

# National Inquiry into Children in Immigration Detention 2014

## A submission from the Australian Anthropological Society

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The National Inquiry into Children in Immigration Detention calls for (among other things) “submissions to the inquiry from ... professionals who have experience and knowledge about the impact of immigration detention on children.” Anthropologists specialise in the study of human social and cultural diversity, especially social relations and cultural acquisition, so are well placed to comment on the interruption of normal social relations on growing children and their families that occurs with institutionalisation and marginalization. Our members research a diverse range of cultural and social formations through ethnographic fieldwork, which typically includes long-term immersion and participant-observation of particular human scenarios. Therefore, we can comment on immigration detention not only as an Australian issue, but as a global one. Here we draw on our members’ experience (detailed in Appendices 1, 2 and 3) of conditions experienced by children prior to migration — including torture, war, communal violence, family trauma, sexual violence, and abject poverty — and how these are compounded both in transit countries and after arrival in Australia. We also draw on the discipline’s relevant literature of situations that can be thought of comparable to immigration detention and the concepts anthropologists have developed to understand its long-term effects.

The inquiry sets out to consider the effects of holding children in immigration detention in light of Australia’s obligations under the United Nations’ Convention on the Rights of the Child. Our concern is that, by holding children in immigration detention, Australia is not meeting its obligations under this convention to protect children from harm and provide them with the resources necessary for their well-being. In particular, we are concerned that immigration detention both here and abroad exposes children to both direct violence by individual perpetrators and structural violence in the form of poverty, inadequate health care, scarce educational and employment opportunities, and disciplinary institutions. “Structural violence” is a term that describes both the impact of “extreme poverty and social marginalization” (Farmer 2004: 307) on the health and well-being of individuals as well as the effects of history and political economy in embodied suffering and marred social relations (Farmer 2004: 308. See also Kleinman et al. 1997; Korbin 2003: 433; Scheper-Hughes 1987; Scheper-Hughes and Sargent 1998: 15, 25). Children are particularly vulnerable to structural violence. Below we explain its impacts below on infants, children, and teenagers.

It is well-established that infants learn basic human attachment through the caregivers with whom they bond, and that therefore the damage caused to infants through confinement (which includes developmental delays, regression, and impaired emotional well-being later in life) will largely depend on the response of the caregiver (see Rosen 2014 and Shehan and Hazel 2014, Australian Human Rights Commission 2014). What anthropologists add to these insights is that the conditions for a healthy infant-caregiver bond depend on wider social and cultural conditions that nurture the caregiver. Furthermore, infantile trauma may be evident not only in the later troubled individual, but in later troubled social and cultural formations.<sup>1</sup> Infants in immigration detention will experience a social world where adults of a dominant cultural category hold power over those of a subordinate cultural category, and it is this subordinate category which are the infant’s primary care-givers and sources of identification. The subordinate category in this case are classed not only

as prisoners but foreigners, and this will become part of the child's internalised knowledge of him or herself. Studies of racism have shown that its most powerful damage is related to such intimate, inescapable, shameful thoughts about one's own self as inferior, and therefore implicitly accepting the superiority of others (Cowlshaw 2004). This kind of internalised conflict can, in many cases, cause debilitating psychological and social suffering. One anthropologist wrote that repeated and insidious injuries of this nature amount to "a form of child abuse" (Moisseeff 2011: 242). Such damage is well documented in the case of Australia's "stolen generations", where Aboriginal children were subjected to state institutionalization (Atkinson 2002).

Slightly older children are also vulnerable to structural violence. At this stage they are acquiring an explicit sense of cultural protocols, values, manners, and appropriate ethical responses to others largely through observation. For children in detention the social world available for observation is extremely limited and distorted. For instance, children will observe that the care-givers they have learnt to identify with belong to a social category that lacks choice about much of what goes on in their everyday lives and commands little authority. They will learn that the cultural world of their own care-givers is not the cultural world that is shared by those with authority. For instance, the basic fact that the parents' native languages are not understood by authority figures will become part of a consistent message to children that will impact their view of the social world and their place in it.

