

Chapter 15

Religion, Culture and Language for Children in Immigration Detention

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15. Religion, Culture and Language for Children in Immigration Detention

The *Convention on the Rights of the Child* (CRC) requires Australia to protect children's rights to cultural identity, language and religion. The most effective way of ensuring enjoyment of these rights is to encourage and allow refugee and asylum-seeking children to participate in cultural and religious activities in the community. The Australian community is well equipped to respond to this need as a wide range of cultural and religious opportunities are readily accessible and this remains a key factor in the maintenance of our multicultural society.

Obvious difficulties arise, however, when some of the children are in detention and are therefore deprived of access to the Australian community, particularly if they are detained in remote detention centres. Detention therefore imposes greater responsibility on the Commonwealth, through the Department of Immigration and Indigenous and Multicultural Affairs (the Department or DIMIA), because the deprivation of liberty means that children cannot choose to participate in the ordinary community. For example, children cannot go to a mosque or church, or attend community events.

This obligation on the Department extends to its management of the internal dynamics of the detainee population. Tensions between groups from different cultural or religious backgrounds inevitably increase when they are detained together. Children's rights require that they be protected against interference in their culture, religion and language including protection from religion-motivated violence and intimidation, whether physical or verbal.

The Inquiry did not receive extensive evidence from children or parents regarding their practice of religion, culture and language while in detention centres. Further, while many submissions made general reference to these rights, few of them contained any detailed evidence on these issues. However, the Inquiry required the production of additional information from the Department and its services provider, Australasian Correctional Management Pty Limited (ACM), and has sought to assess the evidence before it in order to determine whether children have been in a position to enjoy these rights.

A last resort?

This chapter makes some observations on the measures taken by the Department and ACM to ensure that detainee children are not deprived of the right, in community with members of their group, to enjoy their culture, speak their mother tongue and freely practise their religion. It assesses any action taken by the Department and ACM to ensure that children in detention were able to enjoy these rights.

In particular this chapter addresses the following questions:

- 15.1 What are children's rights regarding religion, culture and language in immigration detention?
- 15.2 What are the languages and religions of children in detention?
- 15.3 What policies were in place to ensure children's rights to religion, culture and language while in detention?
- 15.4 How were children's rights to religion, culture and language protected in practice?

At the end of the chapter there is a summary of the Inquiry's findings.

15.1 What are children's rights regarding religion, culture and language in immigration detention?

Children's rights to enjoy their culture, religion and language are set out in article 30 of the CRC:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority... shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Convention on the Rights of the Child, article 30

The United Nations Human Rights Committee (the Committee) has interpreted the equivalent obligation in article 27 of the *International Covenant on Civil and Political Rights* (ICCPR), to mean that there is a positive obligation to ensure the enjoyment of these rights despite the use of the negative term 'shall not be denied'.¹ This is also the position taken by the United Nations Children's Fund (UNICEF) in relation to these rights and the Inquiry believes that the Commonwealth must take steps to ensure that those rights are respected.²

Article 14(1) of the CRC reinforces Australia's obligation to respect a child's fundamental right to freedom of religion. This right is subject only to 'such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others' (article 14(3)) and the 'direction and guidance' of a child's parents (article 5).³

Article 2(2) of the CRC imposes a positive obligation on Australia to take all appropriate measures to protect children from all forms of discrimination or punishment on the basis of religion, language or national or ethnic origin.⁴ The

concept of 'culture' in article 30 refers to the languages, traditions, rituals, beliefs and art forms connected with an individual's identity.

A child's right to 'use his or her own language' is about children being able to freely speak their native language with those in their immediate family and in their community without interference.⁵ Thus children must be able to retain and, where necessary, become literate in, their mother tongue, in addition to learning the local language. While children's rights to use their own language under the CRC may not necessarily include being taught entirely in that language, in the case of refugee children special provision may be necessary to enable them to retain, and become literate, in their own language.⁶

The right to religion, culture and language assumes great practical importance for asylum-seeking and refugee children because they are interwoven with the right of children to preserve their identity. Article 8(1) of the CRC states that:

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Convention on the Rights of the Child, article 8(1)

