

Transfield, the Biennale of Sydney and Australia's Asylum Seeker Policy

The Australian Government is currently enacting a policy that sees asylum seekers who arrive in Australia by boat removed from Australia and transferred to detention centres in Papua New Guinea (Manus Island) and Nauru. Under the current government, these asylum seekers will never be granted refugee status in Australia, but instead held in indefinite mandatory detention under conditions that have been described by former employees as 'like a concentration camp'. [1]

Mandatory detention of asylum seekers contradicts the International Covenant on Civil and Political Rights to which Australia is a signatory. [2]

According to the Australian Human Rights Commission Report published in October 2013: *“The commission has raised concerns over many years that the system of mandatory detention leads to breaches of Australia’s International human rights obligations. Australia has binding obligations under article 9 of the International Covenant on Civil and Political Rights and article 37 of the Convention on the Rights of the Child to ensure that no one is subject to arbitrary detention. The Commission’s concerns about Australia’s system of mandatory detention are shared Internationally. The United Nations Human Rights committee has repeatedly found Australia to be in breach of its international obligations under article 9 of the ICCPR”* [2.2]

The construction and operations company Transfield Services Ltd were paid over 302 million dollars to provide Operational and Maintenance Support Services for Nauru Regional Processing Centre from 2013 - 2014 [2.3]. They have recently also been awarded the contract to deal with detainee welfare at both off-shore detention centres. The details of this contract are still in the process of negotiation with the Department of Immigration and Border Protection and will be finalised by late February 2014. [2.3.1]

Contrary to the statement issued by the Biennale in their Media Q&A of February 7 2014, Serco manages Australia's *on-shore* detention centres [2.4], but **does not** manage Australia's *off-shore* detention centres. Transfield does. [2.5]

Transfield Services' role in the mandatory detention of asylum seekers on Nauru and now Manus Island is profiting from an Australian government policy that violates the human rights of some of the world's most vulnerable people. Amnesty International claims that the conditions on Manus Island violate the Human Rights prohibition against torture [2.6] and that the “Regional Resettlement Arrangement has resulted in a host of human rights violations.” [3] In a report following a visit to Manus Island in October 2013, the UN High Commissioner for Refugees, stated that “the UNHCR was deeply troubled to observe that the current policies, operational approaches and harsh physical conditions at the RPC [Regional Processing Centre] do not comply with international standards.” [4]

The Biennale of Sydney's founding sponsor is Transfield. The Biennale's sponsorship comes

specifically from the Transfield Foundation which is a joint venture between Transfield Services (listed on the Australian Stock Exchange) and Transfield Holdings (a shareholder of Transfield Services). [4.1] It is common for large companies to have different arms for different purposes (philanthropy, investment and operations). But there should be no doubt cast on the deep association between the different sections of the company. They are linked financially, they share members of staff and they use a single brand: Transfield. This is the principle brand that is promoted by the Biennale of Sydney.

Human rights breaches from the camps on Manus Island and Nauru include the separation of families [5], detention of children, inadequate medical and mental health facilities [5.1]. Asylum seekers being detained on Nauru and Manus Island “are being subjected to a regime of coercion and intimidation and living in appalling conditions in a deliberate bid to force them to go home.”[6] The government acknowledges that “previous experience has shown that offshore processing of asylum seekers can have serious consequences for both physical and mental health.” [7]

Responsible since August 2012 for catering, cleaning, security and transport at Nauru detention centre, Transfield Services announced on 29 January 2014 that “its contract with the Australian Department of Immigration and Border Protection to manage Offshore Processing Centres will be expanded on an interim basis” and that “the Company will now be responsible for Garrison Support Services and Welfare at both Manus Island and Nauru.” [8] Chief Executive of the Asylum Seeker Resource Centre Kon Karapanagiotidis says the move will put asylum seekers at risk. He says Transfield is ill-equipped for the job. “They have no qualifications or experience in welfare. So to place a construction company on Manus Island and Nauru with thousands of refugees who suffer post-traumatic stress disorder, are suicidal, suffer depression and anxiety, where self-harm and suicide attempts are a daily occurrence. It's a recipe for disaster” he states. [9]

Transfield Foundation board member and chairman of the Biennale Luca Belgiorno-Netti states that the Biennale of Sydney “was the first to present to wide audiences the art of the social change movements which transformed Australian society in the late 1970s and early 1980s.” [10] While we greatly appreciate Transfield's founding role in the Biennale and the part it plays in many aspects of Australian cultural life (including supporting the Art gallery of New South Wales (AGNSW) and the Museum of Contemporary Art (MCA), we do not feel the current decisions are in keeping with this history of the Biennale as a progressive cultural institution.