In the case of children who are experiencing puberty and nearing adulthood while in detention, there is likely to be an established sense of resentment, anger and injustice, as the cases of Ismail and Samuel (Appendices 1 & 2 respectively) demonstrate. Teenage children are expected to build networks outside the family among strangers and friends as they develop an adult identity through play and experimentation.<sup>ii</sup> In detention, this process may be terribly fraught. Reports emerging from Australia's detention centres indicate that there is a lack of educational and recreational activities. This is likely to have a long-term negative impact not only because it leaves young adults ill-equipped for later employment, but because it limits the development of peer group culture and thus adult social competence.

In conclusion, as Australian citizens and as anthropologists we express our strong concern about our nation's detention of children and their caregivers who are seeking asylum from violence and suffering. If we are to abide by our commitments under the Convention on the Rights of the Child, we need to be aware of the harm caused to children not only by direct violence, but by structural violence in the form of social marginalization and stigmatization. The evidence suggests that confining people in detention during their formative years is likely to expose them to both forms of violence, resulting in long-term problems for many of them personally, and also long-term problems for the society which they will eventually call home.

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## **APPENDIX ONE: Antje Missbach**

One of the authors of this submission, Antje Missbach, has conducted long-term fieldwork on transit migrants stuck in Indonesia. During her 14-month stay she had the chance to visit several detention centres, shelters for underaged unaccompanied minors and community housing for asylum seekers and refugees. Currently there are about 10,800 documented asylum seekers and refugees in Indonesia. The number of children and unaccompanied minors arriving in Indonesia has increased substantially over the last 5 years. The majority of asylum seekers come from conflict-ridden countries, such as Afghanistan, Pakistan and Myanmar, but increasingly people are arriving from more remote new conflict countries, such as Syria. As Indonesia is not a signatory of the Refugee Convention, no effective protection is offered by the state. Refugee status determination is carried out by the UNHCR, while the International Organization for Migration (IOM) provides medical care, housing and nutrition for transiting asylum seekers outside and inside of immigration detention centres.

The majority of these transiting asylum seekers and refugees live in urban and semi-urban settings, they are either housed by care-taker organisations or rent accommodation on their own. Asylum seekers who have been apprehended when trying to leave Indonesia by boat are usually arrested and detained.

Although Indonesia signed the UN Convention on the Rights of the Child, it has not been meeting its obligations under Article 22(1) of the Convention (Gultom 2013: 6); many unaccompanied minors have been kept in immigration detention centres instead of in special shelters (HRW 2013: 20). In the detention centres they lacked access to any form of legal representation or guardianship to help them with their asylum applications. There are 13 immigration detention centres across Indonesia. They have a capacity of 1,300 persons, but more than often these detention centres are overcrowded. According to data provided by the UNHCR in March 2014, there were 1,771 people detained in immigration detention centres, among them 1,279 asylum seekers and 492 refugees (281 women and 225 children, of which 88 were unaccompanied minors).

Although conditions in detention centres have been improved over the last decade, due to Australian funding channelled mainly through the IOM,<sup>iii</sup> various reports indicate that the general conditions in Indonesian detention centres remain poor by Western standards (HRW 2013). The list of deficiencies and defects in detention centres is long, ranging from the lack of medical attention, low-quality housing and nutrition to corporal punishment, physical abuse and torture. There have been several confirmed reports on violence among detainees as well as among guards and detainees. For example, Taqi Naroye, a 28-year old asylum seeker from Afghanistan was beaten to death after a failed escape attempt. Children are witness to and victims of these acts of violence. According to the 2013 Human Rights Watch report on Indonesia: 'Both adults and children described guards kicking, punching, and slapping them or other detainees. Some reported that guards tied up or gagged detainees, beat them with sticks, burned them with cigarettes, and administered electric shocks.' (HRW 2013: 4).