An 'unlawful interference' in this aspect of identity includes the failure to give institutionally placed children the opportunity to enjoy their ethnic, cultural, linguistic or religious heritage.⁷

Article 22(1) imposes an obligation on Australia to take appropriate measures to ensure that asylum-seeking and refugee children enjoy these rights. The United Nations High Commissioner for Refugees (UNHCR) stresses the benefit to refugee and asylum-seeking children of cultural and religious activities:

Religious festivals and rites of passage such as birth, transition into adulthood, marriage and death are extremely important in unifying a community and in conferring identity on its individual members. The importance of such activities to community mental health should not be underestimated.⁸

The UNHCR *Refugee Children: Guidelines on Protection and Care*, (UNHCR Guidelines on Refugee Children) also highlight that restoring the 'cultural normalcy' to asylum-seeking children, by re-establishing community life is vital to ensuring healthy development and is usually in the best interests of the child.⁹ Children suffering the trauma of war and displacement particularly need the reassurance of familiar cultural practices.

Parents are in the best position to assist their children to exercise their religious, cultural and language rights, particularly in younger years. It is therefore important that parents are supported in directing the development of their child, particularly in a new cultural environment such as Australia (article 5 CRC).¹⁰

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All these rights apply equally to children in detention as they do to children in the Australian community. However, the deprivation of liberty imposes inherent barriers that must be directly addressed by the Department.

An exercise of the rights regarding the practice of religion, culture and language often requires access both to a child's immediate family circle and to members of their community.¹¹ Detention imposes a physical barrier to any community. For example, children are not free to participate in a cultural society, religious gathering or language group that they might otherwise attend if they were not detained. It therefore falls on the Department to ensure that there are appropriate opportunities to exercise those rights 'to the fullest extent compatible' with detention.¹²

The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the JDL Rules) provide some guidance on this issue.

Every juvenile should be allowed to satisfy the needs of his or her religious and spiritual life, in particular by attending the services or meetings provided in the detention facility or by conducting his or her own services and having possession of the necessary books or items of religious observance and instruction of his or her denomination. If a detention facility contains a sufficient number of juveniles of a given religion, one or more qualified representatives of that religion should be appointed or approved and allowed to hold regular services and to pay pastoral visits in private to juveniles at their request. Every juvenile should have the right to receive visits from a qualified representative of any religion of his or her choice, as well as the right not to participate in religious services and freely to decline religious education, counselling or indoctrination.¹³

Religion, culture and language are also relevant to the exercise of a variety of other rights in the CRC. For example a child's cultural and religious practices can affect what must be done to enjoy the highest attainable standard of health (article 24(1)), the right to an appropriate education (article 28(1)), and the right to fully participate in cultural and artistic life (article 31).¹⁴ Article 20(3) of the CRC imposes an additional responsibility to ensure that 'due regard [should] be paid to the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background' when considering appropriate care arrangements.

The exercise of the right to religion, culture and language is also an element to take into account when considering the best interests of the child (article 3(1)). Furthermore, religion, culture and language are relevant to ensuring that children enjoy the maximum possible development (article 6). They are also relevant to the issue of whether or not each child's human dignity is respected in detention (article 37(c)).

15.2 What are the languages and religions of children in detention?

There are a variety of religions, languages and cultures among the detainee children in Australian detention centres.¹⁵

For those asylum seeker detainee children detained between 1999 and 2002, there are three main languages, namely, Arabic, Dari (Afghan Persian) and Farsi (Modern Persian). Smaller numbers of detainee children seeking asylum speak Pashto, Singhalese, Tamil and Turkish.¹⁶

In recent years, the majority of the Iraqi, Afghan and Iranian detainee children have been of the Shi'a Muslim faith.¹⁷ The Palestinian and Turkish detainee children, and a minority of the Iraqis and Afghans, are of the Sunni Muslim faith.¹⁸ There have also been a number of Christian children of various nationalities in immigration detention. Among the Iranian and Iraqi children, there have been a number who profess the Sabian Mandaean faith.¹⁹

Thus this chapter focuses mainly on Muslim, Sabian Mandaean and Christian practices.

