

**Trauma changes adults
but forms children
- Protecting and healing child asylum seekers and refugees**

DISCUSSION PAPER

FOS (Friends of STARTTS)

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1 Starting points

1.1 Rationale for this paper

The situation of children in Australian Immigration Detention Centres has for some time been a topical issue and subject of much public debate. The Service for the Treatment and Rehabilitation of Torture and Trauma Survivors NSW (STARTTS), as Australia's largest torture and trauma service has been in a position to provide services to a substantial number of children who have spend significant amounts of time in Immigration detention facilities. It has also often provided services to the families of those children. As such, it is important that the experience, knowledge and information gathered through our direct involvement with this group is made available to inform the public and professional debate on this issue.

This is particularly important at a time when the debate has been given additional weight and intellectual rigor by the Human Rights and Equal Opportunity Commission (HREOC) inquiry into the adequacy and appropriateness of Australia's treatment of child asylum seekers and other children who are or have been held in immigration detention.

We appreciate the opportunity it provides to intensify community dialogue around this critically important issue. It is our strong belief that the public policies adopted in this area play a central role in the continuing process of defining and redefining our national character and our role as a world citizen.

In particular, STARTTS welcomes the specificity of focus that the inquiry has given to the wide-ranging debate on the general issue of Immigration Detention. Far too frequently, there is a tendency for institutions, bureaucracies and service systems to be so preoccupied with the needs of adults that there is little space for sensitivity to the special and supplementary needs of children in the same environment.

1.2 Overview of our concerns

Child asylum seekers and child refugees who are, or have been detained, constitute one of the most vulnerable groups in our community.¹ Their particular vulnerability derives from a combination of some or all of the following factors:

- their age and consequent stage of physical, psychological and emotional development;
- the violence, traumas and human rights violations they have usually witnessed or experienced in their countries of origin;
- the emotional suffering and physical hardships they have often endured in their subsequent flight to Australia;

¹ This discussion paper focuses on those children in Australia's immigration detention centres who are asylum seekers and on those children who have been released from detention who are refugees, simply because this is STARTTS' area of expertise. Nonetheless, we believe that some of the issues we raise would apply to other children in detention and that all of our recommendations would also improve their situations and life chances.

- the likelihood that they will have experienced unusually high levels of loss and separation in terms of family or other personal relationships and familiar surroundings;
- the harm and deprivations they inevitably experience while being held in detention, almost always for prolonged periods;
- the impact on of the detention and asylum process on their whole family;
- the impact of detention and the asylum seeking process on their parents' ability to nurture and protect them (if they are accompanied);
- the impact of separation from their families (if they are unaccompanied) and of their constant fears for their families' safety, often confounded by confusion and anxiety regarding the reasons for the separation.

As experts in the aetiology and the treatment of trauma, STARTTS believes that it is inevitable that detaining these children will do them further emotional, psychological or physical harm. In this submission, we outline our professional knowledge and experience that leads us to this conclusion and make recommendations for changes in policy and practice to lay the groundwork for healing.

1.3 Our expertise and experience

STARTTS has extensive first hand experience in working closely and intimately with people who have experienced severe violations of their basic human rights. For almost one and a half decades, our organisation has been developing and implementing services and strategies to facilitate the healing of people and the strengthening of communities who have survived torture, organised violence and other traumas.

The Friends of STARTTS (FOS) organisation was established to raise awareness in the general community of the needs of refugees and to support the work of STARTTS both financially and through co-operative projects. FOS has a network of volunteers that provide services to STARTTS target group. In recent years, FOS has developed a specific interest in sponsoring programs to assist Temporary Protection Visa holders, such as English classes conducted by volunteers.

The work of STARTTS encompasses individual and group counselling and therapy; youth camps and other recreational activities for children and adults; an early intervention program; community development and capacity building; research and advocacy; and the training and support of other professionals in a range of fields who work with refugees. We have provided direct assistance to over 10,000 refugees from all over the world.

In meeting the counselling and community development needs of torture and trauma survivors and the communities from which our clients are drawn, STARTTS employs a diverse, multi-lingual and multi-disciplinary staff group. We emphasises the importance of training in the health and social sciences in staff selection and presently employ ten psychologists, nine clinical psychologists, eight social workers, and a smaller number of staff with nursing training and overseas medical qualifications. The high standard of professional training within our staff, coupled with the focus of our work and service,

places STARTTS at a unique vantage point from which to form judgments on the impact of the detention environment on child clients.

Before the end of 1998, STARTTS had some direct contact with people while they were in detention. We were sometimes asked to provide assessments of people in the Villawood Detention Centre, usually people in extreme distress or being held in the high security section. We also provided counselling to some detainees who came to our office accompanied by officers of the Australian Protective Service.

When a private company, Australasian Correctional Management (ACM) was contracted by the Commonwealth to run the detention system in November 1997, this arrangement ceased. The ACM refused to provide the escort service to our office, stating it was not part of their contract, and we refuse to provide counselling services in the counter-therapeutic environment of the detention centre for sound professional reasons outlined later in this submission. However many detainees become our clients after their release (see below).

STARTTS also provides some introductory training to new ACM custodial officers. This training is designed to increase their knowledge of, and sensitivity to, the needs and behaviour of refugees (especially survivors of torture and trauma) and the effects of detention. Our work in this area is aimed at minimising secondary traumatisation of detainees. We have also, at times, provided professional advice and support to counsellors and other mental health staff employed at the detention centre.

Since our establishment in 1988, our work has been supported by Australian governments of both political persuasions and at both the state and federal level. Of particular relevance to this discussion paper is the grant we receive from the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) under its Early Health Assessment and Intervention Program. Unlike the Commonwealth's other settlement programs (which prohibit agencies from using departmental funds to work with refugees holding Temporary Protection Visas – TPVs), this program allows us to work with both temporary and permanent visa holders during their first 12 months in Australia.

Consequently STARTTS (along with our sister torture and trauma services in other states) has had more freedom and capacity than other non-legal, DIMIA-funded community organisations to work with the children of asylum seekers who are automatically detained because they arrive by 'unauthorised means' and of refugees on TPVs who have, by definition, recently been released from detention centres.

