Asylum Seekers' Human Rights in Australian Immigration Detention Centers:

What Role for Mental Health Practitioners?

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Abstract

This paper aims to identify the ethical dilemma faced by mental health practitioners in dealing with the way asylum seekers are treated in Australian detention centers. Drawing on recent research exploring the impacts of post-migration stressors on asylum seekers' physical and mental state and on the contentious living conditions in Australian detention centers, this paper puts forth the deleterious effects of Australia's immigration detention policies on the mental health of detainees. Furthermore, the role to be played by mental health practitioners in the defense of asylum seekers' rights in Australia must be questioned. The choice of working within an inhumane system or of denouncing it from the outside represents a dilemma that has no definitive answer, but that deserves to be discussed.

Pre-migration trauma suffered by forcibly displaced people (such as physical and/or sexual assaults, destruction of one's home, disappearance or death of loved ones, witnessing war and violence, etc.) greatly impacts their mental health, leading to extremely high rates of depression, post-traumatic stress disorder (PTSD), anxiety, self-harm, and suicidal ideations, among other psychiatric disorders (Silove et al. 1999; Steel et al. 2002; Mares et al. 2002). Yet, an increasing amount of literature now points to the major role of post-migration stressors in the emergence and perpetuation of trauma-related mental instability in these populations. Such stressors include the precarious situations of asylum seekers in host countries, the long and stressful refugee determination process, feelings of isolation and rejection stemming from the resettlement to a new country, among others. (Miller & Rasmussen 2009, Silove & Ekblad 2002, and others). In most cases, it has been shown that time is key to the healing of these ills. Indeed, a significant reduction in the prevalence and severity of refugees' mental health problems seems to occur over the course of resettlement (Murray et al. 2008). Still, this reduction is not guaranteed and there are great variations in the timing of the symptoms, with some depressive symptoms lasting, or even increasing, until up to 12 years after resettlement in some cases (Tran et al. 2007). Post-displacement conditions are thus of crucial importance when considering the physical and mental wellbeing of forcibly displaced migrants. Focusing on the mental health impact of post-migration detention on asylum seekers in Australia's contentious immigration detention facilities, this paper will investigate the role of psychiatrists and other mental health practitioners in the defense of detained asylum seekers' human rights. After addressing the controversies surrounding the issue of mental status assessment in displaced populations, the paper will present and critique Australia's immigration detention policy and the available evidence we have for its deleterious impact on the mental health of detainees. It will then explore the ethical dilemma faced by mental health practitioners in dealing with this situation and argue for the engagement of these specialists in human rights violation debates according to the tools at their disposal.

Both before and after forced migration, a key element to the validity and relevance of studies done on the psychological status of displaced persons is the assessment method. Indeed, there has been much controversy in recent years about the adaptation of current Western methods of mental status assessment for application in culturally and linguistically diverse communities. Individuals from these communities might have lived through traumatic events with which Western mental health practitioners may not be familiar. Many scholars have considered this 'cultural gap' a significant obstacle to the legitimacy of traditional Western mental health evaluation of displaced people (Hollifield et al. 2002). The debates surrounding psychiatric assessment have led to the development of several measures adapted to a variety of cultural and linguistic backgrounds and to various trauma experiences. Some of the ones that have been validated for

refugee populations include the Allodi Trauma Scale, the Semi-structured Interview for Survivors of Torture, and the Harvard Trauma Questionnaire for assessing PTSD with torture survivors (Murray 2008). These frameworks have yielded what many consider satisfying results and are frequently used and accepted in academia, although some skepticism still remains (Hollifield et al. 2002).

Before looking into the mental health of detained asylum seekers in Australia, it is important to understand the factors that influence their mental status, such as the Australian immigration detention framework.

In Australia, detention facilities were established in 1989, mainly in response to the increasing number of asylum seekers arriving by boat from Cambodia. In 1992, the government passed the contentious policy of mandatory detention of all persons arriving on their territory without proper authorization or of those who over-stayed their visa validity period. Since 1994, the 273-day time limit of the detentions was removed, resulting in potential indefinite detention of asylum seekers (Silove et al. 2007). The Australian government affirms that the detention policy is key to state security. Yet, 90 percent of detained asylum seekers obtain Convention refugee status once their claim is processed, which leads the public to question the legitimacy of allegedly protecting the state to the detriment, as we will see, of the physical and mental state of vulnerable and innocent individuals.