15.3 What policies were in place to ensure children's rights to religion, culture and language while in detention?

15.3.1 Department policy

In its submission to the Inquiry the Department states:

Ensuring children and their families are able to maintain their cultural and linguistic diversity in the detention environment is ... a key consideration in the management of detention facilities.²⁰

Regarding religious freedom, it states:

All detainees are encouraged to [practise] their religion of choice and are provided with the necessary resources to do so where possible ... children are free to practise their religious beliefs with their families and to participate in religious activities, ceremonies and services.²¹

On preserving language, the Department states:

Maintaining first language is an important development need for all individuals in detention, especially children, as it allows for the preservation and reinforcement of cultural values and identity.²²

However, the Department states in its submission to the Inquiry that '[a]ppropriately responding to the range of cultural and linguistic backgrounds of the detention population is a challenge'.²³

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One of the principles underlying the Department's Immigration Detention Standards (IDS) is that the 'dignity of the detainee is upheld in culturally, linguistically, gender and age appropriate ways'.²⁴ The IDS require that:

Detainees have access to spiritual, religious and cultural activities of significance to them.²⁵

The IDS also require that the right to practise religion be upheld in detention centres:

Detainees have the right to practise a religion of their choice, and if consistent with detention facility security and good management, join with other persons in practising that religion and possess such articles as are necessary for the practice of that religion.²⁶

Barring any security concerns, pastoral care is to be facilitated:

A qualified religious representative approved under guidelines is allowed to hold regular services and to pay pastoral visits to detainees of the appropriate religion at proper times, so long as it does not interfere with the security and management of the detention facility.²⁷

The Department states that for many detainees:

cultural beliefs and religious faith provide not only spiritual, but also practical guidance. For example, a detainee's religion may determine gender roles, diet, and issues relating to health and hygiene. Management responses must, therefore, take account of cultural and religious background to ensure effective communication and understanding between staff and the detainee population.²⁸

On culture, the Department's IDS state:

Services, facilities, activities and programs are based on the concept of individual management and designed to meet the individual needs of detainees and have regard to cultural differences.²⁹

Food is to be culturally appropriate.³⁰ Staff are expected to possess 'an understanding and appreciation of the diversity and cultural backgrounds of detainees',³¹ as well as the 'ability to effectively communicate and work with detainees of a diversity of backgrounds'.³² Communication with detainees must be in a language they can understand:

If a detainee cannot understand written information and where it is required that a detainee be informed of a matter in writing, the information is also conveyed orally in a language the detainee can understand.³³

Where a detainee has a non-English speaking background, written information is provided in a language the detainee can understand. An interpreter is always provided for a detainee who does not understand English, when discussing with them matters relating to their management.³⁴

15.3.2 ACM policy

ACM had a policy on religious and pastoral care whereby 'detainees are to be provided a range of religious services and programs that, to the extent practical, satisfy the beliefs of most major faith groups'.³⁵ The purpose of this policy is 'to meet the spiritual needs of detainees and to offer every reasonable opportunity for detainees to [practise] their bona fide religious or spiritual beliefs as individuals or groups'.³⁶ The policy contains the following elements:

- the equitable delivery of religious services to all faith groups
- no detainee is to be compelled to participate in any religious activity and any attendance at religious instruction must be voluntary
- sufficient space, equipment and supplies are to be available for all necessary religious programs
- visiting clergy must be qualified and endorsed by a religious body
- volunteer workers can visit too, once screened and interviewed by ACM
- a range of pastoral services are permitted, such as leading prayer, conducting sacramental ceremonies, classes, forums, counselling, choirs and spiritual maturity groups
- detainees may receive religious publications and materials.

Furthermore, the Detainee Privacy policy states that:

Detainees shall be provided with an area for their various religious observances. Such an area must be situated so that detainees can gather for religious purposes without being subject to interruption from other detainees.³⁷

The policy regarding ACM searches of detainees' rooms states that searches:

are to be conducted in a professional and dignified manner, and being mindful of cultural and religious sensitivities.³⁸

In the ACM Detention Services Code of Conduct, reproduced in a staff induction handbook, staff are instructed to:

be courteous, reasonable and fair in their dealing with all detainees, colleagues and members of the public, irrespective of race, religion, gender, disability, sexual orientation or any other factors.³⁹

The induction handbook at Woomera also includes advice for staff on how to treat detainees in a culturally sensitive manner. For example, on 'the language barrier':

The Arabic people don't use 'please' and 'thank you' in their form of request, unless they've learnt to since arriving, so don't expect it when you talk with them.