Since late 1999 (when the policy of providing certain classes of refugees with only temporary rather than permanent visas commenced) until the first quarter of this year, STARTTS has worked with around 1,200 TPV clients, either through our Early Intervention Program (EIP) or through our general service practice. Of our 900 EIP clients, almost 400 have spent time in detention, often for prolonged periods.

While most of these clients have been adults, a sizeable proportion of them are parents. Given the nature of our service (with its strong focus on exploring and assisting with emotional and psychological problems), our work with refugee parents inevitably encompasses issues affecting their parenting abilities and their concerns in relation to their children.

Furthermore, and again unlike many other organizations, we have worked directly with asylum-seeking and refugee children. In recent years, most of these children have experienced prolonged periods of detention. We have provided these traumatised children with individual counselling and holistic support; brought them together for mutual sustenance and peer support through activities such as holiday camps; and conducted group therapy programs with unaccompanied minors. We know them intimately and understand the complex realities that shape their lives extremely well.

The views and recommendations contained in this submission are grounded in the collective wisdom of our organization derived from this solid, extensive and professional base of expertise. We therefore respectfully submit that they should be accorded substantial weight in the Commission's deliberations and findings.

1.4 Principles and values informing our work and submission

The organisational mission and purpose of STARTTS goes beyond providing excellent client-centred services to the survivors of torture and trauma. In addition to treating the symptoms of organised violence and abuse, we are committed to tackling their root causes. Our core values therefore encompass defending the full range of human rights as established in international law and instruments, and to work to the best of our abilities and resources to expose and prevent violations of those rights wherever they occur.

This is the ground on which we stand and from which we work. This discussion paper is therefore informed by those United Nations Conventions that have particular relevance to the treatment of child asylum seekers and refugees, especially the UN Convention on the Rights of the Child (CROC) to which Australia was one of the first signatories.

The views and recommendations set out in this submission have been shaped in particular by:

- *Article 37* of CROC which states that the arrest, detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest possible period of time;
- *Article 39* which commits all state parties to taking measures to promote the physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading punishment or treatment; or armed conflict, and to ensuring such recovery occurs in an environment that fosters the health, self-respect and dignity of the child;
- the United Nations High Commission for Refugees Policy (1993) and Guidelines (1994) on the Protection and Care of Refugee Children; and
- the UNHCR Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum (1997).

We are also mindful of and rely upon the following Articles of CROC:

- *Article 2* which requires “appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardian or family members” (our emphasis);
- *Article 3* which commits states parties to ensuring children receive “such care and protection as is necessary for their well-being” and to using “the best interests of the child” test in all relevant measures or actions;
- *Article 8* which specifies the right of children to “family relations”;
- *Article 12* which requires ensuring that children have the opportunity to participate in decision-making that affects them;
- *Article 20* which provides an “entitlement to special protection and assistance” to children temporarily or permanently deprived of their family environment;
- *Article 22* which requires positive measures to protect and implement the rights of children seeking refugee status and children who have been accorded that status;
- *Article 23* which deals with the special rights of children with disabilities;
- *Article 24* which requires active measures to give effect to the child’s right to “the highest attainable standard of health”, to treatment of illness and to preventative physical and mental health care;
- *Article 28* which specifies rights and measures to ensure a “standard of living adequate for the child’s physical, mental, spiritual, moral and social development”;
- *Article 34* which requires protecting children from all forms of sexual exploitation and abuse.

Our understanding of, and support for these principles and provisions of international human rights law and practice underpin this discussion paper.

2 Context and backdrop to the children's detention

All children in detention or correctional facilities, for whatever reason, can be assumed to face some level of risk in terms of their psychological and social wellbeing. However, this 'normal' level of risk is greatly exacerbated for asylum-seeking and refugee children because of their life experiences up to the point of detention. They both need and are owed a heightened duty of care.

Many of these children have not just had bad life experiences, but traumatic ones. In psychological terms, a 'trauma' is defined as occurring when a person experiences, witnesses or is confronted with an event or events that involve actual or threatened death, serious injury, or a threat to the physical integrity of self or others and the person's response involves intense fear, helplessness or horror.

Both the STARTTS experience and research indicate that child asylum seekers and refugees are likely to have had to cope with one or more of the following traumatic events prior to their flight from their country of origin:

- having to cope with the violent death, arrest or sudden disappearance of close family members;
- witnessing their family, friends or neighbours being injured or intimidated;
- being injured, abused, targeted by authorities or tortured themselves;
- living through periods of extreme fear;
- being separated from their families;
- witnessing atrocities in their communities;
- experiencing the loss or destruction of their homes, or being 'displaced' or relocated;
- having to cope with environments characterised by organised violence or threatening chaos;
- being at risk of, or subject to, forced recruitment into militias.

In addition, they are likely to have suffered an unusual level of hardship in their everyday lives. Whether for greater or lesser periods of time, some will have experienced great difficulty in meeting their basic needs for food and safe water. Many will have had their education disrupted, and had inadequate health care. They may have experienced dramatic changes or deterioration in their family relationships and structures.

Given that most of those incarcerated in Australia at the current time have arrived by 'unauthorised means', these children are also likely to have experienced significant grief and confusion at their method of leaving and physical and emotional hardships during their journey to this country.

Many will have left in great secrecy without any of the protective rituals of normal separations from friends or families, such as the chance to say good-bye. Younger children will not have understood the reason for their flight or where they were going. Older children may have had ambivalent feelings. All will have found their changed circumstances disruptive and often deeply disturbing.

Many of the children currently in detention will have spent some time in another foreign country in difficult, deprived or chaotic conditions that may only have increased their feelings of unsafety. They are likely to have endured a rough, frightening and dangerous sea journey amongst strangers, when they would have been very frightened and probably ill at times and may have suffered severe food and water shortages. They have been through an intense period in which they constantly witnessed their parents or close relatives being stressed and anxious, and obviously not in control of events.

