



Uniting Church in Australia

Submission to the Human Rights and Equal Opportunity Commission

National Inquiry into Children in Immigration Detention

Prepared by
National Social Responsibility and Justice and
Uniting*Care* Australia
on behalf of the Uniting Church in Australia

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Executive Summary

The Uniting Church in Australia welcomes the opportunity to discuss a number of issues relating to children in immigration detention.

This submission addresses some of the issues and questions raised in the background papers prepared by the Human Rights and Equal Opportunity Commission (HREOC) and in relation to the *United Nations Convention on the Rights of the Child* (1989) and the Convention Relating to the Status of Refugees (1951) and its 1967 Protocol (the *Refugee Convention*). The conclusions drawn in this submission arise out of the experiences of staff and members of the Uniting Church in Australia. We do acknowledge that the evidence presented here is therefore anecdotal. It is also unable to be sourced because those sources risk losing access to the detainees if they are named.

The Uniting Church in Australia believes that Australia is in breach of its obligations as a signatory to the *Convention on the Rights of the Child* and the *Refugee Convention*. Reports to the National Assembly from its members and staff indicate that, contrary to Article 19 of the *Convention*, Australia has not taken 'all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.' In fact, Australia has legislated in such a way that exposes child asylum seekers to such circumstances and treatment. Australia has not acted with the 'best interests of the child' as a 'primary consideration' (Article 3 (1) of the *Convention*). Australia has not acted to 'ensure the child such protection and care as is necessary for his or her well-being' (Article 3(2)) but rather has acted in a manner which has seriously affected the well-being of children. Australia has breached Article 2 of the *Convention* by discriminating against asylum seeker children just because they and/or their parents or guardians are asylum seekers. And as long as Australia continues to exercise a policy of indefinite mandatory detention for child asylum seekers it will also remain in breach of Article 37 which states that the detention or imprisonment of children should only ever 'be used as a measure of last resort and for the shortest appropriate period of time'.

Recommendations

The Uniting Church in Australia recommends that the Federal Government end the policy of indefinite mandatory detention for asylum seekers and also recommends the immediate formation and implementation of an alternative policy for the processing of refugee claims. Indefinite detention should be replaced by a form of reception processing for initial health, security and identity checks which should take as little time as possible. Asylum seekers (other than those who have proven to be a security risk) should then be released into the community while their claims for refugee status are assessed. There are many successful models of such community release programs available for examination.

If, however, the Government persists with mandatory detention for asylum seekers, the Uniting Church recommends that all children and their families (not just children and their mothers) be released immediately.

We also recommend that the Federal Government:

- appoint trained guardians who can advocate and care for unaccompanied minors and assign them to care for a child as soon as he or she is identified as an unaccompanied minor;
- provide for the education of child asylum seekers within the local community;
- improve health services to children and their families seeking asylum in detention or in the community;
- expedite the processing of claims for refugee status;

- ensure that all refugees and asylum seekers have equal access to facilities, benefits, assistance, information, community networks and legal advice immediately upon arrival within Australia and upon release;
- ensure that unaccompanied minors and families released from detention are sent to places appropriate for their circumstances and assigned suitable and professionally qualified case workers;
- abolish the Temporary Protection Visa subclass 785.

Introduction

The Uniting Church in Australia

The Uniting Church in Australia, an organic union of three denominations (Methodist, Presbyterian and Congregational), was inaugurated in 1977. Its foundation document, the *Basis of Union* shows the Church seeks to bear witness to God's call for the continuing renewal and reconciliation of all creation.¹

The Uniting Church in Australia (UCA) is involved in God's work in many ways. We provide services to address social and spiritual needs within the community in a way that embodies our core values. We offer, among other things:

- opportunities for spiritual development and worship
- community services
- education
- health services

We also engage in debate about the future of Australia. These things help us live out our core beliefs as Christians. We must help bring about a society which honours God and values others and all creation. The Uniting Church committed itself to this at its inauguration in 1977. In the statement to the nation we pledged 'to hope and work for a nation whose goals are not guided by self interest alone, but by concern for the welfare of persons everywhere –the family of the One God –the God made known in Jesus of Nazareth (John 10:38) the one who gave His life for others.'²

The Uniting Church believes that every individual is equal before God regardless of background. The Church considers that the world is a community in which all members are responsible for each other and the strongest have a special responsibility for the vulnerable. Christianity teaches that all humanity will be judged by its attitude to neighbours, visitors and strangers. Christians believe that Australians should show concern for the suffering because Christ first loved us.³

In the context of the issues surrounding Australia's refugee and asylum seeker policies, we reflect on the words of Jesus. He spoke of a new community established on righteousness and love, and based on a fellowship of reconciliation –a community in which all members work together for the good of the whole⁴. In essence, working for this kind of society is our contribution to civil society⁵. When we work for freedom, human rights and the common good of the community we are expressing our faith. It is an outworking of the community of God. We live in a time of transient refugee populations. As

¹ paragraph 1, *Basis of Union*, Uniting Church in Australia, 1992 edition

² Statement to the Nation, Uniting Church Inaugural Assembly, 1977

³ 1 John 4:11

⁴ Rev Dr Chris Budden in *Doing Justice*, Social Responsibility and Justice, UCA (yet to be published)

⁵ Rev Dr Ann Wansbrough on Civil Society see 'Speaking Together' (PhD Thesis, University of Sydney, 2000) and 'Principles of a Fair and Equitable Social Security System in Australia' *UnitingCare* Australia and National Social Responsibility and Justice, 2000.

global conflict grows, so does the number of displaced persons. As a community of faith and as Australians we are distressed about the impact this has on individuals and communities.