When you use an interpreter, look at the person you are addressing, not the interpreter, because most communication is non-verbal – you need to look at the person to whom you're talking. Keep messages clear and simple and talk slowly. Smile a lot and it will be returned in kind. A miserable bastard is just as unlikable in Iraq as Australia.

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Although the Inquiry received no evidence from the Department or ACM as to how the handbook was used, for example in training, it is apparent that staff working at Woomera in 2001 had access to the advice. However, the former Health Services Manager at Curtin told the Inquiry that it was not distributed to staff in that facility.⁴⁰

15.4 How were children's rights to religion, culture and language protected in practice?

A detention centre reflects neither the child's home culture nor Australia's multicultural society. Although a child may be detained with people who share their language, culture and religion, the restrictions of detention mean that a child and his or her family are not free to access cultural and religious activities to the same extent as children in the community, especially if detained in a remote facility.

At the very least, the Department must ensure that children in detention are not denied the right to enjoy their culture, use their own language and practise their own religion without interference. Ideally, the Department should also encourage the provision of activities for this enjoyment. This chapter discusses whether the Department and ACM have taken measures to ensure that children are able to:

- engage in prayer, both privately and in community with others
- receive visits by clergy
- receive religious instruction
- participate in religious and cultural life, including festivals
- eat culturally and religiously appropriate food
- use their own language
- participate in daily cultural life without interference from detainees and staff
- be treated with respect for their culture and religion.

15.4.1 Prayer in detention

The Department states that:

Space is made available in each facility for religious services, as well as equipment, supplies and other items incidental and necessary to religious programs. Program buildings and outdoor shade structures are often used for religious activities. To the degree practical, all faith groups are treated equitably in access to facilities for religious observance.⁴¹

The Inquiry heard evidence that at some centres there were no special places set aside for prayer. Furthermore, although detainees were not actively prevented from engaging in private prayer, detainee accommodation rooms had insufficient space for detainees to pray in comfort and privacy. One former detainee mother said:

It was not banned to practise the religion but there were no facilities. For example, if you are a Muslim and need a place to do your daily prayer it was a special place and our room was too small.⁴²

In several focus groups, former detainee children said the same thing. For example:

INQUIRY: What about prayer, was there somewhere you could pray during the day?

BOY 1: No, there was no mosque.

INQUIRY: And not a prayer room with mats?

BOY 1: You just prayed in your room.

BOY 2: There wasn't a special area, there was not much. We had just the Main Compound, I told you we have five parts and just in Main Compound there was like a Mess and they could pray but otherwise in other compounds, no.⁴³

For Muslims it is essential for women to have a place to pray separately from men if at all possible. However, the Inquiry heard several complaints that separate public space was not always available.

In a room with three families, we did not have enough space to pray. There was just a tiny space to put our prayer mats so we had to make a roster. One person would pray and, when she had finished, another would pray. I found it uncomfortable as I did not have my own space to pray. *[Was there any other space within the camp where the men could pray together and the women pray together?]* There was no such place in the closed camp. The single man sharing a room with us went to another room to pray.⁴⁴

The Lebanese Muslims Association stated that:

The absence of adequate facilities such a separate prayer space make parents' transmission and maintenance of their religious traditions to their children more difficult, for example, in Islam, prayers are physical as well as verbal and spiritual; due to the nature of the prayers, men and women tend to pray in separate distinct sections of a prayer hall.⁴⁵

Children pointed out that in separation detention the conditions were even more cramped, although it did not stop them praying:

In the closed camp we had no choice but to pray all the time as we were locked in our rooms. In the free camp there was a mosque.⁴⁶

At Curtin, Muslim detainees had no separate prayer room, and there were no visiting religious leaders, but they were provided with prayer mats.⁴⁷ Christian detainees in Curtin faced the same issue:

For many months Christian meetings were only allowed in an outdoor area with little shade. Considering the climatic conditions at Curtin [this] was less than satisfactory and meant in particular that children had to suffer very hot and often very humid conditions to come and participate in the church activities.⁴⁸

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Muslim prayer room at Port Hedland, June 2002.