A LIST OF USEFUL LINKS FOR FURTHER INFORMATION

[UNHCR \(United Nations High Commissioner for Refugees\)](#)

UNHCR report on Manus Island detention centre:

<http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Manus%20Island%20PNG%2023-25%20October%202013.pdf>

UNHCR report on Nauru detention centre:

<http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Nauru%20of%207-9%20October%202013.pdf>

The summaries are good on those reports, or here is the news article that sums up:

<http://www.abc.net.au/news/2013-11-27/unhcr-report-on-nauru/5118588>

AHRC (Australian Human Rights Commission)

Here are some useful overview reports from the AHRC:

[https://www.humanrights.gov.au/publications/asylum-seekers-and-refugees?field_pb_type_value=All&field_cmn_date_value\[value\]&sort_by=field_cmn_date_value&sort_order=DESC&page=1](https://www.humanrights.gov.au/publications/asylum-seekers-and-refugees?field_pb_type_value=All&field_cmn_date_value[value]&sort_by=field_cmn_date_value&sort_order=DESC&page=1)

The AHRC 2013 'snapshot' is useful:

https://www.humanrights.gov.au/sites/default/files/document/publication/snapshot_report_2013.pdf

For specific information about the role of 'welfare' that Transfield is taking on (which was previously undertaken by the Salvation Army), see points 14 - 17 of this:

https://www.humanrights.gov.au/sites/default/files/document/publication/HR_standards_immigration_detention%20%284%29.pdf

On the legal issues about transfer of asylum seekers to 3rd countries see:

https://www.humanrights.gov.au/sites/default/files/document/publication/transfer_third_countries.pdf

The Law Council of Australia

The Law Council's submissions provide a good summary of recent changes to immigration policy:

<http://www.lawcouncil.asn.au/lawcouncil/index.php/current-issues/immigration-detention-and-asylum-seekers>

Full report here:

<http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2700-/2774-MigrationAmendmentRegainingControlOverAustraliasProtectionObligationsBill2013.pdf>

A summary by the Law Council of relevant international law:

http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/Final_PDF_18_Oct_Asylum_Seekers_Principles.pdf

<http://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees>

REFERENCES

1. <http://www.news.com.au/national/nurse-likens-nauru-to-concentration-camp/story-fncynjr2-1226571195124>

2.

<http://www.abc.net.au/news/2013-12-11/manus-island-violates-prohibition-against-torture-amnesty/5150664>

2.2

Asylum seekers, refugees and human rights: snapshot report, Australian human Rights Commission, 2013, p.6, accessible at: https://www.humanrights.gov.au/sites/default/files/document/publication/snapshot_report_2013.pdf

2.3

<https://www.tenders.gov.au/?event=public.cn.Amendment.view&CNUUID=55024406-F93F-1207-A8A6AC5D5060626C>

2.3.1

Telephone conversation with Media and Communications, Transfield Services, February 11, 2014

2.4

Serco manages and operates nine on-shore immigration facilities in Australia on behalf of the Department of Immigration and Border Protection. <http://www.serco-ap.com.au/our-services/our-work/immigration-services/>

2.5

Telephone conversation with Media and Communications, Transfield Services, February 11, 2014

2.6

<http://www.abc.net.au/news/2013-12-11/manus-island-violates-prohibition-against-torture-amnesty/5150664>

3.

http://www.amnesty.org.au/images/uploads/about/Amnesty_International_Manus_Island_report.pdf

4.

<http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Manus%20Island%20PNG%2023-25%20October%202013.pdf>

4.1

It is stated on the Transfield Foundation's website that this philanthropic venture is "a joint initiative between Transfield Holdings and Transfield Services"

See: <http://www.transfieldfoundation.org/>

5.

<http://www.theguardian.com/world/2014/jan/29/separation-of-families-on-christmas-island-is-raising-tensions-gre>

[ens-say](#)

5.1

<http://www.abc.net.au/news/2013-12-11/manus-island-violates-prohibition-against-torture-amnesty/5150664>

6.

<http://www.smh.com.au/federal-politics/political-news/asylum-policy-of-deterrence-threatening-families-20131114-2xjnr.html>

7.

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2012-2013/AsylumSeekersHealthCare

8.

Department of Immigration and Border Protection contract to be expanded (Jan 2014)

<http://www.transfieldservices.com.titan.imagin8.com/index.php?action=view&view=178379&pid=106950>

In Transfield Services 2013 Annual Report, the company states that their “work with the Australian Department of Immigration and Citizenship in Nauru highlighted the team’s ability to deliver large, logistically complex operations under time pressure” indicating that they provide more than “the provision of food, clothing and other welfare services”, as stated in the Biennale of Sydney’s Q&A sent to artists of the 19th Biennale on 9 February 2014

See: http://www.transfieldservices.com/page/AR2013/Review_of_Operations/Infrastructure

&

<http://www.theguardian.com/world/2014/feb/03/construction-company-set-to-take-over-salvos-asylum-seeker-welfare-services>

9. <http://www.sbs.com.au/news/article/2014/02/03/concerns-over-detention-centre-welfare-contract>

10.

<http://www.transfieldfoundation.org/index.php/ground-breaking-arts/3-biennale-of-sydney>