The Uniting Church and Refugees and Asylum Seekers

Since its inauguration, the Uniting Church in Australia has been involved in:

- providing services to asylum seekers within Australia
- advocating to government on their needs

Services have tended to emerge in response to local needs. They are a manifestation of the gospel principle to welcome the stranger. The UCA is involved in many ways. For example, we provide:

- settlement services to newly arrived asylum seekers
- help with accommodation and basic needs
- English classes
- orientation of new arrivals to local communities and help to integrate into the local communities
- advocacy on behalf of individual asylum seekers to the Australian Government
- chaplaincy services (unofficially to detention centres)
- pastoral visitors at detention centres
- migration services

We also:

- advocate for changes in Australia's current immigration policy
- seek to change attitudes to asylum seekers
- ask questions about the causes of conflict in the world that result in people needing to seek asylum

The UCA is deeply concerned about Australia's current immigration policy, particularly the mandatory and indefinite detention of children in immigration detention centres. We believe that the current policies and practices fail to uphold Australia's commitment to the *Convention on the Rights of the Child* (1989), the *Convention Relating to the Status of Refugees* (1951) and its 1967 Protocol (the Refugee Convention).

Living in a Prison Environment

The Uniting Church believes that the conditions in immigration detention centres are worse than in those of Australia's gaols. We believe that with the mandatory and arbitrary indefinite detention of child asylum seekers, Australia is in breach of Article 37 of the *Convention on the Rights of a Child* (the *Convention*) which states that, 'No child shall be deprived of his or her liberty unlawfully or arbitrarily...and [detention] shall be used only as a measure of last resort and for the shortest appropriate period of time.'

The children in Australia's detention centres have committed no crimes, yet they are incarcerated behind fences of razor wire and locked gates. Their movements are controlled by officers in uniform. The children are exposed to talk of escapes, attempted escapes, riots, incidents of self-harm and violence that are all a result of the inhumane conditions and the hopelessness suffered by their parents and other adults.

The facilities are jails. Visitors have to be tagged, scanned and assessed before being allowed in. Even the centre in Sydney's suburban Villawood is surrounded by double cyclone fencing, filled with four-metre high razor wire. In appearance, the remote centres are similar to prisoner-of-war camps. Surrounded by the cyclone fencing and barbed wire, they are divided into fenced compounds with runways in between, so that facilities can be shut down or locked up at short notice.⁶

case study 1

A local resident of Port Hedland had formed a relationship with a family in the Port Hedland detention centre and began visiting them. The family had two children and the youngest, a girl of 5, had just started school. The family were very pleased that their daughter was beginning to learn English. The parents, keen to show off to the visitor their daughter's English language skills, encouraged her to say something in English. The little girl spoke to the visitor: "Officer, will you please open the gate." This was her first English sentence!

The detention centre environment is dehumanising for both adults and children. In detention centres it has been common practice that the detainees are known to the officers by number rather than by name. Detainees are also referred to by numbers and addressed by their number. This breaches Article 37 (3) of the *Convention* which states that all children that have to be detained should be treated with dignity and humanity.

...Unlike criminals who have been extended the full protection of the law before being incarcerated, and who, as prisoners, are exposed to significant checks and balances which have been built up over time reflecting decisions of the courts and community expectations, immigration detainees appear to have lesser rights and are held in an environment which appears to involve a weaker accountability framework.⁷

case study 2

At the Port Hedland Christmas concert in December all the children were to be given Christmas presents donated by Mission Australia. The children were all dressed up in their best clothes - girls in frilly dresses and boys in long pants and clean shirts. They sat excitedly in the middle of the quadrangle waiting for the gifts to be distributed. When the gifts were given out all the children were called forward by number to receive their gifts.

⁶ Mary Crock and Ben Saul, *Future Seekers: Refugees and the Law in Australia*, The Federation Press, 2002, p. 84

⁷ *Report of the Commonwealth Ombudsman's Own Motion Investigation into DIMA Immigration Detention Centres*, March 2001

Australia's immigration detention centres are not appropriate places for children to be under any circumstances. Article 2 of the *Convention* states that all children have a right to enjoy the rights set out in the *Convention* without discrimination and that children have the right to be protected against all forms of discrimination or punishment on the basis of the status of their parents or family members. The Church believes that Australia is in breach of this article of the *Convention* because the policies of the Federal Government deny them their rights because of their status as asylum seekers or because their parents are asylum seekers. This is discrimination.

