respect of their basic human rights.

In addition, there have been a number of noted cases in which Australia has gone against international human rights law in the principle of 'non-refoulement'. It is a requirement that countries do not force individuals to return to their home country if they have a well-founded fear of persecution, or if they will face any form of torture or degrading treatment upon return. Independent bodies, following up the cases of deported individuals (in contrast to the government, which has made no follow-up inquiries) have reported a significant number of people being punished, or even killed, upon return to their countries. This is not including the inhumane way (by forced chemical restraint) many asylum seekers are 'removed' from Australia.

The Australian governments' current policy stance promotes the view that asylum seekers are 'someone else's problem'. In actuality, Australia's foreign policy assists in the generation of large numbers of asylum seekers (E.g. Australia supports the sanctions placed on Iraq after the gulf war). Being geographically isolated means that Australia avoids the large numbers of asylum seekers that many other 'less-able' countries are forced to deal with, but instead of welcoming the opportunity to share our rich resources with those who come with a fragmented past, the government has all too often seen asylum seekers as a threat. Considering our country's past complicity in creating asylum seekers (either by action or inaction), at the very least we have an obligation to treat all people crossing our shores with respect and in a way which maintains their dignity as human beings. This is not being achieved with the current policy of mandatory detention, and in order to meet this goal systemic changes are imperative.