

## "AUSTRALIAN HUMAN RIGHTS - INSIDE AND OUTSIDE THE WIRE"

ADDRESS TO THE NATIONAL PRESS CLUB, CANBERRA, 25 AUGUST 2004

BY DR SEV OZDOWSKI OAM AUSTRALIAN HUMAN RIGHTS COMMISSIONER AND DISABILITY DISCRIMINATION COMMISSIONER

### Acknowledgements

Thank you (Ken) for those kind words of introduction.

Allow me to start in the customary way. I would like to acknowledge the Ngunnawal people who are the traditional custodians of this land.

### Introduction

Our lives today pass in a blur of media reporting. Great issues come and go and, before we can absorb them, it is time to move on to the next story.

The abuses at Abu Ghraib prison seem to fade in the past. And the shadow of what is happening in Sudan is yet to unfold.

So let us press the pause button for a moment:

- to share with you what has happened since we released our report into Children in Immigration Detention
- to look at what still needs to be done.
- and then to look at another, equally disturbing issue that I have just started learning about.

But - since I am here, at the National Press Club, let me declare a different interest.

I could become a fan of Reality TV!!

The first program I intend to watch will not be "*The Block*" but a program that is screening on Channel 4 in the U.K. and on Foxtel in this country.

It's called "*No Going Back*".

It's about a young and energetic English family who had their migration visa applications to Australia rejected. They applied again under the Business Entry category, and were accepted.

Now, everyone is watching to see if they meet their business targets and get permanent residency in Australia.

You see, their temporary visa is a kind of Temporary Protection Visa - a TPV. They have to prove that they can qualify to stay here.

What do you think is their chance of getting permanency after all that publicity? Pretty good, isn't it?

There are scores of Afghan refugees on TPVs who have taken jobs at **Burrangong Meats**, in Young. The business would be dead without them.

This situation has also sparked intense lobbying and media reports. It put so much pressure on politicians that they had to revise the hard line on TPVs.

The point of my story is: - the English family, and the Afghans working in Young meatworks became real people to us when we learned their names, and saw their photographs and talked to them. They took on a personality when words about them, written by journalists and committed volunteers, became a powerful weapon.

A weapon that caused authorities to act.

### **Children in Immigration Detention Report**

Today I would like to share with you what the power of words has achieved recently. Just under three-hundred-and-ninety-six thousand words, to be precise.

That was the number of words it took to write our ***Children in Detention Report, called: "A Last Resort?"***.

The report is the result of two years of detailed research and writing.

We visited all detention centers in Australia - some of them a number of times - and spoke to staff and detainees. We also conducted many focus groups with former detainees.

We compelled the Department of Immigration and ACM to provide us with key documents - some 50 to 60 large folders of them.

We carefully analyzed all those documents.

We also took oral and written evidence from DIMIA and ACM, child detainees and their parents, and a vast range of individuals and organisations.

The inquiry was extensive. It was exhaustive. It was comprehensive.

The information and images it revealed were compelling. It brought anonymous, faceless men, women and children to light and to life. It gave them personalities and we shared their occasional smiles and many, many heartbreaks.

What is particularly important is that the Inquiry put the issue of children in immigration detention on a national agenda and helped the emergence of informed discussion. It assisted the development of a powerful civil rights

movement around the issue. Possibly one of the larger civil rights movements since the Vietnam War.

New national organisations emerged such as Chilout and Rural Australians for Refugees. Established organisations such as the Refugee Council of Australia took a leadership role in, for example, assisting local councils to establish Refugee Welcome Zones.

During the time of the Inquiry public opinion has changed from one of strong support for the mandatory detention policy - to one that challenges it. According to current public opinion research 77% of Australians believe that keeping children in immigration detention is wrong and 61% want asylum seekers arriving by boat to be allowed to enter Australia.

So what did the report show?

It showed that children's rights had been breached by making immigration detention the **only** resort rather than the **last** resort.

Rights had been breached by ignoring the children's best interests.

Rights had been breached by the very length of immigration detention - the longest being a child who was behind the wire for five years, five months and twenty-one days. This child was eventually recognised to be a refugee and now lives in Australia.

Rights had been breached:

- with regard to the mental health of children,
- to children with disability; and
- of children who are unaccompanied.

The report revealed that all this had occurred despite the efforts of several watchdogs who were supposed to oversee the welfare of these children.