Violence and the Risk of Sexual Abuse

Detention centres are violent environments. There are times when detainees become so distressed that violence erupts - they self-mutilate, attempt suicide, fight with each other, attack officers and destroy property. At times there are riots to which Australasian Correctional Management (ACM) staff respond with full riot gear, including batons and water canons. Children cannot be shielded from this violence. They are exposed to it on a daily basis and it has a serious effect on their mental health. This is evidenced in their behaviour - they begin acting in violent and aggressive ways towards each other, teachers and staff or they internalise the anger and violence, becoming increasingly withdrawn.

The children's daily lives and the lives of their families and other detainees are controlled by ACM staff. This loss of control of one's own life and loss of liberty in these circumstances, when no crime has been committed, is a form of violence in itself. Were Australian children living in such circumstances child protection laws would be enacted.

Children in detention centres are also exposed to an unacceptable risk of sexual abuse. Within detention centres the majority of detainees are men without partners. In any community, there are a percentage of child sexual offenders. The children in immigration detention cannot be kept separate from adult men. They eat meals with them and socialise with them. Although single men are not permitted to enter the family accommodation blocks without the invitation of a family, and then only in the daytime, and children are never allowed to enter the men's accommodation blocks, this has proven impossible to police, and does not protect children from inter-familial sexual abuse. Children with little to do run around the centre and often run through the men's blocks. Officers, if they find them there, will remove them, but it is simply impossible to keep them out all the time. This situation is unacceptable because it exposes the children to a high risk of sexual abuse from men who are themselves traumatised, angry and depressed.

Health and Nutrition

The Uniting Church believes that children in detention centres are traumatised children. They have been traumatised before their arrival in detention and their trauma continues in detention. In their home country they may have witnessed violence and barbarism and their families may have been subject to persecution and violence. Because of these horrific circumstances they have been forced to flee secretly from their homeland, leaving behind family and friends, living in fear for their lives, hiding in foreign lands and finally enduring what, for many, is the terrifying experience of the boat journey to Australia.

Their experiences of immigration detention - living in a prison, being exposed to violence and various forms of dehumanising treatment, experiencing the loss of all dignity and living with uncertainty and fear (not knowing how long they will have to stay in detention, not knowing whether they will be sent home to face further persecution or sent somewhere else) - impact severely on the health of all asylum seekers, especially the children.

Children also suffer transferred trauma from their parents, The fear, anguish and hopelessness suffered by adults communicates itself to children who feel that their carers are unable to protect them. This is deeply disturbing to children and leads to feelings of deep insecurity. The universal experience of Uniting Church members visiting the detention centres in many different capacities is that the high level of trauma suffered by these children is not recognised by the ACM staff or by DIMIA. Trauma counselling services have been minimal and staff have obviously not been trained in managing and assisting such damaged people. A recent program on the ABC's *Lateline* program highlighted the poor training staff receive and their consequent inability to manage any crises in the centres.⁸

Article 39 of the *Convention* states that all appropriate measures should be taken to 'promote physical and psychological recovery and social reintegration of a child victim'. The Uniting Church believes that Australia is in breach of this article of the Convention. Not only are the medical and health services provided in the detention centres inadequate but the conditions contribute to the trauma already suffered by children. Instead of an opportunity to improve their well-being, the health of these children in fact deteriorates in detention. The Australian Federal Government has given no indication that it understands that it is contributing to the growth and development of deeply disturbed adults.

Sleep and Food

Children are also affected in important ways by issues such as sleep deprivation. In particular, the practice of conducting random night patrols by uniformed guards with torches can have severe effects on children who are already dealing with substantial experiences of trauma, both prior to and while in detention.

Meal times in Immigration Detention Centres are set by the management of the centre and there is no flexibility in these. This is of greatest concern for the very young whose nutritional needs require more frequent meals than the set times allow. It is a further concern that children have to eat food that is not prepared by their parents, queue for that food and eat on that schedule or not at all. There has been a report of parents of an eight month old baby being told by guards that "they were 'there to look after adults so there was no baby food.'"⁹ The right of parents to care for their children in this fundamental way has been taken from them and this places great stress on the family as a whole and on the parents in particular.

Recreation

While some attempts have been made to provide recreation for the children (visits to the local parks and swimming pools, trips to the beach and shopping excursions) the reality is that 80 per cent of all detainees are imprisoned in very remote locations and there are extremely limited recreational opportunities. Even within the centres, opportunities and resources for healthy play and recreation are limited. In Woomera, temperatures reach 45 degrees Celsius during the day, and often fall below freezing at night. There are no flowers or grass. While there are some playground activities, there are no separate indoor playrooms for the children. This means they have to compete with the adults who are equally bored and in need of entertainment.