The Australian detention facilities were modeled on correctional institutions in their architecture and way of functioning. Despite the recent ban, numbers instead of names are still widely used in many facilities; detainees are subjected to daily musters and are susceptible to placement in isolation units. The facilities are often overcrowded and there have been numerous allegations of mistreatment and of transfers to prisons. In addition to hunger strikes, riots, and other forms of protests, detainees are frequently exposed to violence such as acts of self-mutilation and suicide attempts (Silove et al. 2007, Steel et al. 2001). Some facilities were built in remote, isolated areas of the country with a harsher climate, leading to geographical, social and cultural disorientation of the detainees as well as to a strong feeling of exclusion and vulnerability; most of them are far away from refugee services or any kind of compatriot community (Silove et al. 2007). Neither the Australian Migration Act of 1958 nor any other binding legal document obliges the government or the immigration officers to provide the detained unlawful non-citizens with visa documents, legal advice, or any kind of information about refugee status. This leaves many asylum claimants unaware of their rights and vulnerable to deportation before their refugee claim has been heard (Schloenhardt 2002). However, the Australian government continues to support its claim of the administrative rather than punitive nature of detention (Newman et al. 2008).

There have been some changes in the immigration detention policy over the last decade, in-

cluding these seven points discussed in a speech given by Senator Chris Evans at the Australian National University in 2008:

1. Mandatory detention is an essential component of strong border control.

2. To support the integrity of Australia's immigration program, three groups will be subject to mandatory detention:

a. all unauthorised arrivals, for management of health, identity, and security risks to the community

b. unlawful non-citizens who present unacceptable risks to the community

c. unlawful non-citizens who have repeatedly refused to comply with their visa conditions.

3. Children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre (IDC).

4. Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, will be subject to regular review.

5. Detention in immigration detention centres is only to be used as a last resort and for the shortest practicable time.

6. People in detention will be treated fairly and reasonably within the law.

7. Conditions of detention will ensure the inherent dignity of the human person.
(Murray et al. 2008)

Still, despite these announcements, Australia's detention conditions remain questionable, and the policy still ignites controversies within the international community. Indeed, by signing the UNHCR Refugee Convention in 1951, Australia is under the obligation to assess refugee claims, which the detention policy, that has affected more than 20,000 individuals since its implementation in 1992, strongly impedes (Newman et al. 2013). Despite strong public outcry and numerous callouts from the United Nations Human Rights Committee affirming that Australia's detention policy is contrary to international law (for example in 1997, 2002, 2003, 2006, Newman et al. 2008), the High Court of Australia maintained, in 2004, that the Migration Act allowed for these detentions, and that they did not violate the Australian Constitution (Newman et al. 2008). The facilities thus continue to be used as a deterrent tool for asylum seekers, which appears to be plainly unlawful and shockingly neglectful of human rights.

The detention policy not only infringes upon the freedom of innocent detainees but also crudely ignores their human right to health, especially mental health. Indeed, the alarming environments of the centers have further raised concern over mental conditions of asylum seekers who, after traumatic experiences and forced departure from their homeland, are welcomed by this hostile environment. Although previous works had raised the issue of the psychological consequences of

detention, including Commissions of Inquiry initiated by Australian authorities (Silove et al. 2007), systematic scientific research on detainees' mental health in Australia started in 2004 with the publication of Steel and colleagues' study measuring the psychiatric status of 14 adults and 20 children detained for more than two years (Steel, Momartin et al. 2004). There is now flourishing evidence of the deleterious effects of detention gathered by studies using culturally sensitive assessment methods and usually carried out by investigators highly experienced in working with asylum seekers, and by asylum seekers themselves (HREOC 2004, Newman et al. 2008, Silove et al. 2007 and others). Such a study was conducted by an Iraqi medical practitioner seeking asylum in Australia and by a visiting psychologist in 2011 (Sultan & O'Sullivan, 2011). All results converge to ascertain that detention "is a negative socialization experience" that "exacerbate[s] the impacts of other traumas" (Murray et al. 2008). Chiefly, the studies reveal the dramatic effects of detention on children and consequences of long-term detention on most individuals (Murray et al. 2008, Newman et al. 2008, and others).