The report destroyed many myths about people in detention and highlighted stories of personal despair and bureaucratic indifference.

I am delighted to see the way the Report has been embraced and debated.

And I welcome the Federal Government's move in removing most children from immigration detention, at least on mainland Australia.

But the release of the report, and the release of most of the children in Australia is only one small step for this country. Remember, Australia is currently the Chair of the United Nations Human Rights Commission.

And we still have the laws which make detention of children a first resort, not the last resort and the laws that permit detaining them for an indefinite period of time.

And we still have children in detention in Port Augusta, on Christmas Island and in Villawood, to name but some.

We are still robbing these children of their childhood.

We are still in breach of our obligations under the Convention on the Rights of the Child.

And all this while we are still the Chair of the United Nations Human Rights Commission, sworn to uphold these rights.

The words in our report provide graphic descriptions of the impact on the mental health of children in detention.

Here is one such image:

A 13 year old child who has been seriously mentally ill since May 2002. The boy regularly self-harmed.

In February 2003, a psychiatrist wrote: "***When I asked if there was anything I could do to help him, he told me that I could bring a knife so that he could cut himself more effectively. He said it was more effective than the plastic knives that were available***"

There were 20 recommendations from health professionals saying this boy needed to be urgently released, with his family.

All the watchdogs were ignored. All the oversight bodies were ineffective.

Two years later, please note the time, TWO YEARS LATER, this family was finally released from Baxter on a TPV. They are now living in South Australia.

Of course, mental health disorders were not just confined to children. They occurred in their parents as well.

As Professor Procter has said: "***What the system has done, is to add mental anguish to the trauma of flight and dislocation from their homeland***"

In other words, we locked them up, we traumatised them and now as they join the Australian family, we are going to have to pay a price for that treatment.

But when we started looking at what sorts of treatment are available, a whole new picture of human rights concerns emerged from the shadows.

### **Mental health consultations**

Over the last two months I have been conducting, jointly with the Mental Health Council of Australia, consultations on mental health issues. It is some

11 years since the Human Rights Commission published the Burdekin report on mental health.

So far we have listened to the people in Adelaide, Brisbane, Perth, Sydney and Canberra and in some regional centres including Bunbury in WA, Rockhampton and Broken Hill. We have also received well over 100 submissions to date.

The story that is unfolding is not a pretty one. The people consulted make two main points.

One, that there is increasing evidence that widespread use of common drugs such as cannabis, amphetamines, alcohol and ecstasy is contributing to an increased rate of mental illness among young people. In addition they are making those young people even more disturbed when they finally present for care.

And two, that in the treatment of mental illness, it is the state government services that are failing in the delivery of proper care.

It is often a tragic tale of medical neglect and community indifference. Those with a mental illness are still being blamed for being sick.

In fact the reports coming from our current consultations are horrifying and affect ALL Australians - not just refugees or children of refugees. Mental illness affects veterans from distant battlefields, it affects prominent Australians.

It affects those who care after the ill in every State and Territory. And, tragically, it affects the young.

I listened to many, many first hand accounts where alcohol and drugs were linked to schizophrenia and depression. Stories about violent behaviour, suicide attempts and endless bouts of hospitalisation or imprisonment. It makes young people "***thrash around on the wings of madness***" - to use Jo Buchanan's words, while the authorities seem unable to stem the tide.

You see, there are almost no services available to deal with both drug addiction and mental illness. Medical policy dictates that drug addiction be treated first, before the mental illness is tackled.

And this may lead to at least 20 years of life expectancy being lost.

Suicide rates in teenagers and young adults remain historically high. We were told a great many stories of preventable suicides of young people.

Let me tell you two of them:

A Central Coast teenager was admitted to a psychiatric unit because of attempted suicide. He was prescribed Valium and released the next day with

no follow up. He died hours later after throwing himself in front of a moving train. The coroner found that he was inadequately assessed and discharged too early, because of an on-going shortage of beds in the unit.

In Canberra we were told about a young man with a history of depression, and openly suicidal, who jumped from a sixth floor balcony only two days after being refused admission to the psychiatric unit following a second suicide attempt.

The most frequently mentioned gap in mental health services was the absence of early intervention services for young people. In all States I received reports of children and young people being admitted to inappropriate adult facilities.