Children in immigration detention do not have any contact with children outside of detention so their experiences of healthy play and opportunities to develop healthy peer groups are limited. The children in detention are bored, stressed and traumatised which among things, results in mischievous and disruptive behaviour.

⁸ ABC, *Lateline*, Monday April 22, 2002

⁹ Moira Rayner, 'Political Pinballs: The Plight of Child Refugees in Australia,' *Walter Murdoch Lecture*, October 2001, p. 7

case study 3

"I was once called in by the ACM manager to deal with a situation of children who had become uncontrollable. They were throwing stones at officers, climbing trees and fences and falling off and injuring themselves, fighting with each other, refusing to go to bed at night, etc. He wanted me to tell the parents that they needed to control their children better. After talking with the mothers I concluded the cause of the problem was the children had nothing to do- were just plain bored so were making their own entertainment. I suggested more teachers and smaller classes in school, more recreation for children, more childcare. The response from the ACM manager was that he agreed that this might help the situation but all of this would cost money and that would mean less profit for the share holders in America."

Children with Disabilities

The experience of Uniting Church members in detention centres around the country is that the care provided for children with disabilities is at best woefully inadequate. The Church is concerned that there are children suffering in the centres whose disabilities remain undiagnosed and untreated. The story included below is the most extreme case the Uniting Church is aware of, and raises serious concerns.

case study 4

Currently in detention at Port Hedland is a family, a single mother and her four children. Three of these children have disabilities. The family has been in detention for almost two years. The stress on the mother is very great. The three children suffer with multiple disabilities - intellectual, physical and social. The two boys are hyperactive, have a very short attention span, suffer speech disorders, are physically uncoordinated, intellectually disabled and have no sense of personal boundaries. They will, for example, kiss, hug and sit on the knee of men in the centre, behaviour which puts them at risk of sexual abuse. The girl is highly withdrawn and appears to be possibly autistic, or deeply depressed, or severely intellectually disabled, or all of the above.

No external assessment has ever been carried out on these children. They are obviously in need of specialist services such as speech therapy, physiotherapy, occupational therapy and possibly medication. They need to be attending a special school. The mother and oldest daughter require a great deal of information and support about how to care for them. The children attend school in the centre only intermittently as the behaviour, especially of the boys, is so disruptive that they are often excluded from the school by the teachers. The boys are continually in trouble with other detainees and at times the mother has been verbally and physically abused by other detainees because of her inability to control these children.

Despite numerous requests for these children to receive external assessment from experts in disabilities, this has never happened. It is unclear why this is so. Perhaps it is because DIMIA would have to pay the relevant Western Australian government departments and is unwilling to do so. Or perhaps it is because ACM do not know how to access these services.

Education (in Port Hedland IRPC)

Article 22 of the Convention and Protocol Relating to the Status of Refugees states that refugees should be accorded 'the same treatment as is accorded to nationals with respect to education'. Australia is in clear breach of the *Refugee Convention* at this point. The following information about the situation at Port Hedland is provided as evidence of this breach. Whatever opportunities are provided in detention centres are far below what Australian citizens would regard as acceptable educational opportunities for their children.

In the Port Hedland Immigration Reception and Processing Centre there is a school which provides education for the children. This operates from 9:00-12:00 and 1:00-2.30 daily. The Uniting Church has some serious concerns about the quality of education provided in this Centre.

At Port Hedland, qualified teachers are employed on short-term six-week contracts. ACM does this because the number of children in the centre varies greatly and they do not want to be tied in to employment of large numbers of teachers when there are only a few children. This allows them the flexibility to employ more teachers when the number of children increases and fewer teachers when the numbers decrease. Australian resident teachers are, therefore, unlikely to take up these temporary positions, and in fact, the Uniting Church has noticed that many of the teachers seem to be from overseas, for example from Ireland and Germany, and suspects that they are on working holidays in Australia. The education of children who are incarcerated for long periods of time long-term is constantly disrupted and consequently there is no hope of the children forming any healthy relationships with the teachers. The Uniting Church believes the student-teacher relationship is one that is crucial to the well-being of any child but could be of even greater significance within the detention centres.

As would be expected there are children in detention who, because of the severe trauma they have suffered and continue to suffer, exhibit significant behavioural problems. Classes can be difficult to handle under the best circumstances and are a challenge even for experienced teachers - children exhibiting this degree of trauma require teachers with specialist qualifications. The problems are often exacerbated because adult detainees who are employed as teacher aides often find themselves left in charge of the classes. While it is helpful for the children to have someone in the classroom who understands their language and culture, it is not appropriate to have untrained and inexperienced people left in charge of the classes. These people struggle to cope with the children's behaviour and have enormous difficulty preparing interesting and useful lessons.

The children in detention at Port Hedland all have vastly differing educational needs. Those who come from Afghanistan, particularly the girls, have often had no education at all before arriving in Australia. They are illiterate in their own language and have been taught how to hold a pen and how to open a book. Other children, especially from Iraq and Iran, have attended school and may be literate in their own language. What these children need are highly experienced, highly trained, specialist teachers – not travelling tourists, temporary teachers and untrained classroom assistants who are often left to manage on their own.