Although the circumstances of every child refugee are different, in our experience it is a very rare occurrence for a child to be exposed to only one or two of these traumatic life events and circumstances. Most have experienced multiple traumas for a prolonged period.² They are (at best) very distressed and psychologically fragile, and (at worst) seriously disturbed and traumatised by the time they arrive on our shores.

This is the backdrop to their detention.

² Mehraby, Nooria, *Therapy with Refugee Children*, in The Child Psychoanalytic Gazette, No. 11, 1999.

3 Detention always damages

The physical conditions in Australia's six detention centres (three of them in remote regions) have been well documented in numerous reports³ so there seems little point in attempting to re-describe them here. In any event, this would be a time-consuming and difficult task given that the conditions at the Maribyrnong Detention Centre in Melbourne, for example, are very different from those at Woomera in the South Australian desert. Moreover, as the public spotlight on detention centres intensifies, the exact nature of the physical conditions, rules and living arrangements in each facility is constantly in flux.

Suffice to say that it is an irrefutable fact that these detention centres are damaging environments for children. Indeed, some of the children who are our clients have suffered their *primary* trauma (that is, the one causing their clinical distress symptoms) in the detention centre, after seeing adults harm themselves or be harmed by guards. For others, the stresses of the detention environment can exacerbate and resonate with their previous experiences, compounding their trauma.

At a time when increasing numbers of both ordinary Australians and private and public institutions are so conscious of the need to provide "child-friendly" places, spaces and services, it is deeply disturbing that hundreds of millions of dollars has been spent and more is in the pipeline to build and maintain their exact opposite.

The hair-splitting policy distinctions between 'administrative detention' and 'criminal imprisonment' are lost on children. They experience detention centres as prisons and do not understand why they are in gaol. We know from client communications and the reports of community and legal organizations with access to the centres that the children see people in uniforms, sometimes in full riot gear and using batons or tear gas. They see people being forcibly removed or handcuffed. They live regimented lives surrounded by the noises and sights of institutional living. They eat in canteens and use communal bathrooms. They experience little if any privacy. They can have torches shone in their faces at night. Their movement is restricted and, wherever they turn, there are fences sometimes topped with razor wire.

Case Example One

³ Some recent reports with a high degree of reliability and credibility include:

HREOC, *Those who've come across the seas: detention of unauthorised arrivals*, Commonwealth of Australia, 1988

Phillip Flood, *Report of Inquiry into Immigration Detention Procedures*, Commonwealth of Australia, February 2001

Commonwealth Ombudsman, *Report of an Own Motion Investigation into the Department of Immigration and Multicultural Affairs' Immigration Detention Centres*, March 2001

Joint Standing Committee on Foreign Affairs, Defence and Trade, *Completed inquiry: Visits to immigration detention centres*, Commonwealth of Australia, June 2001

A seventeen-year-old girl reports witnessing, together with her thirteen-year-old brother, incidents of self harm and a riot in the Curtin IDC that have recently been exposed in the Australian media. She says she was very scared by what she saw. Following these incidents the “leader” of the Hazara group in Curtin was taken away from the group without explanation. The girl reports that she never saw him again and but remembers the incident often and cries when she thinks what could have become of him.

The physical infrastructure of detention centres is minimalist and harsh; the social environment is either boring and unstimulating or turbulent and frightening, complicated by overcrowding and a questionable regard for privacy and culturally appropriate accommodation arrangements; and the service provision (including health and educational service systems) is grossly inadequate. These conditions are the antithesis to those required for the healthy development of children.

Case Example Two

A boy of thirteen at the time of his detention reports that he was roomed in Curtin with over twenty other adolescent boys. He was the youngest in the group and could not sleep because the seventeen-year old boys would stay up late playing cards and fight amongst themselves. When he did manage to sleep he would be woken by security checks and torchlights in his face. He reports being frightened and very distressed about the conditions he lived in. He experienced the daytime routine as boring and would sleep most of the day to compensate for his sleep deprivation.

Case Example Three

Numerous children from a number of detention centres report that when they complained of extreme pain such as severe toothache, they were instructed to drink water. In the absence of painkillers, some resorted to traditional methods of treatment such as squeezing onion into a tissue and placing these in their mouth to relieve the pain. Interviews with various children indicate that they were often told to drink water as a remedy for a variety of complaints.

Case Example Four

A seventeen year old girl reports she was housed with her 20 year old sister and 13 year old brother in a room with two other families and some single men. Her sister was forced to share a double bunk with a young man sleeping in the bunk above for over a month. This made both the

sisters profoundly uncomfortable as it violated the precepts of their Islamic faith and culture. They still feel very embarrassed about this period.

Even if optimal improvements were made (a course of action which STARTTS endorses and urges), it would still be impossible to eradicate the dynamics and culture of 'closed institutions' which make them such particularly unsuitable and damaging environments for children.

This assertion is borne out by our accumulated client experience, as well as by the growing body of overseas and Australian research on the impact of detention on the psychosocial, psychological and physical wellbeing of child asylum seekers and unaccompanied minors – regardless of the precise nature of the conditions.

4 Differential degrees and forms of harm

It is important to understand from the outset that not all children react to the experience of detention in the same way. Each of the hundreds of children who have passed through or remain in our detention centres is grappling with a unique cluster of events and circumstances in terms of loss, trauma, and change – and each has a different set of protective factors in their past and present lives to mediate their immediate and long-term impact.

There are three things STARTTS knows for certain from our direct experience.

- All of the children suffer some adverse impacts from detention.
- Some are more profoundly harmed than others.
- Some take much longer to recover than others.

There are a range of variables that contribute to determining the degree of risk, the nature of the damage, the symptoms or manifestations of this damage, and prospects for recovery in individual children.