Depression and anxiety were widespread in the asylum seeker populations studied, as well as self-harm, suicidal behaviour, and PTSD. Dudley (2003) estimates male rates of suicidal behaviour among detainees to be more than 40 times that of the national population, and 1.8 times higher than that of male prisoners (Murray et al. 2008). Child development was shown to be critically impaired due to many factors including few opportunities for cognitive development, dismantled family rituals, frequent exposure to violence, hostile and deprived physical environment, and strict security measures (HREOC 2004, Silove et al. 2007, Steel et al. 2004). Furthermore, detention directly impacted asylum seekers' sense of identity, safety, and self-worth (Newman et al. 2008). These findings raise some serious questions about the right of any government to be responsible for the brutal destruction of innocent individuals' most personal and essential values: what are they to do to once their life has lost any kind of meaning? Even after being released from the detention facilities for several years, many refugees suffered from persisting mental distress, especially among those held for more than 6 months (Steel et al., 2006). The long-lasting psychological and psychiatric scars created by the detention experience have significant impacts on the individual as well as on the societal level —given that most detainees are subsequently accepted into the Australian community (Newman et al. 2008).

In this context arises the issue of the lack of any kind of appropriate mental health care in the detention centers. Given Australia's responsibility in the creation or at least exacerbation of the detainees' mental conditions, is it not also its responsibility to heal these individuals? Yet, mental health specialists have repeatedly stated the impossibility for them to adequately alleviate the detainees' suffering within the detention setting, given that one of the major reasons for persistence of emotional problems was precisely the conditions in these prison-like centres, which maximize fear and exacerbate anxiety (HREOC, 2004). While many psychiatric reports and experts have advocated for better access to mental

health care for the detainees, they have little control over the conditions of detention, the length of stay, and the lack of status resolution of the individuals. As stated by a senior child psychiatrist: "It is hard to conceive of an environment more potentially toxic to child development" (HREOC 2004). Hence, specialists feel disempowered in light of their inability to assist their patients and frustrated in face of this situation in which they appear to be containing mental illness rather than actually treating it (Newman et al. 2008).

It is interesting here to contrast this situation with the widespread scepticism about the capacity of Western mental health experts to effectively treat refugees and asylum seekers. In addition to the contentious assessment of mental illnesses in refugee populations, Western psychiatric philosophy is also criticized for its lack of cultural sensitivity in its interventions in these populations. I would like to stress the potentially detrimental effects of embracing this standpoint too strongly. In an article exploring the ways in which Western mental health workers are limited in their ability to understand the psychological needs of disaster-affected communities, the authors conclude that:

"One of the greatest errors is to over-rate the ability of outside helpers to understand and shape the recovery process and to under-rate the capacity of affected communities to draw on their own resources to guide and ideally lead these activities."
(Silove et al. 2005; p.123)

Although this is greatly supported by evidence pointing to the slippery slope of imposing Western psychological theories to culturally diverse populations, how should this quote be interpreted in our case? I fully agree that this issue should be comprehensively investigated and that Western approaches should thoroughly acknowledge their limited understanding of these individuals and reflect it in their scope of action. Yet, the risk of taking such conclusions too literally can have major impacts. In fact, what kind of "recovery process" can be discussed? The recovery of trauma in incarceration-like facilities? Recognizing our limitations should not prevent us from recognizing our potential to help and our right and obligation to condemned human rights abuse, wherever they might appear.

This leads us to consider the role of mental health professionals witnessing human rights violations, and the ethical dilemma they are faced with. Should the Australian mental health experts work "for a damaging system" (Newman et al. 2008), adapt their therapies to the abusive detention system, while trying to overcome its deleterious effects? Or should they reject it fully and try to 'oppose it from without', by providing evidence of its harmful impact and trying to shame the government into changing policy? The outcome seems potentially harmful in both cases.