Access to materials in the Port Hedland school is severely limited. ACM seems to spend the bare minimum on materials for the children. A packet of crayons is shared between 3 children. At times the teachers do not even have white board markers to write on the board. There are no textbooks. There are a limited number of children's books, all donated by supporters on the outside. Teachers do not have access to a photocopier, so are not able to photocopy worksheets for the children. The focus of the education offered is on English language training, with little emphasis on other areas. A music, drama and art program is now being provided for the children by a volunteer from the community. All musical instruments and art materials have been donated by people in the community - none are provided by ACM.

There is also a problem with security of even the meagre resources in the Port Hedland detention school. Community groups and local primary schools have donated books and resources, but they disappear very quickly. Musical instruments have also been donated and are now lost. Three keyboards and 60 recorders have disappeared. There seems to be no system in place to ensure the security of such valuable teaching resources.

The Uniting Church is extremely concerned by the poor educational facilities and opportunities offered to children in detention and doubts that Australia is meeting its obligations to Articles 28 and 29 of the *Convention*.

The Uniting Church would support any moves to provide education within the Australian community for these children by teachers who were trained to handle their special needs. In Western Australia, however, the Education Department refuses to accept that they have any responsibility for the education of children in detention centres, claiming that this is a Federal responsibility. The local Catholic school would be willing to accept them, but must receive school fees in order to pay teachers etc. and DIMIA seems unwilling to pay these fees. The parents of these children are constantly asking whether it is possible for their children to attend “normal schools” in the community. It is a tragedy that so far, in Port Hedland, the answer is “no”.

Childcare

In Port Hedland no childcare is provided for parents who have young children. Even a few hours a day of childcare would be a great help. Parents, often suffering trauma and depression themselves, are left with the responsibility of caring for their children in a highly stressful environment with no support. Children are stressed and often bored and get into trouble. ACM expects parents to take full responsibility for the care of their children and are blamed when things go wrong. It would be a great help to parents if they were free of child care responsibilities for a couple of hours a day, in order to care for themselves and recover their equilibrium, so that they are better able to care for their children in the long term.

Family Life

Article 14 of the *Convention* states that the rights and duties of the parents ‘to provide direction to the child in the exercise of his or her right in a manner consistent with evolving capacities of the child’ shall be respected. Australia is in breach of its obligations to meet this requirement. All hopes of a decent family life are stripped away by the conditions in immigration detention centres. Parents do not have the ability to care for their children when they are hungry or sick, naughty or bored. They do not have the opportunity to raise their children in a manner appropriate to their culture and heritage. They cannot take them out to play. They cannot clothe them. They cannot protect them from physical and emotional harm and maybe worst of all, they cannot protect them from their own depression, trauma and despair (as is evidenced in the case below).

Child Welfare in Curtin and Port Hedland

Under Western Australian legislation, Family and Children's Services has the responsibility for child protection and welfare in the state. But FACS refuses to accept this responsibility for children in detention, saying that they are the responsibility of the Federal Government. This leaves DIMIA as the authority with the responsibility for ensuring children are protected and cared for. The Uniting Church is greatly concerned by this conflict of interest.

There have been occasions when ACM officers have reported to FACS alleged cases of child abuse by parents. On one occasion a mother who had become mentally ill abandoned her baby on the doorstep of the medical centre and refused to take it back.

When this happens there are no clear procedures for dealing with this situation. In the case above FACS did agree to take the baby into foster care on a temporary basis but made it very clear that it was not their responsibility to care for this child at all. But who is responsible for this?

ACM have one staff member whose total responsibility is child welfare. Any issues of child abuse or neglect are reported to her. She will at times liaise with FACS about how to handle the situation. Our concern is that this ACM staff member has had no training in welfare studies or childcare and is totally inexperienced in the field. This is clearly inadequate.

Unaccompanied Minors

Based on first-hand anecdotal accounts by Uniting Church members who regularly visit the detention centres, the Uniting Church is very concerned for well-being of unaccompanied minors in detention centres. They are an especially vulnerable group and, as more and more of them are released, the situation becomes increasingly dire for those who are left. Many were already in the workforce in their home countries and have become very street wise from their experiences of escaping persecution. Many do not attend even the limited schooling offered in the centres as they consider themselves to be beyond schooling.

Under guidelines issued by the United Nations High Commissioner for Refugees, all unaccompanied minors should be assigned an independent guardian who can advocate on behalf of the child and take responsibility for his or her welfare¹⁰. The Minister for Immigration has repeatedly denied that Australian legislation provides for that guardianship to be held with his office. Whether this is actually the case or not, the Uniting Church believes that because of a failure to appoint such independent guardians the State has become, in practice, the de facto guardian. This means that these children have a guardian (legal or otherwise) who doubles as their gaoler. A recent incident in Port Hedland highlights the problems created by such a conflict of interest. In March this year two boys aged 15 and 16 years, both unaccompanied minors, were directed by DIMIA to have their wrists x-rayed. On the basis of consequent bone density analysis it was determined that these boys were 19 years of age. They were reclassified as adults and moved into the single men's accommodation block. The direction to perform such tests on these boys and the consequent actions taken by DIMIA were certainly not in the best interest of the children and there is no-one responsible for helping them to challenge the results.