Some of the most important variables include:

- the extent of their previous exposure to traumatic events and experiences (as outlined above);
- their age;
- their family composition and its degree of ‘intactness’ (particularly whether they are with one or both parents, or are ‘unaccompanied minors’);
- the impact of detention on the child’s parent(s) or caregiver, and on their siblings (if any);
- their particular culture (which can have an influence on how they perceive and respond to situations);
- their physical health;
- the particular conditions and occurrences they experience or witness within their particular detention centre, such as:
 - the access they have to services and supports
 - the physical environment and the rules and procedures that govern their everyday lives,
 - the ‘culture’ and attitudes amongst the officers and other staff, and
 - the quantity and nature of unrest and ‘disturbances’ amongst the adult detainees;

- the degree and quality of their contact with close family and friends in their home country or in Australia, and with their community here;
- how they experience the processing of their asylum claim, and particularly whether they are rejected at the initial level and have to go through an appeal process;
- their perceptions of their likely future;
- their length of time in detention;
- the nature and conditions of their post-detention environment, and its impact on their actual and perceived ‘futures’.

4.1 The impact of parental stress and trauma

Of all these variables which affect how children cope with the trauma of detention, one of the most defining is the impact of the detention experience on their parents. (The situation of children who are not with their parents is discussed in *Section 7* below.)

This is not surprising given the critical role played by parents in any child’s development and wellbeing, and the fact that the two major ‘protective factors’ for children against harm and adverse events are the family and the community.

The problem for child asylum seekers and refugees is that their parents, almost by definition, are in abnormal conditions of stress and distress which can severely compromise and diminish their parenting and protective abilities.⁴ The problem is compounded by the fact that, during the refugee migration and detention process, the family is also cut off from its community.

A substantial and rigorous study of the situation of Vietnamese child asylum seekers in Hong Kong detention centres noted:

“Theoretical models of social support operate on the assumption that there is a context of normality and stability from within which support is derived to mediate the effects of negative life events. In situations such as prolonged detention characterised by violence and dehumanisation, it is unrealistic to expect such a model to operate.”⁵

Without many of their own usual support networks, most parents are struggling to cope with a new and stressful environment. They are preoccupied with a range of pressing problems – both internal (such as dealing with their own post-traumatic symptoms and unresolved grief) and external (such as coping with the practicalities and worries of their refugee status applications and the day-to-day realities of life in the detention centre). In these circumstances, parents often find it hard and sometimes impossible to be ‘available’

⁴ One of the most distressing elements of STARTTS training work with guards at the detention centre is realising how little they understand of the reasons for the ‘poor parenting’ they sometimes see, and how judgmental they become of the parents involved.

⁵ McCallin, Margaret, *Living in Detention – A review of the psychosocial well-being of Vietnamese children in the Hong Kong Detention Centres*, International Catholic Child Bureau, Geneva, 1992.

to their children and to provide them with the care and attention they need. They can appear ‘detached’ or estranged from their children (a not uncommon symptom, in general terms, of post-traumatic stress).

Parents frequently feel frightened, helpless and powerless – a self-image which is transmitted to the children in a myriad of ways. Given that children need to see their parents as competent and potent, this can make them feel very unsafe and frightened or betrayed and angry. They can respond by becoming very timid or regressing in development terms, or (in a role reversal) adopt pseudo-adult behaviours, suppressing their own feelings and needs and ministering to their parents. Some parents become very ill, either physically or mentally, which again diminishes their protective presence and can turn a child’s life and their understandings of themselves and the world upside-down. The previously-cited Hong Kong study found that children lost confidence in their parents’ ability to care for them and protect them from danger.

It is self-evident to any rational person that providing support and assistance to their parents is critical to improving the lives of detained children. At the same time, it would be wrong to assume that improving the parents’ abilities to parent will provide children with adequate protection from all the adverse effects of detention. While they can mediate the effects of detention, they cannot be a complete buffer.

4.2 The impact of the duration of the detention experience

This leads to the second critical defining variable in terms of the harm done to children – the length of time they are detained. The same Hong Kong study found that the well-being of all children deteriorated over time, regardless of the quality or nature of their care.

Again, this seems self-evident. Children have surprising reservoirs of flexibility and resilience on which they can draw to help them through difficult periods. But the reservoirs are limited and can be quickly drained. Children’s perception of time is often distorted. Short periods to adults can seem very long indeed to children. In one important sense, they are correct because (as we discuss in *Section 5*) children are developing at an explosive rate and so time is jam-packed full for them.

Case Example Five

A boy who was fifteen at the time of his detention spoke about his perception of time in the Centre. He was detained for three and a half months but says the period of detention felt more like three years.

People often speak of children’s lives being ‘suspended’ or ‘on hold’ while they are in detention. While this conveys some of the emotional power of the problem, it is not correct in psychological, physical or material terms. Children are constantly changing beings; and the social and physical environment in which they live has a major impact on the nature of their change process.

The longer children are detained in Australian detention centres, the more likely it is that they will:

- be exposed to or witness ‘extraordinary’ or violent events (for example, suicide attempts, self-mutilations, police or staff in riot gear with truncheons, hunger strikes, and mass displays of distress, anger and grief);
- see, feel and reflect the effects of their parents’ or caregivers’ deteriorating physical and mental health;
- suffer disruption to their cognitive, social and emotional development;
- manifest stress and distress symptoms themselves, whether physical, behavioural or psychological – and sometimes to an extreme degree;
- face increased levels of risk in terms of physical or sexual abuse, bullying and intimidation;
- ‘lose time’ in terms of their education, and develop learning difficulties.

There is, unfortunately, virtually no body of research on the impact of prolonged detention on children in the current Australian context. However, it is logical to expect that they would be affected at least to the same degree as adults. One study of adult Tamil asylum seekers who had been detained in Maribyrnong Detention Centre for an average of eleven months found they had:

“significantly higher levels of depression, suicidal ideation, posttraumatic stress, anxiety, panic, and physical symptoms, compared to Tamil seekers, refugees and immigrants living in the community.....After removing differences due to (pre-migration) trauma, detained asylum seekers continued to display higher scores on all measures of psychological distress compared to other asylums seekers living in the community.”⁶

Today, four or five years down the policy path from these adults’ experience of detention, children are being held in much larger centres, in more severe environments, and often for longer periods of time. This is a recipe for developmental disaster. The longer children are held in these child-denying environments, the more likely it is that they will cross the boundary lines between stress and trauma, or that the effects of previous traumas will be compounded.