The role of medical professionals in the political arena might not seem obvious. It is commonly believed that health practitioners' 'mandate' is to act for the wellbeing of their patients. How-

ever, this can be approached in various ways. They can be seen as neutral entities that are to observe their duty regardless of the characteristics of their patient or work setting. However, this view is at risk of reducing health professionals to puppet-like non-agents that simply heal those who come to them without reflecting on the morality of their work. This representation can be brought back to the debate about agency under the pressure of authority, such as the role and responsibilities of physicians under the Nazi regime. Another way to think about the role of health professionals is one in which they are to strive for an enhanced health status of their community and of human beings as a whole while balancing personal moral values that cannot be ignored in the professional sphere. This can include taking a stance against conditions, policies, or actions that significantly affect the health of a particular individual or group, as well as closely scrutinizing government decisions concerning vulnerable groups, investigating on and providing evidence for the harm done to some individuals, as well as openly advocating for a particular cause. This form of engagement (political or not) is not new and has been successfully used many times to denounce harmful situations that had not been properly addressed. A recent example of political engagement of health practitioners is the assembly of health care workers across Canada to create the "Canadian Doctors for Refugee Care" group in order to oppose the government's decision in 2012 to significantly cut the Interim Federal Health program, the refugees' health insurance in the country. In our case, the Australian mental health practitioners are faced with issues that are quite similar to the Canadian doctors, and the ultimate question thus arises: How should they react to the human rights violations they are witnessing in the detention centers? Should they take a political stance? Should they unite to oppose the government like the Canadians have done?

In fact, undertaking studies to prove an obvious point about the harmful impact of detention on mental health is already a step taken against the government's policy, since these studies seem to show quite explicitly the wrong-doings of the Australian authorities. Indeed, Newman et al. (2013) emphasize the fact that these kinds of studies are never 'value-free'; they are accompanied by a moral imperative to denounce human rights violations and abuses of vulnerable groups, and these underlying values represent a major goal of these studies. This engagement of one's moral values in the professional sphere has in fact proven fruitful, considering the changes in Australian policy such as in 2008, which were argued to be greatly influenced by the findings of such studies and the general public discontent they provoked. For Silove et al. (2007), "it seems evident that the deleterious mental health impact of detention was pivotal in public discourse." Indeed, the Australian Government now recognizes the mental deterioration of vulnerable people induced by long-lasting detention and has established the Detention Expert Health Advisory Group, which includes mental health professionals, in 2006. Hence, demonstrating what one might consider obvious can sometimes be considerably valuable in unveiling human rights vio-

lations or convincing unwilling actors of the ugly truth. The efforts of such mental health experts in undertaking engaged research against inhumane treatments, overcoming obstacles such as the need to bypass the Immigration Department for ethics approvals, and facing accusations from the Department of the falsehood of their results and the biased nature of their study due to their advocacy standpoint are thus particularly admirable (all of which occurred for Steel and Silove's study in 2004).

However, although the influence of this engagement has made its proofs in the political sphere, mandatory detention remains a pillar of Australian immigration policy, and the battle is not over. The rejection of this harmful practice by many mental health professionals and the strength of their ethical standpoint should be supported and admired. Yet, coming back to the dilemma of choosing between working within the system versus combatting it from the outside, there should be concerns about the slow speed of policy changes and the consequences on the asylum seekers currently detained. Indeed, if all mental health workers stopped cooperating with the Immigration Department and providing the limited care they could provide, how much would the detainees' psychiatric state further deteriorate? Admittedly, there has been very little evidence of the impact of such mental health interventions in detention centers (Murray 2008), and as we have seen, the experts themselves are quite pessimistic about their ability to relieve symptoms in this setting. Yet, if all efforts are halted, no data will be needed, for there will definitely be no health improvement. Therefore, although there seems to be no ultimately right answer to this complex ethical dilemma, the importance of trying to integrate the system to assist the people in need as rapidly as possible should not be overlooked, ideally while openly condemning the status quo.

