

Detention and asylum children

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"We will neither be fortress Britain, nor will we be an open house."

- British PM Tony Blair

Over the last two weeks, a row has erupted between the officers of three courts, and a Federal Government Minister. At the centre of the dispute are five children. The dispute highlights much that is wrong, and perhaps also right, about our Government's current policy on asylum seekers.

The quotation from Tony Blair, above, sums up the problem for Western governments. On the one hand, when people seek asylum it is good for affluent nations to practise hospitality and welcome. On the other hand, governments need to know with whom they are dealing. If an asylum claim turns out to be false, the 'asylum' seeker's relationships in and with the new country are compromised, or even stillborn, by the person's lies, since lies are no basis for the kind of trust that society needs. Western governments must be discerning even while being generous, and Blair's carefully chosen words attempt to make this point.

In Australia, the system chosen to make this balance includes 'detention centres' for some (but not all) asylum seekers. The word 'detention' is also carefully chosen, coming as it does from the verb 'to detain'. When someone is 'detained' at an airport, for example, the sense of the word is that his freedom is *temporarily* curtailed while authorities make lawful enquiries about him. The implication of such 'detention' is that the enquiries should be swift and to the point. He must be quickly released unless he is charged with some crime, since 'detention' is not 'punishment'.

We can tease out some moral questions about Australia's detention centres along these lines. Is detention itself immoral, even if (for example) you are held for just twelve hours in a comfortable hotel? Probably not, if something about you is being lawfully investigated. Is the same detention immoral if you are held in the same hotel for several months or years? Yes, certainly, because the system investigating you must either be inept, or is using the label 'detention' as a cover for some other agenda.

It is this latter condition that many recent asylum seekers have found themselves in – except that they are not being held in five-star hotels, but in bleak and soulless facilities that look very much like jails. To be fair to the federal Department of Immigration, processing of the detainees has taken place, so that there are now just under a thousand detainees as at early February, down from about eight thousand two or three years ago. But the government has been quite open about the fact that 'detention' has also been a deterrent to stop people-smuggling. While people-smuggling is a terrible evil which should be stopped, it is clearly wrong to have used detainees as a means to this end.

But the most pressing matter in this has been, of course, the fate of the children of asylum seekers. The five children at the heart of the recent row belong to a man who claimed to be fleeing from the Afghani Taliban, but who has since been found to have come from Pakistan. While his claim was being discussed in the courts, in August 2003 the Family Court ruled that the children be released from Baxter detention centre. While the man's wife and baby are detained in a motel, a Catholic care agency took care of the other children in a suburban house. This has meant that the children were free, and could visit their mother and attend school.

However late in April, the High Court ruled that the Family Court has no such jurisdiction, which opened the way for the Minister, Senator Amanda Vanstone, to order the return of the children to detention. While an injunction against a return to detention was being sought with the Adelaide Federal Court, the Minister declared the house to be a 'detention centre'. She is

permitted by law to do so, but the Federal Court judge thought her action inappropriately to pre-empt his decision. However it must also be said that the Minister's action has had the effect of allowing the children to remain in the house, even though there are now some uncertainties about their freedom (or not) to visit their mother and go to school.

In March this year, Senator Vanstone announced places for an extra two thousand refugees to settle in Australia each year—an increase in intake from four thousand to six thousand places (although half of the two thousand 'new' places are only a change from another intake category). The Government attributed this increase to the “success we have achieved in dramatically reducing the number of illegal arrivals...With a strong economy and strong border control, Australia can now welcome those most in need through the front door.” While the increase is welcome, and is indeed an appropriate response to increased national wealth, it could be larger. We also need to keep repudiating the moral failings of the detention system that has operated to reduce the illegal arrivals, remembering that in many cases, the people arriving were not in a position to know that their mode of entry to Australia was illegal. This ignorance is particularly obvious in the case of children.

The strongest moral claims against existing government policy are (a) that the conditions of some detention centres are not appropriate for long-term habitation; and (b) that some claims continue to take too long to be settled. It would seem that if the government is determined to continue its current detention system, it needs to spend more money on conditions of detention, and on expediting applications for asylum. In cases where an asylum claim is false and a family must be deported, deportation must happen as quickly as possible, after a well-resourced investigation by officers who are committed to truth, fairness and compassion. Low morale in the Department of Immigration due to under-resourcing will directly translate into immoral conditions for asylum seekers and their families.

The immorality of such under-resourcing could not be more obvious than in the heart-rending case of fifteen families, separated from their fathers and stranded in Indonesia. In each case, the fathers have been accepted by Australia as bona fide refugees, and are working hard to make their own way in Australia. Yet some of their families have existed in Indonesian limbo for four or five years. This is an eternity in family life, yet the Minister can only point to “processing issues” as the cause of the delay. It is hard to accept a delay of this length as defensible in anyone's job, let alone something as important as this one. The Minister must immediately look to whatever has made the bureaucracy concerned so dysfunctional, and if necessary, find the resources to fix the problem.

However we also need to give credit where due. Christians take their cue from the God who welcomed them, and who welcomes Jesus' people from every tribe, nation and people-group. It is on this basis that we seek to be hospitable, and that we ask those who act as our leaders to make our nation one of welcome. The recent increases in refugee intake are excellent, and we could respectfully ask the Minister to continue to review whether further increases are possible. We might also signal our thanks for trying to keep those children in the community, and ask that family applications be settled speedily and that living conditions fit for children are always set in place.

Andrew Cameron & Tracy Gordon, for the Social Issues Executive, Diocese of Sydney

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