4.3 The effect of the post detention environment

The long-term impact of any difficult or traumatic experience is not only influenced by the characteristics of the experience in itself, but also by those of the environment in which recovery takes place. Judith Lyons suggests, “There are numerous environmental factors which influence the ease with which a trauma survivor re-adjusts.Society and significant others play a role in determining in which ...direction the survivor will move. If

⁶ Silove, Derrick and Steel, Zachary, *The Mental Health and Well-Being of On-Shore Asylum Seekers in Australia*, Psychiatry Research and Teaching Unit, School of Psychiatry, University of New South Wales, 1998.

social support is inadequate following the trauma, the risk of pathological adjustment is accentuated. In fact, the responses of parents and teachers may account for more of the variance in children's adjustment that is accounted for by characteristics of the traumatic event itself"⁷

It is in the post detention environment that children who have spent formative periods of their lives in a detention setting will begin to deal with and hopefully make sense of the significance of their time in detention and the traumas experienced there. For most children and young people released from detention as TPV holders, the environment they face after detention is one that is characterized by limited access to services, uncertainty about the future, and a climate riddled by controversy and negative views about "refugee" issues.

The negative atmosphere associated by the public debate on these issues can impact on and permeate the school environment, leading to negative interactions with and perceived hostility from both peers and sometimes staff (instances of bullying and discrimination have been reported to STARTTS staff). The controversy about the legitimacy of the protection claims of people granted TPVs can also influence the dynamics of refugee communities, diminishing their capacity to support its members. It also detracts from the ability of the family to act as a buffer and protective factor against external influences. In the case of unattached minors, the lack of realistic prospects of reuniting with family members overseas further contributes to the bleakness of their post detention environment.

For many adolescent children with temporary protection visas the uncertainty over what the future holds is pressuring them to make impossible decisions to abandon their education in search of work. In the case of unaccompanied children the imperative to work assumes even greater importance as they must rely on their own ability to save money in order to fund their prospective forced return. The pressures to abandon secondary school study often take place in situations where the children have never before had the opportunity of a formal education.

Case example Six

A seventeen-year-old girl who had never attended school in her native Afghanistan and was illiterate in her first language made considerable progress in literacy at school upon her release from detention. When confronted with the potential for her to be returned to Afghanistan at the expiration of her TPV, she very reluctantly left school to find work so that she would have money to fund her return. In consoling herself over leaving school and losing her only opportunity for an education she initially said "I left school because I did not have enough money to buy the school uniform."

Case example Seven

⁷ Lyons, Judith A. *Strategies for Assessing the Potential for Positive Adjustment Following Trauma*. Journal of Traumatic Stress, Vol. 4 N° 1, 1991.

A twelve-year-old boy says that he feels that he is a burden on his uncle's family as he is another mouth to feed while they are all on temporary visas. He has discussed leaving school and finding work as a way of supporting his uncle's family and having money if they are forced to return to Iraq.

Allowing for the enormous scope of individual variations in terms of what young people experience as traumatic, and how they respond to such experiences, the environment created by temporary protection policies is more likely to compound the effect of any traumas sustained in detention, rather than contribute to successful recovery. As such, it should be regarded as an integral aspect of how children are affected by Australia's immigration detention policies.

4.4 Common symptoms of poor emotional and mental health

Everyone, whether lay people or health professionals, with any direct knowledge of this group of children and young people knows that they exhibit unusually high and serious levels of emotional and mental stress, often reflected in physical deterioration or psychological disturbances.

They have many of the documented symptoms of traumatised people, such as: generalised fear responses; hyper-vigilance or watchfulness; startle responses; intrusive thoughts and flashbacks; a reduced capacity to manage tensions and frustrations; strong feelings of powerlessness or helplessness; increased dependency; apathy and listlessness; and a range of physical ailments.

Some clinicians would view many of these children as having symptoms that satisfy the DSM IV diagnostic criteria for Post-Traumatic Stress Disorder (PTSD) and, indeed, some of them do. However, it is our view (one supported by some pre-eminent researchers) that the PTSD framework tends to be both too narrow and too specific to be a useful descriptor of the diverse problems that beset these children, not least because it cannot adequately encompass a full appreciation of the precise social, cultural and political factors that contribute to the child's distress.

We therefore prefer to avoid a single label or framework and to recognise the wide diversity of symptoms present in these children which we observe in our work, as listed below in age-based divisions.

Children below school age

- excessive and constant crying
- strong separation anxiety and excessive 'clingy-ness'
- regressive behaviours (in areas such as thumb-sucking, or bowel and bladder control)
- speech problems
- fear of strangers
- extreme irritability
- nightmares and sleep disturbance
- immobility
- tics or hair loss.

Children in 6 to 11 age group

- headaches, stomach aches and other physical complaints
- nightmares and sleep disturbances, including bed wetting
- eating disorders
- depression
- inability to concentrate
- school phobias and learning difficulties
- withdrawal from peers
- excessive attachment to, and idealisation of, competent and caring adults
- pseudo-adult behaviour;
- over-excitability and hyper-activity
- aggressive or disruptive behaviour and fighting
- feelings of physical vulnerability and fears for their own safety
- regressive behaviours and separation anxiety.

Pre-adolescents and adolescents (11 to 18)

- withdrawal
- survivor guilt
- risk-seeking behaviour
- depression and pessimism
- apathy and listlessness
- anti-social behaviour
- seething or explosive anger and aggressiveness
- poor educational performance
- nightmares and sleep disturbances
- skin, bowel and bladder disturbances
- constant and diffuse anxiety
- restlessness
- suicidal thoughts
- 'pseudo-adulthood' or premature movement towards independence.

5 The significance of trauma on *developing* children

One of the reasons why STARTTS prefers to use an aged-based symptoms list is because it overtly and subliminally emphasises a critical point – namely that children are not yet fully formed; they are in a state of constant and rapid development. Children are voracious learners – they are constantly drawing their identity, their sense of self and others, their patterns of interpersonal relationships, and their understanding of the world from their environments.