The Uniting Church recommends that independent guardians be trained and appointed to represent the best interests of unaccompanied minors in detention. The child's guardian should be present whenever the child is interviewed by DIMIA, should be able to help the child access specialist legal services and should check on their welfare on a regular basis. This having been said, we do not, however, support the continued incarceration of any unaccompanied minors. The following story shows just how vulnerable unaccompanied minors are and how in need they are of special protection.

¹⁰ UNHCR Guidelines on Unaccompanied Children, para 5.7

case study 5

Before Christmas money was raised to provide each unaccompanied minor in Port Hedland with a new set of clothes. A member of the support group took one of the boys to K Mart to choose his new clothes. As they were shopping, he said to her, "You remind me of my mother. I have lost my mother - I don't know where she is. My father is dead and I think my brother is too. I have lost my family. Will you come and visit me because I need to cry?"

Conclusion

When he [Jesus] came to Nazareth, where he had been brought up, he went to the synagogue on the Sabbath day, as was his custom. He stood up to read, and the scroll of the prophet Isaiah was given to him. He unrolled the scroll and found the place where it was written: 'The Spirit of the Lord is upon me, because he has anointed me to bring good news to the poor. He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free, to proclaim the year of the Lord's favour.'

Luke 4:16-19

In conclusion, the Uniting Church offers these voices and the following case study. The voices come from children at Villawood and the case study contains within it nearly all the concerns addressed in this submission.

*Seventeen year old boy held in detention over two years:
'I have to get out of here or I have to die. I can't stay here any longer.'*

*Sixteen year old boy who recently spent his third successive birthday in detention:
'I am like a bird in a cage. My friends who went to other countries are free'.
One of his drawings was of an egg with a boot hovering above it ready to crush it.
Pointing to the egg he said, 'These are the babies in detention centres'.*

*An eleven-month-old breastfed girl who cannot speak yet and has been in detention since before she was born has been separated from her mother who has been admitted to hospital suffering a mental and physical breakdown.
This baby remains in detention with her father.*

case study 6

Mina is a 16 year old Iranian girl who arrived at Christmas Island in early 2000 on an Indonesian fishing boat with her parents and two brothers. The family were sent to Woomera Detention Centre which Mina describes as "hell". Her family came with the hope of a future free from persecution but were placed in detention. Her family shared a hut with another family so there was no privacy. The weather was extremely hot, the compound barren and dusty with no trees or flowers. There was nothing to do, no access to newspapers, no outside contact. The family were moved to Port Hedland Immigration Reception and Processing Centre and then were transferred to Villawood. Mina does not know why they were transferred but is happier at Villawood because the living conditions are better, there are trees and grass and visitors are allowed. I met Mina on my first visit to Villawood in December 2001 when she had been in detention centres for twenty-two months. During the past several months I have visited her seven times. She speaks English so was able to tell me her story as well as be an interpreter for others.

There are ten children and young people at Villawood IDC ranging in age from ten months to seventeen years. Mina is the only teenage girl there. She told me that she feels isolated amongst the many hundreds of adults. Her days are spent with the women. She cannot have a normal adolescence. She does not have schooling. There are no shopping trips, no cooking with her mother, no access to the pursuit of hobbies and interests. She is called by loud speaker to muster for meals and to be counted.

For the past two years and two months Mina has been living in a state of uncertainty. She has not committed a crime but is in detention behind razor wire. She does not have a release date. She is being supervised by guards trained in correctional management. She lives in a climate of fear with depressed, despairing people. There have been acts of violence including riots, a suicide and the forced removal for deportation of a pregnant woman without her husband. Mina has seen her parents, who arrived in Australia with hope, become prisoners without hope and without any power to protect their children. At a vulnerable time in Mina's life she has lost over two years of her normal adolescent development. Many people are concerned about Mina. She has been reported to DOCS as a young person at risk because of her situation. Her case was presented to Mr Ruddock and in early March 2002, Mina was given permission to be released from detention. She is allowed to go to a foster family if one can be found but her parents do not want her to live with strangers so she remains confined. Mina is resigned, with quiet dignity, to her uncertain future. She is just one of the victims of our policy of mandatory detention of asylum seekers.