Outside of immigration detention there are three shelters for unaccompanied minors in Indonesia, organised by the UNHCR and the Church World Service (CWS), with a capacity to accommodate 225 minors. Members of local communities objected even more to the shelters for minors than other forms of migrant accommodation. They complained of frequent disturbances at night. Moral panic was widespread especially in regard to sexual relationships among young migrant males and local girls. CWS staff members reported physical fights among the minors and locals. For example,

when a young man received news that his immediate family had died, he got very drunk and went on a rampage, hitting everybody who crossed his path. Village people and CWS staff rushed to end the tumult. To restore peace, the CWS slaughtered a goat at the next village festivity, but efforts at reconciliation and greater understanding were in vain when a minor was later suspected of involvement in a rape (CWS 2013: 21).

Minors who lived in the shelters received Rp150,000 (AUD15) per week. Although some of them had become used to earning their own living in their homeland, for example, as carpenters or tailors, none of them worked in the occupation they had previously been engaged in. They spent their time in front of the computers at the CWS office getting the latest news from their homeland and from Australia and communicating with family members they had left behind. Some of the minors improved their financial situation through prostitution.

During Missbach's fieldwork, she came to know of only two female asylum seekers under the age of eighteen, one from Somalia and one from Afghanistan. Unaccompanied girls were at particularly great risk of abuse and exploitation. Exemplifying exposure to such risk was the case of the Afghani girl who had been raped several times by an Afghani man who kept her locked up after promising to take her to Australia.

Young male transit migrants played an exceptional role in the migration aspirations of families, as their parents often sent them ahead, investing heavily in their journey and, thus, in the future of the families, as they hoped that their children's resettlement would enable family reunion one lucky day (Schuster and Majidi 2013). One such young male was a 17-year old Hazara boy who told Missbach that he had never attended school in Quetta, but had private English tuition, paid for by his aunt who considered proficiency in the English language a crucial skill for the migration plans the family had made for the boy. Many boys ended up in Indonesia even though it had not been their intended destination. Another Hazara boy from Afghanistan said that his family originally only intended to send him to live in Pakistan, but a few days after his arrival in Quetta he witnessed a gruesome target killing. He noticed that a number of people around him were preparing to leave for Australia, so he spontaneously decided to join them. In order to stop parents from sending their under-aged children to Indonesia on their own, Australia has adopted the strategy of not providing special treatment or fast-track resettlement for these children (O'Brien 2013). Consequently, they face the same hardships and challenges that adults face while waiting in Indonesia, as the story of Ismail's stressful circumstances illustrates.

On the one hand, Ismail seemed youthful, adventurous, while, on the other, his face was marked by a severity beyond his age. Ismail came to Indonesia in mid-2010; he was arrested by the police several times and spent some time in Indonesian immigration detention camps. Ismail is one of the few survivors from an overcrowded boat that sank on 17 December 2011 about 55 nautical miles from Java in bad weather typical of the rainy season. Indonesian fishermen rescued Ismail after he had been in the sea for two nights and almost three days. Although the exact number of passengers is not known, it is estimated that about 250 people, mostly from Iran, Afghanistan and Iraq, were on board. More than 200 drowned or went missing. During the very first day, Indonesian fishermen rescued 34 people, but the storm hampered further search and rescue missions. According to Ismail's account, after the vessel sank about 150 were still alive. After the first night, there were about 80 people left, and after the second night only 35, of whom only 13 survived. Ismail watched many people drowning, including one of his closest friends. From afar, he

saw sharks circling the bodies. In the long hours of fear, hunger, thirst and sleep deprivation, he saw several boats passing by, of which not one came to help.

Missbach met Ismail about four weeks after the tragedy, in a shelter for unaccompanied and under-aged asylum-seekers. He said that this was his third attempt to escape from Indonesia and reach Australia and of his determination to try again:

We are compelled to risk our lives. I will try to go again, I don't care about the season and the danger. I have seen hunger and thirst in Pakistan, so I must go. I am not shocked of what I have seen in the water. I have seen many [more gruesome] incidents back home. Resulting from bombs, such as [detached] hands, arms, fingers, open lungs. I am not shocked by this [boat accident]. It is nothing for me!