In general, the nature of the detention centres means that a child’s ‘normal’ lifestyle is suspended but they are not ‘on hold’. They are still developing and changing. Often a new and very problematic lifestyle of adaptation and survival is adopted. The precise nature of this survival mode is influenced by their age and developmental stage, as well as by the parenting and care-giving they receive. It is also affected by the general climate in the detention centre – its administration, rules and culture – and by the degree to which traumatic events occur.

This significance of the simple self-evident fact that children are constantly developing people is often overlooked or not fully appreciated in this particular public policy debate. Yet it is of profound significance. It means that while the trauma of the refugee experience and of detention can change adults, it can form children.

There is a convincing body of research that trauma has both more adverse and more enduring impacts on children, especially younger children, than adults.⁸ This formative nature of trauma may apply not only to children’s social and psychological development but also to their neurological development. The research of one respected clinician found that trauma can form or organise the immature brain.

“All experiences change the brain – yet not all experiences have equal ‘impact’ on the brain. Because the brain is organising at such an explosive rate in the first years of life, experiences during this period have more potential to influence the brain – in positive and negative ways...Children reflect the world in which they are raised. If that world is characterised by threat, chaos, unpredictability and trauma, the brain will reflect that by altering the development of the neural systems involved in the stress and fear response...By shaping the developing brain, experiences of childhood define the adult.”⁹

This is a deeply worrying proposition given the fact that the detention environment is more likely than not to be a hostile and traumatising environment for children. It is for this reason that, as we will outline later in *Section 7*, STARTTS is so opposed to any detention of children other than for the shortest possible time necessary to conclude only identity and security checks on the adults in their family group.

⁸ See, for example, Pelcovitz, D. and Kaplan, S. *Post-Traumatic Stress Disorder in Children and Adolescents* in *Child and Adolescent Psychiatric Clinics of North America*, Vol 5, No. 2, April 1996

⁹ Perry, B.D. *Traumatized children: How childhood trauma influences brain development*, *The Journal of the California Alliance for the Mentally Ill*, 11:1, 48-51, 2000.

It is important to remove children from the detention environment as quickly as possible for another reason – so that the recovery can begin. The neurological and psycho-social damage is not irreversible. A therapeutically positive post-trauma environment can facilitate healthy reorganisation and healing, though the longer the detention period, the harder this is to achieve.

Unfortunately, recent policy changes that restrict people who have arrived by ‘unauthorised means’ to temporary visas means that the attempts of health professionals to assist these children are being thwarted by a whole new set of post-release stressors. *Section 7 contains recommendations to change this situation so that the healing process is not undermined.*

6 The particular situation of unaccompanied minors

Child asylum seekers who arrive in Australia without their parents face particular problems. The UNHCR defines an “unaccompanied refugee child” as “any person under 18 years of age who is separated from both parents and is not being cared for by an adult who, by law or custom, has responsibility to do so”. In the Australian immigration system, these children (who are usually between the ages of 12 and 18) are further defined into two categories:¹⁰

- *Unattached minors* are those who are not in the company of, or joining, a parent or other close relative over 21 years of age. These children are placed under the guardianship of the Minister for Immigration, though he delegates the responsibility for their accommodation, care and maintenance to the relevant State Minister for child welfare or community services.
- *Detached minors* are those who are in the company of, or joining, a close relative over 21 years of age. Unless the relative has taken particular legal steps recognised under Australian law (which most have not), these children have no legal guardian.

There are diverse reasons why these children are not with their parents. They may be orphans. They may have become accidentally separated from their parents during a time of chaos or conflict. Their parents may have deliberately decided to send them to the asylum country to remove them from danger or prevent them from being recruited into a fighting unit (a common situation borne out by the fact that most unaccompanied minors are boys¹¹). The parents may have been unable to move the whole family and therefore choose to save one or more of their children. Each of these reasons, of course, will have different implications for, and impacts upon the children.

The UNHCR classifies unaccompanied minors as being a particularly vulnerable group and has developed special guidelines for their treatment and care. In a substantial review of the research and literature on the mental health of refugee children, Rousseau notes:

*“Unaccompanied children have traditionally been considered to be at higher risk for mental health problems than those who are accompanied. This claim is based on the recognition of the extreme nature of the stressors endured by these children: loss of significant relationships, loss of a familiar environment and trauma of varying degrees associated with the war or conflict in their home country, as well as with migration itself.”*¹²

¹⁰ Refugee Resettlement Working Group, *Refugee Young People and their Resettlement Needs*, Unpublished Paper, Sydney, 1994

¹¹ Rousseau, Cecile, *The Mental Health of Refugee Children*, in Transcultural Psychiatric Research Review 32, Department of Psychiatry, McGill University, Montreal, 1995

¹² *ibid*, pp. 311-312

The paper goes on to demonstrate the consensus in the research literature regarding the “severity and acute nature of the symptoms displayed by unaccompanied refugee children, and the various studies which have reported “an increased incidence of depression, behavioural problems and somatization” as well as pathological grief among this group .

The research reflects the experience of STARTTS staff who have undertaken a considerable amount of individual and group work with recently arrived unaccompanied minors. All refugee children suffer loss and grief over separated family and friends, but unaccompanied minors are forced to cope with the most extreme level of separation. Given that most of them fall into the pre-adolescent and adolescent age bracket, they must do so at a time when questions of self-identity and ‘psychic separation’ of self from parents are looming large in any event. At a point in life when peers and cultural reference points outside the family become particularly important, they are cut off from their actual friends at home and (when detained) from potential friends in their new community, and wrenched away from their culture. It is clear that their circumstances greatly complicate the normal life-stage developmental process they are attempting to negotiate.

Case Example Eight

A fifteen year-old unaccompanied boy who had travelled by himself with a people smuggler before boarding a boat to Australia reports he was placed in a room with ten other Afghan unaccompanied minors at the Port Hedland IDC. He befriended a number of the other boys and this helped him overcome some of his isolation. Suddenly, unannounced, the other boys were transferred to another part of the camp and he was left alone in an unoccupied room for a week. During this time he reports getting no special assistance or attention. He felt abandoned and would spend much of his time staring at the wall feeling he was “going crazy.”