Also emergency services are overburdened and often inaccessible.

In WA I was told about a twenty year old man who reported to hospital suffering from an episode. The hospital's clinical response was to chemically induce sleep for 20 hours, because there was no psychiatrist available.

A NSW hospital clearly took the "**lock 'em up and throw away the key**" mentality a step too far recently. It locked a mental patient and his two accompanying young police officers together in a room, and refused to let them go until a doctor arrived. The constables remained 'locked up' with the patient, even after their police sergeant made a direct request to hospital officials for their immediate release.

We are also seeing a pattern of underspending and lack of investment in mental health. There are some brave words by some State governments - but little real action.<sup>1</sup>

With one exception-Western Australia took action. Within six weeks of signing up to a National Mental Health Plan, the West Australian Government withdrew \$4 million dollars from mental health services. The reason? Different priorities.

Indeed, amongst all the consultations, the anecdotal evidence about the State Governments, particularly those of South Australia, New South Wales and Western Australia, has not been encouraging.

I will be interested in due course to receive their response to these allegations.

The anecdotal evidence also suggests a lack of appropriate accountability for money earmarked for mental health

Arguably it is easier to deal with physical health than with mental health problems. I have been given accounts of some mental health money from the Federal Government being diverted into the general hospital system. This may have been less of an issue when we treated the mentally ill in hospital.

But now when community release is the preferred clinical response, we have a duty to back the community with the additional money.

Add to this the stigma and stereotypes that surround the mentally ill and you see the bleak picture.

And I fear that the media too must take its share of blame in adding to this stigma.

Truly, all this gives flesh to the pattern of neglect which has been described by the phrase: "Out of hospital, out of mind". The need for urgent action is clear.

## **Conclusion**

What have these initial consultations told us about what needs to be done? Perhaps it is too early to deliver a considered opinion, but at least a few suggestions could be made.

**First** of all, there needs to be real accountability about where the money is going with regard to mental health.

**Second**, it is a good time to look at prevention and early intervention, rather than face the high cost of the treatment, in the future.

About 20 per cent of Australian adults will be affected by a mental health problem each year. Three per cent will be seriously affected. Depression and anxiety disorders are the most common mental illnesses.

With treatment and support, the majority of people with mental illness can recover well.

Perhaps it would be appropriate for a Federal government to provide more effective leadership with respect to the national coordination of early intervention programs.

Or as somebody told us in Victoria: ***It is better to build a fence at the top of the cliff, than to provide an ambulance at the bottom.***

**Next**, there must be priority given to the coordination of medical and psychological care or, in other words, drug and non-drug therapies.

**Fourth**, there must be a real commitment to new and innovative return-to-work schemes. We are quick to push people out of hospitals and into the community. But there are no jobs for them. Our success rate in this is the lowest amongst the OECD countries. This is a federal government responsibility.

Above all, there must be more money put on the table. The money is for research, innovation and better services. For example, more money is needed for research on links between drugs and mental illness in young people.

Australia currently spends about 7% of its health budget on mental health.<sup>2</sup> By comparison, other first world economies are spending between 10-14% of their health budgets on mental health. New Zealand now spends twice as much per capita compared with this country.

I opened my talk with a story of success: of a report that assisted the Australian community to act and led to the release of some children from behind the barbed wire.

I look forward to similar action on mental health. Governments should be strongly encouraged by all of us to clean up the mental health mess. We need to put this issue on the national agenda.

And I look forward to the media putting its strength behind this story, as it did with the children in detention.

Australia is an extraordinarily wonderful and diverse nation in every respect: physically, culturally and socially. It has a proud record in the area of human rights and a commitment to the notion of "a fair go".

But not always. The ultimate test of our commitment to human rights as a nation is not what we aspire to, not the Conventions we sign, and not even the laws that are set in place. Rather it is how we treat our most vulnerable and powerless.

Not surprisingly, at present the treatment of the mentally ill is not in the forefront of our consciousness. Just as previously we did not focus on children in immigration detention.

And we are not focusing, because it is about the rights of the less visible and often stigmatized people in our community. They are metaphorically -- and sometimes actually -- locked away from our society.

In closing, let me paraphrase a quotation: "***The statistics on sanity are that one out of every five Australians this year will experience some form of mental illness. Think of your four best friends. If they're okay, then it's you.***"

Thank you.