As Missbach listened to him speak of his family background, of the way his father was killed, of the debts his mother back home had accumulated to pay for his hazardous journey to Indonesia, and of the tough experiences he had had while in Indonesia, it became clear why Ismail refused to stay in Indonesia for much longer. As he put it in direct and dramatic terms, tinged with youthful insolence:

The smuggling won't be stopped. We are all poor now; we all want to have money. If Australia doesn't take us we will all become *chokra* [recruiter for a smuggler]. I suggest to Australia to process my case quickly, otherwise I will become a *chokra*.

Given that Australia provides the largest part of the funding for Indonesian immigration detention centres, Australia is also responsible for what is happening in these immigration detention centres.

Indonesia does nothing to assist unaccompanied children, some of the most vulnerable asylum seekers. Though Indonesia is obliged, due to its ratification of the UN Convention on the Rights of the Child, to provide unaccompanied children with guardians, it has neglected to assign that role to any government entity. Without guardianship, some children remain in detention, unable to be released without anyone to care for them.

## **APPENDIX TWO: Georgina Ramsay**

Another author contributing to this submission, Georgina Ramsay, has worked with families of humanitarian entrants in Australia that, after their settlement, have had their children forcibly removed from their care by child protection agencies. Over eighteen months between 2012-2014 she conducted fieldwork with thirty-five recently arrived refugee families settled in Australia in cities across NSW and Victoria. Three out of these thirty-five families had experienced the removal of their children from parental care due to child protection assessments from government agencies that identified the children to be at 'risk of significant harm' within their immediate familial environments. As one facet of the inquiry to which this submission speaks is to assess the impact of separating families of asylum seekers across detention centres in Australia, her work which examines the experiences of forcibly separating refugee children from their parents and families through the child protection apparatus in Australia is directly pertinent to this inquiry.

In such cases of forced child removal as Ramsay has observed, children under the age of ten are placed in foster care with Anglo-Australian families, whilst children over the age of ten are placed in group-homes comprised of other youth under the care and protection of the state, and which are overseen by transient workers rather than parents or carers. Such situations are complicated by the diverse cultural and linguistic backgrounds of these refugee children and families, as well as the ongoing impacts of their histories of experiencing acute conflict in the circumstances prior to their arrival in Australia that often encompass dimensions of acute torture, trauma, sexual violence, and abject poverty. Whilst the experiences of young people in immigration detention evidently differ from the experiences of children removed from their families observed by Ramsay, her observations of how these processes of institutionalising young people that already live with backgrounds of past trauma and then separating them from their immediate family can be drawn from her research as comparable to the scope of this submission. Her observations document the negative impacts of alienating and disempowering youth from refugee-like circumstances through institutional regimes and the detrimental effects of separating young people from refugee backgrounds from the nexus of support that their family provides.

Ramsay observed during her fieldwork that the already significant levels of trauma experienced by children resettled in Australia as refugees is substantially compounded upon their being removed from the immediate care of their parents and family members. As well as being unable to interact with their parents on a day-to-day basis, these youths are often separated from their siblings when foster care homes are unable to take more than one or two children. In addition, with few foster carers from similar cultural and linguistic backgrounds as these children available, they are placed in Anglo-Australian foster care homes. Subsequently, these children live apart from the nexus of siblings, friends, language, and culturally particular practices that they are familiar with, and are not able to access the sort of general social support of just being around people that have experienced similar circumstances of trauma and conflict that they have.

Such a situation of institutionalised alienation leads to experiences of compounded trauma for these children that the author has observed to have negative outcomes on their development. For example, Ramsay followed the circumstances of one boy named Samuel<sup>iv</sup>, who was aged twelve at the time when he was removed from his parents and separated from his siblings to be placed in a group home around thirty kilometers away from his familial home after child protection workers identified him as being at 'risk of significant harm' whilst residing with his parents. In this foster home



Samuel lived amongst other teenagers from different cultural backgrounds. Samuel was bullied, and suffered verbal and physical attacks from those he lived amongst. In addition, he missed his family, but was forced to commit to a strict routine every day that prevented him from seeing them. After one week in such circumstances, Samuel escaped at night and walked the thirty kilometers to his familial home, where he was found by his parents the next day. He was once again removed and placed into the same institutionalised circumstances. He escaped twice more from this particular group home to return to his parents, until he was eventually relocated and placed in a different city further away. Samuel now sees his parents and siblings once every three months. Since this separation from his family, Samuel has suffered episodes of declining mental health including rages and attempted self-harm.

