

## Children in Detention

### How many children are in detention?

As of the 30<sup>th</sup> April 2013<sup>1</sup> there were 1,632 children in immigration detention facilities and alternative places of detention (under the age of 18). This is a record number for Australia.

The Government has not maintained its promise and children are still in immigration detention facilities. Paris Aristotle, a member of the Expert Panel Report handed down in August 2012 has said that the Government has not met the Expert Panel's recommendation against arbitrary detention. He further expressed that it was not appropriate for children to still be in detention six months after the report<sup>2</sup>.

### Are children being sent to Nauru/Manus Island?

Previously in February 2013 the UNCHR noticed that there were at least 34 children in the Manus Island detention centre<sup>3</sup>. In July 2013, the government moved all children and family members from the Manus Island processing centre to the Christmas Island Detention Centre<sup>4</sup>. However, under the new Regional Resettlement Arrangement with Papua New Guinea, the Australian government intends to send asylum seeking children to Manus Island once more<sup>5</sup>.

### What has this government and previous governments done?

In 2005 our Migration Act was amended to include the principle that children should only be detained "as a measure of last resort" as reflected in article 37(b) of the United Nations Convention on the Rights of the Child by the Howard Government<sup>6</sup>. In accordance with this policy the Howard government removed children and families from detention and set up community detention arrangements instead. They were moved into a community detention program where "NGOs are funded to source appropriate housing, the payment of living expenses, and to ensure access to relevant health and community services and social support networks are provided"<sup>7</sup>.

---

<sup>1</sup> Department of Immigration and Citizenship, 'Immigration Detention statistics summary: 30<sup>th</sup> April 2013'  
[http://www.immi.gov.au/managing-australias-borders/detention/\\_pdf/immigration-detention-statistics-apr2013.pdf](http://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-apr2013.pdf)

<sup>2</sup> <http://www.abc.net.au/lateline/content/2013/s3730221.htm>

<sup>3</sup> [http://unhcr.org.au/unhcr/index.php?option=com\\_content&view=article&id=284:unhcr-finds-significant-legal-and-operational-inadequacies-at-manus-island&catid=35:news-a-media&Itemid=63](http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=284:unhcr-finds-significant-legal-and-operational-inadequacies-at-manus-island&catid=35:news-a-media&Itemid=63)

<sup>4</sup> The Guardian – Asylum Seeker Children moved off Manus Island <http://www.guardian.co.uk/world/2013/jul/04/asylum-seekers-manus-island>

<sup>5</sup> Tony Burke, Minister for Immigration, quoted in Sydney Morning Herald, 'First Asylum Seekers Arrive in PNG Under New Plan', <http://www.smh.com.au/federal-politics/federal-election-2013/first-asylum-seekers-arrive-in-png-under-new-plan-20130731-2qzjr.html> August 2013

<sup>6</sup> Migration Act 1958 (Cth)

<sup>7</sup> Australian Government, Department of Immigration and Citizenship, 'Fact Sheet 82: Immigration Detention', <http://www.immi.gov.au/media/fact-sheets/82detention.htm#f>

In 2008, Labor then introduced the 'New Directions' policy, stating detention of any asylum seeker should be a measure of last resort, that detention should be limited and determined against risk to the community, and that "no child is held behind razor wire" under the Rudd government<sup>8</sup>.

Then Prime Minister Julia Gillard and then Immigration Minister Chris Bowen announced that asylum seeker children and families would be moved out of detention in October 2010. Children, with unaccompanied minors and vulnerable families given priority, would be moved with their families (if applicable) to community detention facilities<sup>9</sup>.

Despite all this in 2011 the number of children held inside fenced and guarded detention facilities rose to over 1000 and have reached levels of over 1000 again in 2013 and is currently at the highest number in our history. Since the implementation of the no advantage policy over 25,000 people have arrived by boat, including an increase in women and children. They all face being sent to Manus Island offshore processing detention facility. The Papua New Guinea 'Regional Resettlement Arrangement' is a clear departure from the policy of detaining children only as 'a measure of last resort'.

### **What impact does detention have on children?**

Detention has a significant adverse impact on a child's development long after they have been granted refugee status and released into the community. Children who are released into the community after being in detention for a prolonged period struggle with delays in their development, fall behind in schooling and suffer from mental and physical health issues. Those who are still in detention face a very real possibility of developing mental illnesses in the detention centre or exacerbating existing traumas as a result of their journey to Australia<sup>10</sup>. The longer children are in detention centres, the greater the possibility that they will suffer mental harm<sup>11</sup>.

### **Why is community processing the best method?**

The application process for asylum seekers is long, with most of those in immigration detention having to wait over 6 months for their first decision<sup>12</sup>. Indefinite detention is traumatic especially given that asylum seekers often flee from war-torn countries, and situations of torture and trauma. Once it can be established that an asylum seeker presents no health or security risk to the community, there is no good reason why they should not be able to move

---

<sup>8</sup> <http://cpd.org.au/2010/09/suffer-the-little-children-asylum-seeking-kids-in-australia/>

<sup>9</sup> Bowen, C. 2011. <http://www.minister.immi.gov.au/media/cb/2011/cb167699.htm>

<sup>10</sup> Save the Children, *Submission to the Parliamentary Standing Committee on Public Works' inquiry into: infrastructure and upgrade works to establish a regional processing centre on Manus Island, Papua New Guinea* (2013), 8.

<sup>11</sup> International Detention Coalition, *Captured Childhood* (2012), 50; and Human Rights and Equal Opportunity Commission (HREOC), *A Last Resort? National Inquiry into Children in Immigration Detention* (2004), 429.

<sup>12</sup> "A better way: a risk-based approach to immigration detention" (Media Release), Refugee Council of Australia [http://www.refugeecouncil.org.au/news/releases/110624\\_RefugeeWeek\\_detentionB.pdf](http://www.refugeecouncil.org.au/news/releases/110624_RefugeeWeek_detentionB.pdf), 24/6/2011

into living arrangements that allow them full freedom of movement while their status is being determined. Children in the community are better able to access proper schooling, health care, recreation and the ability to socialise in an environment more likely to promote normal growth and development.

### **Why are children still in detention centres instead of the community?**

There is no logical reason why children are still in detention centres. The government's policy effectively allows the indefinite detention of children without considering what is in the child's best interests and the impact on their physical and mental health. The consequences of implementing this principle are extremely harmful, inconsistent with Australia's obligations under international law<sup>13</sup> and greatly impacts on the smooth transition of children found to be refugees into the Australian community<sup>14</sup>.

---

<sup>13</sup> Australia is a signatory to the *United Nations Convention on the Rights of the Child (1990)*, which states that detention of children should be used as a last resort and that any action taken by Australia should take into consideration the best interests of the child.

<sup>14</sup> Save the Children, *Submission to the Parliamentary Standing Committee on Public Works' inquiry into: infrastructure and upgrade works to establish a regional processing centre on Manus Island, Papua New Guinea* (2013), 10.