These young asylum seekers and refugees often suffer double dosages of ‘survivor guilt’, fears for the safety and well-being of those left behind, and a sense of responsibility to help their families escape. Even though they know their parents or close family have ‘saved’ them, at a deeper level they can be struggling with contradictory feelings of abandonment, rejection and resentment at having heavy burdens of responsibility placed on them. These children can find it particularly hard to acknowledge their ambivalencies and feel unsafe exploring them.

Case Example Nine

An unaccompanied boy who was seventeen at the time of his detention felt a terrible burden of responsibility for his chronically ill fifteen year-old brother who had been incorrectly diagnosed with a life-threatening illness. The older boy did every possible job in the detention centre to earn money

in order to buy his brother orange juice and food that he thought may improve his brother's health. When asked what it was like for you in detention the older boy replied "I could not think of myself, I had to look after my brother"

Case Example Ten

A twelve year old boy separated from his immediate family talks constantly of his guilt at having abandoned his family in Iraq where his father was imprisoned. The boy now feels a great burden of responsibility for his family's welfare and wants to find ways of supporting them. He wants to save his family by bringing them to Australia but cannot because of the temporary nature of his visa.

Although written to describe a very different situation, another report regarding Vietnamese refugees in Hong Kong strikes some resonances when it notes:

*"Children who are not accompanied by a parent or parents are at increased risk in detention. They lack a sense of protection and are often over-exposed to traumatic events with little opportunity to talk about these experiences at a meaningful level. Many times the unaccompanied child feels the weight of responsibility for the family in (their home country), as well as a growing sense of abandonment to a setting that is not understood by the parents."*¹³

One important finding of the substantial Hong Kong research cited earlier is that the assumption that "attaching" children to another care-giver can provide adequate protection in the detention environment was not supported by the evidence. It found no difference when it compared the emotional well-being of these children to those who remained completely unaccompanied. This demonstrates that it is a difficult if not impossible task to find effective substitutes for the parents. By implication, it also points to the grave implications of restricting access to family reunion for unaccompanied minors who are determined to be refugees but issued only with temporary permits. This issue is explored further in the next section.

¹³ Loughry, Maryanne, *Traumas experienced by children in detention*, Unpublished paper, CFSI Training and Resource Unit, Hong Kong, 1993

7 Suggested policy and practice changes

The body of evidence about the damaging nature of the current detention regime and related policies on child asylum seekers and refugees is growing daily, as is the imperative for change. FOS and STARTTS join our collective voice to the call for a major directional change so that this particularly vulnerable and traumatised group of children can receive the care and protection they so clearly deserve.

Given the magnitude of the turn-around that is needed to make a real difference to the present and future lives of these children, we have chosen in this submission to focus our attention on some key framework changes.

It is our firm belief that, failing movement on these big issues, smaller policy and practice modifications can ever only hope to make marginal improvements for some children that will, in any event, be difficult to sustain. Conversely, if the big shifts are made, the detailed changes that will have to follow will be much easier to identify.

7.1 Reducing reliance on detention and developing alternatives

All of the experience and evidence contained in this submission lead us to one inevitable point – a firm conviction that the reliance on detention in our immigration and refugee determination system must be reduced and more humane alternatives found.

FOS and STARTTS acknowledge that the Australian asylum determination system requires some secure temporary holding provisions to allow for identity and security checks of those who arrive without having been processed overseas. In fact, we are supportive of such an initial safeguard because there is no organisation more aware of the need to obviate any possibility of human rights abusers gaining entry to Australia.

However, this initial administrative holding process should be only for the purpose of basic identity, security and health checks and should be for the shortest possible period of time. Moreover, it should take place in an environment that is as ‘normal’ and as little like a prison as possible.

The current policy assumption – that all people (except in rare and exceptional situations) must be detained for the full length of the time it takes to conclude their claim to refugee status – is neither humane nor necessary, nor is it implemented in any other country in the world. It is time for it to be abandoned and alternatives put in place.

A number of credible alternative models have already been placed in the public arena by credible and expert bodies such as the Commission itself and the Refugee Council of Australia (RCOA)¹⁴, and so it is unnecessary for FOS and STARTTS to propose another. We believe there is particular merit in the model endorsed by the RCOA, which provides for three levels of security – closed detention, open detention, and community release – with the assumption that the first level will be only for the purpose of identity and security checks and would be time-limited.

¹⁴ See: HREOC (op cit) and www.refugeecouncil.org.au

The precise details of an alternative system would not be difficult to negotiate and implement – if the political will to do so existed. This requires the Australian Parliament making legislative amendments that ‘de-couple’ mandatory detention from *full* refugee determination processing and link it instead to *initial* verification of identity and security credentials.

FOS and STARTTS believe that there is a pressing urgency to adopt this approach. The terrible damage being caused by the current detention system to hundreds of children and their families – many of whom, it must be remembered, are ultimately deemed to be genuine refugees – can no longer be tolerated.

Suggestion 1

(i) Legislation should be introduced to the Australian Parliament, and supported by all political parties, to de-couple mandatory detention (for asylum-seeking unauthorised arrivals) from the *full* refugee determination process and link it instead to *initial* verification of identity and security credentials.

(ii) Administrative arrangements should be made for open detention and conditional community release systems along the lines of those envisaged in the ‘Alternative Detention Model’ endorsed by the Refugee Council of Australia.

(iii) Refugee claimants who remain in closed detention beyond a specified period (in the vicinity of 6 to 8 weeks) should trigger an automatic DIMIA review, and should have the right to external review if DIMIA determines they are not eligible for open detention or community release.

7.2 Releasing torture and trauma survivors

The Migration Act contains a provision that allows the Minister to release people from detention when there are ‘exceptional circumstances’. Even if the above recommendation is adopted, FOS and STARTTS believe that it should remain in the statute as an added safeguard.