Samuel's parents described how such a situation of institutionalised trauma eclipses, for them, their own experiences of torture, trauma, and attempted genocide in their countries of origin. His mother explains that:

When they told me I would be going to Australia, I thought – Yes! This is good! My children will have a life... But now I am here. They [child protection officers] took all of my children.... They took them, even though I protected them before, when people were trying to kill us. I kept them safe. I wish I could take them back there, to our own country. Or I wish we had all died there, and not come here.

Ramsay's observations of such circumstances suggest that placing youth who are already burdened with past experiences of extreme violence into institutionalised regimes that further alienate them serves to compound the dimensions of their trauma with new forms of disempowerment and alienation. The cultural axes and social nexus through which these young people attempt to mediate their past and contemporary experiences of hardship and trauma in everyday life are dismantled by family separation and detention. The lack of emotional care in circumstances in which refugee youth are forcibly detained and separated from their parents and families means that these children are subjected to exceptional forms of structural violence and thus that they continue to be at significant risk of further trauma.

Asylum seekers and refugees often experience significant trauma prior to arriving in a country of asylum or refuge like Australia, Indonesia, or Malaysia. Forcibly separating children from their families through processes of managing immigration has the potential to compound and exacerbate such trauma, meaning that the Australian polis is implicated in the further traumatisation of already vulnerable children through immigration detention. Such a process of inflicting trauma on young people, whether intentionally or by default, directly undermines key principles of the Conventions on the Rights of the Child to which Australia has ratified.

### **APPENDIX THREE: Gerhard Hoffstaedter**

A third author of this submission, Gerhard Hoffstaedter, conducts fieldwork with asylum seekers and refugees in Malaysia. Like Indonesia, Malaysia is home to a large refugee community, living in limbo with minimal protection from the United Nations High Commissioner for Refugees and without recognition from the Malaysian government. Malaysia is not a signatory to the Refugee Convention or its Protocol and, whilst it has given occasional sanctuary to Muslim refugees, it lacks any systematic service provision. The UNHCR, Churches and NGOs provide rudimentary services, with the largest issues pertaining to health, education and employment. Hoffstaedter has worked with a range of refugee communities in peninsula Malaysia, where most of the around 100,000 UNHCR registered refugees in Malaysia reside. During his fieldwork over the last four years he has met many underage refugees, most of whom had come to Malaysia with their families, whilst others were born in Malaysia but lacked any meaningful paperwork as to their status and some had arrived as unaccompanied minors.

Refugees, once registered in Malaysia enjoy some protection if they have a UNHCR card and encounter understanding police or immigration officials. However, as there is no Malaysian law to protect refugees, registered or not, by default all refugees are deemed illegal immigrants legally and thus can face arrest, detention and immigration penalties such as whipping. Unregistered refugees face constant harassment and the threat of arrest and detention in one of 13 Malaysian immigration detention centers. Once taken there only the UNHCR can intervene on the behalf of vulnerable cases or already registered refugees, however information about who is detained and where is often difficult to come by. Once a refugee enters the immigration detention network it is their responsibility to contact the UNHCR, which then follows up on a regular basis with the immigration department. This can take days, weeks and on occasion months with refugees locked up with little or no information flow causing anxiety for them and their families and friends outside.

The most recent available Malaysian Immigration Department figures as of the 8<sup>th</sup> of November 2013 record 8,857 persons in detention, of whom 782 were children. Between January to October 2013 alone 1,406 children were detained. The perennial problem with these statistics is that refugees are not separated from other 'illegal immigrants', although Burmese make up the majority of detainees.