30 March 2002

The Uniting Church in Australia believes that Australia is in breach of its obligations as a signatory to the *Convention on the Rights of the Child* and the *Refugee Convention*. Reports to the National Assembly from its members and staff indicate that, contrary to Article 19 of the *Convention*, Australia has not taken 'all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.' In fact, Australia has legislated in such a way that exposes child asylum seekers to such circumstances and treatment. Australia has not acted with the 'best interests of the child' as a 'primary consideration' (Article 3 (1) of the *Convention*). Australia has not acted to 'ensure the child such protection and care as is necessary for his or her well-being' (Article 3(2)) but rather has acted in a manner which has seriously affected the well-being of children. Australia has breached Article 2 of the *Convention* by discriminating against asylum seeker children just because they and/or their parents or guardians are asylum seekers. And as long as Australia continues to exercise a policy of indefinite mandatory detention for child asylum seekers it will also remain in breach of Article 37 which states that the detention or imprisonment of children should only ever 'be used as a measure of last resort and for the shortest appropriate period of time'.

The Uniting Church in Australia believes that child asylum seekers in immigration detention centres in Australia are suffering an extreme loss of dignity and respect. Their human rights are being violated, they are losing their childhood and their innocence. They are being exposed to conditions and experiences that would not be found acceptable in any other area of Australian life. Not only is Australia in breach of its obligations under international treaties and protocols but also is in breach of its moral and ethical responsibility to provide the best possible care for all children. It is imperative for the short and long-term well-being of child asylum seekers that they and their families are immediately released into the community with appropriate qualified support services made available to them.

Recommendations

The Uniting Church in Australia recommends that the Federal Government end the policy of indefinite mandatory detention for asylum seekers and also recommends the immediate formation and implementation of an alternative policy for the processing of refugee claims. Indefinite detention should be replaced by a form of reception processing for initial health, security and identity checks which should take as little time as possible. Asylum seekers (other than those who have proven to be a security risk) should then be released into the community while their claims for refugee status are assessed. There are many successful models of such community release programs available for examination.

If, however, the Government persists with mandatory detention for asylum seekers, the Uniting Church recommends that all children and their families (not just children and their mothers) be released immediately.

We also recommend that the Federal Government:

- appoint trained guardians who can advocate and care for unaccompanied minors and assign them to care for a child as soon as he or she is identified as an unaccompanied minor;
- provide for the education of child asylum seekers within the local community;
- improve health services to children and their families seeking asylum in detention or in the community;
- expedite the processing of claims for refugee status;
- ensure that all refugees and asylum seekers have equal access to facilities, benefits, assistance, information, community networks and legal advice immediately upon arrival within Australia;

- ensure that unaccompanied minors and families released from detention are sent to places appropriate for their circumstances and assigned suitable and professionally qualified case workers;
- abolish the Temporary Protection Visa subclass 785.

Postscript: Children out of Detention

Rationale

The Uniting Church in Australia believes that the time spent in immigration detention centres will continue to impact the lives of children upon their release and for the rest of their lives. We will better understand the problems and issues for children *in* detention if we can also gain a picture of how children who have been in detention cope with life outside of detention. For this reason we add this postscript – a report of the work and experiences of the Romero Community Centre, Brisbane.

The Romero Community Centre

The Romero Community Centre, located in Brisbane, Queensland, provides ongoing support and liaison with Temporary Protection Visa (TPV) holders, including assistance with basic needs such as clothing, food, household goods, employment and emergency accommodation. The Community Centre is currently under the auspice of Lifeline, Community Care in Queensland. It is the main drop-off point for TPV holders who have been released from detention and brought by bus to Brisbane. The centre is the hub for the local community of TPV holders and the children who accompany them, and to a group of unaccompanied minors. There are currently approximately 20 unaccompanied minors in the local community. The Centre has provided services for 30-40 unaccompanied minors from Afghanistan, all Hazara. The Centre continues to serve those who have turned 18 years while in detention or in the community and a significant number of young adults (18-25 years of age) who fled the Taliban and are without family in Australia.

As a result of this focus, the workers at the Romero Community Centre have been able to make some assessment as to the impact of detention on the children - those granted TPVs and those released as unaccompanied minors. The following key points illustrate the impact of their detention experiences.

Education

The detention centre environment is not conducive to learning and the educational opportunities and resources provided in the centres is inadequate. The children have been traumatised by their experiences before and during detention and this is a continuing barrier to effective learning. More specifically, their ability to cope with schooling and other educational services has been severely impaired by their history of sustained sleep deprivation while in detention.

Upon release, therefore, most children require intensive education programs, particularly with English language skills and to assist in pursuing further study. Such programs are available for these children at Milpera State High School – refugee children who attend here are as old as 22 years of age as a result of their previous lack of access to educational services.

Finally, the parents of these children feel powerless to help them with their education. They are themselves suffering the effects of trauma. They do not understand the education system and so without intervention, parents and children alike suffer because the parents are unable to provide the support for their children's education that they would desire to be able to give.

Mental Health

The staff of the Romero Community Centre are concerned about the long-term mental health of the children who have been in detention. Children out of detention suffer nightmares and display many other physical symptoms of stress and trauma, including twitchy eyes, poor concentration and hyperactive behaviours. They carry with them a strong sense of the injustices they have suffered in detention and have been politicised from a young age. In the centre one day a two-year-old Iraqi girl spoke her first English words – over and over she chanted, 'DIMA. Freedom'.

