



International Detention Coalition

Human rights for detained refugees, asylum seekers and migrants

Detention reform and alternatives in Australia Case management in the community as an alternative to detention

Executive Summary

This paper outlines the significant changes in Australia's immigration detention and enforcement policy and practice since 2005 and the emergence of case management in the community as an innovative and effective alternative to the detention of asylum seekers and migrants.

Background to Australian detention policy

In 1992 Australia introduced a policy of mandatory, non-reviewable and indefinite immigration detention until removal or approval, irrespective of individual circumstance, age or need. This legislation led to long-term detention, including cases of individuals being detained for more than seven years,¹ as well as the detention of more than 4,000 children between 2000 and 2005.²

Australia's immigration detention practice was criticized by non-government organizations and the Australian Human Rights Commission,³ including the lack of transparency in the immigration detention system; a failure of monitoring; a lack of administrative and judicial review mechanisms; the denial of a range of rights to detainees in offshore facilities; and the negative impact of detention on mental health, particularly on children and long-term detainees.⁴

A government commissioned report in 2005 found that the assumption-based culture within the Department of Immigration in raid and enforcement actions had led to the separation of children from families and the wrongful detention of 249 Australian residents.⁵ Since that time there has been litigation and growing concern in the broader community on Australia's detention policy.

Changes in Australia's detention and enforcement policy and practice

While Australia still has further to go to fully reform its immigration detention policy, there has been significant change over the past three years.

- Legislative change that children should be detained only as a last resort, with all children and their caregivers released from immigration detention centres in August 2005.
- A range of detention monitoring mechanisms introduced.⁶
- A visa class established for individuals unable to be removed.
- Offshore detention in neighbouring islands, the 'Pacific Solution', abandoned in 2007.⁷
- Introduction of community-based alternatives to detention, including a risk and case management model.

Immigration detention changes in Australia – a timeline

1992	1999	2001	2002	2005	2006	2007	2009
Mandatory detention introduced	Temporary Protection Visas introduced	- Detention numbers reach 9,000 people - Pacific Solution introduced - Christmas Island centre opened - Residential Housing Projects introduced	Alternative Places of Detention (APD) introduced	- Palmer and Comrie Reports tabled and change management process begins - Children released into Residence Determination - Case Management introduced - Removal Pending Bridging Visa introduced	Community Care Pilot (CCP) begins	- Status Resolution Trial begins - Pacific Solution abolished	Government announces expansion of pilot into national program

Introduction to case management as an alternative to detention

The Australian government introduced a set of 'Detention Values' in July 2008,⁸ recommending the use of immigration detention centres only as a last resort and for the shortest practicable time. In addition, in what amounts to the largest bureaucratic change-management process in Australia's history, the Department of Immigration has adopted a more 'client-focused' approach, seeking the use of alternatives to detention wherever possible.

In this regard, the Australian government has over the past three years introduced a number of 'alternative to detention' pilot programs⁹ that have centered around the introduction of Departmental Case Managers that work within the enforcement branch¹⁰ to provide early intervention and individual risk assessment of the need to detain on a case-by-case basis. Case management is a comprehensive and coordinated service delivery approach widely used in the human services sector as a way of achieving continuity of care for clients with varied complex needs. This model has meant the increasing use of community-based alternatives to detention in the first instance where there are no security concerns. A key feature is the importance given to preparing and supporting individuals throughout their immigration pathway. This strength-based approach is aimed at helping people understand and cope with the often limited options available, in order to assist them in making informed decisions. Independent legal advice, welfare assistance and the active involvement of community organizations in partnership with the government have also been key elements.

Overall Welfare, Cost and Immigration Outcomes

Recent outcomes of the Australian immigration system, which has moved from a punitive, 'one-size-fits-all' enforcement model to an individual case and risk management model, highlight the benefits of community-based alternatives.

On average, 94% of people within the programs complied with their reporting requirements and did not abscond. 67% of those not granted a visa to remain in the country voluntarily departed.¹¹ In addition, 3 years following the release of all families from detention centres, less than 1% had absconded, with no other reported violation of conditions.¹² Furthermore, the use of alternatives to detention has also proved a cost saving to government, at one-third the cost of traditional detention and removal practices.¹³

In May 2009, the Australian government announced that following the success of these pilots they would be expanded into a national program. Minister of Immigration, Senator Chris Evans said:

*The government's commitment in resolving the status of those in the community means there will be an increased capacity to assist people to reach a timely immigration outcome without the need for detention.*¹⁴

This community-based model has been found to be effective in meeting the interests of government, migrants and the broader community. This includes effectively managing migration outcomes in a cheaper and more humane manner. It has minimized the use of detention and of unnecessarily restrictive or intrusive alternatives. It has also achieved high levels of voluntary departures and low levels of absconding, while ensuring the rights and dignity of asylum seekers and migrants are upheld.

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For the full report 'Case Management as an Alternative to Detention – The Australian Experience' visit:
www.idcoalition.org

¹ DIAC Submission to the Joint Commission on Migration Inquiry in Immigration Detention Sub 129d, September 2008.

² DIAC Submission to the Joint Commission on Migration Inquiry in Immigration Detention Sub 129c, October 2008.

³ Formerly known as the Human Rights And Equal Opportunity Commission.

⁴ International Detention Coalition, Position on Children in Detention, 'Evidence concerning the impacts of immigration detention on children', October 2007.

⁵ <http://www.chrisevans.alp.org.au/news/1207/immigratmediarelease19-01.php>.

⁶ Including legislative change empowered to the Immigration Ombudsman to investigate and report to parliament about anyone detained for more than two years, and enhanced monitoring role of the Australian Human Rights Commission and Red Cross.

⁷ The policy of excision, whereby individuals arriving in excised territory are denied access to the mainland to seek asylum, remains.

⁸ <http://www.minister.immi.gov.au/media/media-releases/2009/ce09058.htm> These Detention Values are currently before parliament in the Immigration Detention Reform Bill 2009.

⁹ These programs include the Community Status Resolution Trial and Community Care Pilot, which was rolled into the new national Community Assistance Scheme in July, 2009.

¹⁰ Compliance Unit of the Department of Immigration and Citizenship.

¹¹ DIAC Final Activity Report October 2008: Page 11 and 12. March 2009 DIAC CCP Report: Page 2.

¹² DIAC Submission to the Joint Commission on Migration Inquiry in Immigration Detention Sub 129c, Q41, Oct 2008.

¹³ http://www.anh.gov.au/senate/committee/lecon_ccte/estimates/ard_0809/diac/38.pdf