The conditions in immigration detention centres are often squalid and their administration in some cases by the auxiliary police force RELA (Ikatan Relawan Rakyat Malaysia - a large Malaysian volunteers corps), an organisation whose enforcement practices and reported violations as well as criminal activities have been documented (SUARAM 2009, 134-135), makes for harsh conditions. Worse still, rent-seeking continues inside the confines of detention centres where meager food provisions have to be supplemented with items bought from the detention centre shop. Children often stay with women in detention, although the officer-in-charge determines living arrangements.

In Malaysia detention remains a punitive measure, aimed at visa-overstayers and those working illegally. Refugees, because they do not enjoy legal protection are routinely arrested in immigration raids, even if they are registered with the UNHCR. For children this process is traumatic and can cause mental health issues for years to come. Malaysia is a signatory to and has ratified the Convention on the Rights of the Child and should be doing more to safeguard children in detention and offer measures to get them out of detention in a fast, effective and reliable way. However,

a lack of resources on the part of the immigration department as well as a lack of training of its and RELA's staff means that detention centre conditions are set to remain poor.

Refugees in Malaysia mostly live in urban neighbourhoods of large cities trying to blend into the multicultural city around them. For fear of arrest and detention parents usually do not permit their children to leave the premises of their shared apartments or shop floor dwellings. This means many refugee children live a confined life even outside of detention. Thus the fear of detention perversely impacts on the everyday lives of the more than 20,000 UNHCR registered children refugees in peninsula Malaysia.

Of particular concern is the recent detention of mothers who have just given birth in government hospitals. Mothers, already anxious about the cost of government hospitals, which are higher for foreigners, they now face the added anxiety of immediate detention with their newborn children causing developmental problems for the newborns and separation from their families and other support networks.

Children in detention in Malaysia continue to suffer adverse effects to their physical and psychological well-being. These effects are amplified by the lack of support and resources (such as trained psychological and educational support) both within detention centres and upon release in the wider community to help refugee children overcome trauma, developmental issues and abuse suffered. There are some Malaysian NGOs who offer free services, but their resources are always in much greater demand than they can provide. Health Equity Initiative trains community health workers in refugee communities, but like all NGOs, they have no access to detention itself. Oversight of what happens in detention remains a major issue for the Malaysian government to address in order to make treatment of detainees and decision making processes more transparent for all parties involved. As outlined above the lack of information can often mean the difference between days or weeks and months spent in detention with all the exacerbated ill effects for children, who represent the most vulnerable group of detainees.

i For instance, Suarez-Orozco and Robben (2000: 4) noted that in Argentinian cases where families had been tortured as groups, with children forced to watch their parent assaulted “intergenerational transmission from parents to children to grandchildren” meant that “social violence continues to pursue its victims long after the slaughter ends and the peace treaties are signed” (2000:5). In another example, anthropologist and child psychiatrist Marika Moisseff (2011) wrote of how children on an Aboriginal mission internalised and identified with the human relations around them, where their parents themselves infantilised by having their everyday lives ruled over by powerful racially and culturally distinct others. In this context, “People’s capacity to assume a filiative function by providing viable role models for younger generations” (2011:239) was undermined. In such circumstances, children can refuse to develop, but revert to helplessness or engage in self-destructive behaviour.

ii Interpretive approaches to the study of children’s socialization suggestions that social competence is acquired “in an active process by which children playfully transform and actively resist cultural categories, where language is viewed as a social action that helps shape reality” (Kyratzis 2004: 625 citing Gaskins et al. 1992).

iii According to Spinks et al. (2011), Australian contributions to the cost of managing irregular migrants in Indonesia leapt from AUD 3 million in 2010–2011 to AUD 7.9 million in 2011–2012, while Regional Cooperation and Capacity Building in Indonesia expenditure increased from AUD 32.2 million in 2010–2011 to AUD 47.2 million in 2011–2012.

iv Pseudonym has been used to protect the identity of the child and family