Many parents are finding their children's behaviour difficult to cope with. Their ability to parent was severely hampered by the prison-like environment in detention, and out of detention their roles as parents continue to be regarded by the children as compromised. Children grow away from their parents and the family unit suffers further stress.

The mental health of unaccompanied minors (particularly the Hazara children) is of particular concern. These children and young adults often express an overwhelming sense of despair about their situation, even after release from detention. This sense of utter despair does not appear to have been adequately addressed in the detention centre environment, and significant work is required to deal with the psychological impacts of this issue. One staff worker reported that a 16-year-old boy said to her, 'Perhaps I must go home and die with my family'.

Many suffer deep grief because they have lost their families. All grieve for their homes and their friends and their past lives. For many who still have families in their home countries or somewhere fleeing their home countries, the prolonged lack of contact with their families causes continuing distress. They are also burdened by incredible feelings of obligation and guilt. While they are in detention they feel like their lives are on hold and are therefore unable to live up to the sacrifice of their families. The burden on them to make up for this upon release is great. Many give up their schooling to earn money to take home. A 17-year-old boy explained his leaving school this way, 'If they deport me I must get money first to support my family'.

It is also clear to the workers at Romero that the detention centre experience has not helped the children to develop healthy ways of caring for themselves. What they gain, rather, are more prison-like survival techniques that tend to isolate them even more. It is left to support services and individuals to provide life skills training. They are being offered by Milpera school, the Tigers Eleven Soccer Club and individuals including adult refugees from the Hazara community.

The potential for these children to mature into adults able to build healthy families and provide good parenting to their own children has been severely compromised by their experiences before and during detention. They have had little personal experience of 'whole families' and any kind of family not subjected to severe conditions.

Unaccompanied minors in particular find it difficult to talk about their detention centre experience. They have recounted stories of a brutal institutional life, including assault; the dehumanising experience of being identified by number rather than name; being told that Australians did not want them; having been subjected to anti-Muslim rhetoric; and the distress of being witness to numerous hunger strikes and demonstrations. The requirement on TPV holders to reapply or extend their visas has meant that people are forced to retell and relive their experiences many times over causing even further distress and retraumatisation.

Despite this, the workers have found unaccompanied minors to be in the main, inherently respectful, courteous and helpful. They prefer not to talk about their detention centre experiences but to concentrate on their future possibilities. They have however, continually asked the question why Australia treated them like this when they came seeking freedom. They also continue to suffer from the politicisation of their identities. One 17-year-old said, 'Mr Howard won the election around us. He owes us. Give us permanent residence'.

It is also clear that children (and adults) from different cultural backgrounds require different forms of counselling both in and out of detention. The experience of the Romero centre is that for many children, the counselling that has been offered has not been effective because it has been culturally inappropriate. The Hazara children cannot even access adequate telephone interpreter services as there are no accredited Dari language translators.

Healthcare and Case Management

The experiences of the staff at the Romero Centre indicate that medical assessments within the detention centres are not always thorough and that medical records are not always provided to the refugees for future use. On release from detention the healthcare of children continues to be placed at risk because of inadequate case management. The staff have found that some parents are carrying a backlog of medical and dental needs indicating that their capacity to recognise and/or know how to address the health care needs of their children is limited. Medical and dental interventions by health and community workers therefore become paramount for the well-being of these children.

Poor case management for unaccompanied minors can be identified in the following stories of arbitrary community placement. Though state government care is arranged, there have been some notorious errors in terms of reuniting family members:

- Three siblings – two minors in the care of their older brother - were sent by bus from Port Hedland to Brisbane when their blood relatives were living in Perth (reported in *The Australian* December 17 2001).
- An Iraqi woman with 3 children under eight years of age was sent to Brisbane when her husband was living in Shepparton. She spent a significant amount of her benefit payment to reunite her family.
- A pregnant woman (a few weeks away from giving birth), her husband and two-year-old child were sent from Western Australia to Brisbane with no consideration given to the dangers this would pose to the woman and her unborn child. On the day after their arrival in Brisbane they boarded a bus to Adelaide to join her sister who was to be with her for the birth.

The Importance of Peer Group

For the unaccompanied minors in particular, the importance of forming a sustainable and strong peer group cannot be overstated. The opportunity for forming this type of group in detention centres is extremely limited. The Tigers Eleven Soccer team based in Brisbane is an example of a program designed to develop such a peer group among refugee children. Its success has been well demonstrated and it has also succeeded in developing wider acceptance within the Australian community for refugees in general.

The Romero Community Centre believes that children who have been denied their freedom and their childhoods while in immigration detention in Australia mostly remain captured by a negative experience which has damaged them as human beings. Some overcome that, with or without help, but one way or another, they will all carry the experience and its trauma to their graves.

Staff from the Romero Community Centre would be happy to discuss the information contained in this report. For further information please contact Frederika Steen on (07) 3393 2500.