When it was inserted, this provision anticipated that there would be particular groups whose special needs would make the detention environment particularly unsuitable and unsafe. In addition to children under 18, it was explicitly anticipated that the survivors of torture and trauma would be protected by this provision. Although it has been used occasionally to respond to their unusual levels of individual suffering, it seems likely that there is a significant mismatch between the need incidence and the use incidence.

Data from the Tamil study in Melbourne in 1996-98 (cited earlier in our submission) indicated that asylum seekers who have suffered the most severe persecution are likely to be at increased risk of being detained on arrival in Australia.

Another larger survey of the same client group found that “those exposed to the highest levels of traumas in their home countries (showed) a greater sensitivity to the effects of key post migration stressors, In other words, the impact of past trauma was made much worse by ongoing stressors after migrating.”¹⁵

There is no logical reason to suppose the current situation should be any different, and STARTTS’ experience is that it is not.

Our organisation provides services to people in the immediate post-release period and we know that many of them are torture and trauma survivors. While all have had their recovery compromised by the detention experience, the situation for some is much worse. They have suffered further traumas in detention which have resonated with their earlier traumatic experiences and compounded their effect. Falling into this category are both children and adolescents who are our clients, as well as adult clients whose children are being badly affected by their parents’ suffering. These people needed our assistance earlier and should have reached us earlier.

The situation cannot be resolved by providing services inside the detention centre. It is important to understand that it is virtually impossible to provide effective treatment to people while they are detained because the detention itself is a prime contributor to the problem. The detention environment is, by definition, counter-therapeutic. Effective therapy is predicated on eliminating this stressor, since healing cannot proceed while it remains.

It seems clear from our professional experience that the safeguard release provision is not being used in all instances where it is warranted. The current practice of leaving it to DIMIA to determine if and how it will investigate individual cases in this critically important area, and then to make recommendations to the Minister, is failing to meet both the policy intent and the policy objective of the legislative provision. We believe that this situation will not change, and torture and trauma victims will not be protected, unless a new process is instituted.

Suggestion 2

DIMIA should be required to organise a ‘Torture and Trauma Clinical Assessment’ of any detained individual who, in the written opinion of two suitably qualified professionals, is in need of such assessment.

In order to ensure public accountability, this assessment should be conducted at DIMIA’s expense by suitably qualified professionals (excluding those who made the request) who are not employed by either DIMIA or ACM and who are not regularly contracted by the latter to provide health services in the centre.

Recommendations from the said report should be given due consideration in the decision making process associated with the safeguard release provision.

¹⁵ Silove and Steel, op cit, pp. 14,15

7.3 Improving the post-detention environment

As a result of legal and policy changes over the past few years, people now released from detention (after the stressful and laborious process of having their claim to refugees status recognised) face even more serious settlement and recovery problems than those encountered by previous waves of refugees. Quite apart from the fact that their detention is likely to have been longer and more stressful, they are no longer issued with permanent residency permits.

Legislative amendments in October 1999 mean that refugees who arrived by 'unauthorised means' are issued only with Temporary Protection Visas, valid in most cases for three years. As a result of this and associated policy changes, refugees now face a whole new set of problems.

- Their sense of security is greatly diminished. They live with the uncertainty of not knowing if they will have to return to their home country – an uncertainty that undermines their ability to resettle and is a continuing source of stress and anxiety.
- They cannot have their families overseas join them because the family reunion system is available only to permanent residents.
- Their access to social security benefits, employment assistance, public housing, English language classes, post-school education, and other public supports and resettlement services is either restricted or blocked.

Since further legislative changes on 27 September 2001, the situation has deteriorated even further. Prior to this time, refugees with TPVs could at least apply for, and possibly be granted, a permanent protection visa after a specified period. (TPV holders could lodge an application for permanency at any time, but it would not be considered by the Department until the 30th month.) Now, any refugee on a TPV who has resided for seven continuous days in a country where he or she could have found protection (either from that country or from the UNHCR) will never be eligible for a permanent visa and hence never be able to access the family reunion system or the other benefits of permanent residency. The legislation is also intended to apply to people who held TPVs at the time it was introduced but who had not lodged applications for a permanent visa.

The Government states that the purpose of these changes is to deter unauthorised arrivals and prevent 'queue jumping'. Whether it achieves this objective remains to be seen, but it has already achieved an undeniably harsh and punitive effect on those subject to the legislation.

The hardships and stresses faced by people released under temporary protection visas have increased dramatically, and have been well documented in numerous reports and media stories. At STARTTS we are now seeing a more despondent, alienated and disenfranchised set of clients. Many of the stressors outlined earlier in this report continue for adults and adolescents, and they continue to affect younger children in the families. In particular, the fear of being returned to their country of persecution or to the detention centre stunts or even halts their recovery trajectory, as does the widespread stigmatisation and hostility that

permeates some sections of the community in the wake of a public debate that has polarized views on refugee issues.

The impact on unaccompanied minors is particularly severe. On a practical level, they are barred from post-school education unless they can find the funds to pay the higher fees that apply to non-permanent residents – a restriction which will have a severe impact on the life chances and prospects of these young people. In terms of their emotional and psychological wellbeing, they face being permanently separated from their parents and other immediate family members (a terrible and on-going punishment and trauma) unless they return to their home country (an impossible or invidious prospect).

FOS and STARTTS are firmly of the view that the TPV system is both unjust and counter-therapeutic and should be changed.

Suggestion 3

(i) All on-shore asylum seekers who have been recognised as refugees should be granted Permanent Protection Visas with all the accompanying rights of permanent residency.

(ii) If the above course of action is not acceptable, then decisive measures should be taken to ameliorate the harsh adverse impact of issuing only Temporary Protection Visas. These measures should include:

- **removing the restrictions on basic supports and services (such as income support, English language tuition, public housing and employment assistance;**
- **absolving TPV holders under the age of 25 from the requirement that they pay fees at the overseas student rate for higher education;**
- **providing access to family reunion to young people who were unaccompanied minors at the time of their arrival, in recognition of their particular vulnerability and circumstances.**