In conclusion, despite the controversies surrounding the adaptability of Western mental health philosophy to a forced-displacement context, it has repeatedly been proven that the detention conditions in Australia produce deep and long-lasting psychiatric scars that add on to the pre-existing trauma of forced migrants, especially children. Although framed here through the lens of psychiatric distress, the combat against prolonged and arbitrary detention is fundamentally grounded in a human rights discourse. Indeed, using the mental harm induced by mandatory detention as a potent lever to provoke change in Australian policy brings to the forefront the role of health professionals in the human rights violation debate. They are faced with a complex ethical dilemma concerning the professional choice of either working within an inhumane system, or denouncing it from the outside. This paper clearly highlights the need for mental health specialists to proactively combat this harmful framework by using not only their tools, which can include their expertise, their ability to professionally interact with the distressed in order to reduce their suffering, and their capacity to undertake engaged research independently from the government, but also their agency as health professionals but also as human beings, and their

rights and obligations regarding human rights abuses. Mental health professionals in Australia and around the world, as well as every individual in their own domain, should be urged to take advantage of the means they possess and of their rights and their agency as human beings in order to condemn the wrongdoings and abuses of any individual or group, even when this group is one's own government.

References:

Dudley M. Contradictory Australian national policies on self-harm and suicide. Australas Psychiatry 2003; 11: 102–108.

Human Rights and Equal Opportunities Commission (HREOC). A last resort? The report of the national inquiry into children in immigration detention. Report, HREOC, Sydney, Australia, April 2004.

Hollifield M, Warner TD, Lian N, et al. Measuring Trauma and Health Status in Refugees: A Critical Review. JAMA. 2002; 288(5): 611-621.

Mares S, Newman L, Dudley M, Gale F. Seeking refuge, losing hope: parents and children in immigration detention. Australas Psychiatry 2002; 10: 91-6.

Mares S, Newman L, Dudley M, et al. Seeking refuge, losing hope: parents and children in immigration detention. Australas Psychiatry 2008; 10: 91– 96.

Newman L, Dudley M and Steel Z. Asylum, detention and mental health in Australia. Refugee Survey Quar 2008; 27: 110–127.

Miller K. E., Kulkarni M., Kushner H. Beyond trauma-focused psychiatric epidemiology: bridging research and practice with war-affected populations, American Journal of Orthopsychiatry, 2006; 76: 409–22

Miller K. E., & Rasmussen, A. War exposure, daily stressors, and mental health in conflict and post-conflict settings: bridging the divide between trauma- focused and psychosocial frameworks. Social Science & Medicine, 2010; 70(1), 7-16.

Murray K.E., Davidson G.R., Schweizer R.D. Psychological Wellbeing of Refugees Resettling in Australia; A Literature Review prepared for the Australian Psychological Society. Australian Psychological Society 2008

Schloenhardt A. To Deter Detain and Deny: Protection of Onshore Asylum Seeker in Australia, International Journal of Refugee Law,, 2002; 14: 303-328.

Silove D. The psycho-social effects of torture, mass human rights violations, and refugee trauma - toward an integrated conceptual framework. J Nervous Mental Dis 1999; 187: 200–207.

Silove D, Ekblad S, Mollica R. The rights of the severely mentally ill in post– conflict societies. Lancet, 2000; 355: 1548–9.

Silove D, Austin P. and Steel Z. No refuge from terror: the impact of detention on the mental health of trauma-affected refugees seeking asylum in Australia. Transcult Psychiatry 2007; 44: 359– 393.

Steel Z. and Silove D, "The mental health implications of detaining asylum seekers", Medical Journal of Australia, 2001; 175: 596–99.

Steel Z., Silove D, Phan, T., & Bauman, A. Long-term effect of psychological trauma on the mental health of Vietnamese refugees resettled in Australia: A population-based study. Lancet, 2002; 360(9339): 1056–1062.

Steel Z, Mares S, Newman C, et al. The politics of asylum in immigration detention: advocacy, ethics and the professional role of the therapist. In: Wilson J and Drozdek B (eds) Broken spirits: the treatment of traumatized asylum seekers, refugees, war and torture victims. New York: Brunner-Routledge, 2004; 659–689.

Sultan A and O'Sullivan K. Psychological disturbances in asylum seekers held in long term detention: a participant- observer account. Med J Austral 2001; 175: 593–596.