However, it appears that most centres had set aside rooms for prayer. At Port Hedland in June 2002, the Inquiry observed two rooms for Muslim prayer and one for Christians.⁴⁹

According to the Minister for Immigration and Multicultural and Indigenous Affairs (the Minister), one accommodation room at Maribyrnong is set aside for religious observance.⁵⁰

Despite the closure of the Villawood 'mosque' (in fact a multipurpose hall that was also used by Muslims as a prayer space) for some time, after detainee escapes in 2001, the Inquiry is satisfied that religious facilities at Villawood are now adequate.

Regarding Woomera, the Minister states that:

Each compound has outdoor prayer area and indoor facilities can be utilised when necessary for religious observance.⁵¹

During the Inquiry's visit to Woomera in June 2002, some detainees reported that they had enough space to pray:

DR OZDOWSKI: Do you have a place to pray and can you do your religious practices here?

DETAINEE FATHER: No problem ... We brought a Qur'an with us.⁵²

At Christmas Island, the Inquiry heard that there was inadequate space to pray inside the facility:

Whilst in the centre, I noticed that the majority of detainees were Muslim. In the single men's dormitory, the beds were packed very closely together, which impeded any walking around the dorm, especially as men were praying in between the beds. I don't believe their religious needs were taken care of in this respect – they had only cardboard prayer mats, and very limited space in which many men were expected to sleep, read, pray, sit, and generally be. In a similar [vein], privacy for women in the family dormitory was limited, and I am guessing that Muslim women had to wear their head scarves and coverings almost 24 hours so as not to be seen by men.⁵³

However, by mid-2002, all Christmas Island detainees attended places of worship outside the detention centre once a week.⁵⁴

(a) Findings on prayer

The Inquiry finds that while the cramped accommodation at many facilities during the period made it difficult for children to conduct private prayer with ease, children had the freedom to pray in detention. Most detention centres had provided specific rooms for prayer. The Inquiry is concerned, however, that there were inadequate facilities for public prayer in Curtin and Christmas Island, and that this is in contrast to the stated policies of both the Department and ACM to provide resources for religious programs.

15.4.2 Visits by clergy to detention centres

The Department states that:

Visits by local, accredited religious personnel are facilitated, and in some facilities there may be an existing practice of regular pastoral visits or religious services being conducted. These representatives provide or coordinate a range of religious services, ceremonies, classes, forums and lectures. ... If detainees request a pastoral visit from a local pastor, priest or minister, [ACM] or, as necessary, the Department, endeavour to make appropriate arrangements.⁵⁵

The evidence regarding pastoral visits varies between detention centres.

Villawood has the most comprehensive program for worship with a church timetable showing Buddhist, Chinese Korean, Catholic, Muslim, Persian and Pentecostal services.⁵⁶ The Supreme Islamic Council of NSW told the Inquiry that they sent an Imam every Friday to hold prayers at Villawood, where he was well received by Sunnis and Shi'ites.⁵⁷ During its visit to Villawood in August 2002, the Inquiry observed a religious service being conducted in the visits area. It appears that some outside community members could also attend services, as the following month the Department Manager reported to Canberra that:

DIMIA has noticed that religious services denomination [with] outside participants have increased in numbers. The issue for DIMIA is the

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management of this increased number and the flow on effect related to security and accountability process employed by ACM.⁵⁸

At Curtin, there was no local Imam to come to the centre and conduct Friday prayers. However, detainees appointed a mullah from the detainee population. Former Curtin detainee children told the Inquiry:

BOY: I don't know why but after that all the Afghani and Iraqi got together and they say we don't need [an Imam to visit] and the reason was we had a mullah in Curtin.

INQUIRY: There was a mullah in Curtin?

BOY: We had a mullah but he was chosen from one of the detainees and we also had a special area for praying. There were some mats so whenever went to pray and we took them out and we prayed.⁵⁹

For Christian detainees at Curtin, the Uniting Church's Frontier Services in the Kimberley conducted services when they visited the area.⁶⁰ The Department Manager stated that 'representatives from the Uniting and Anglican churches visit the centre regularly for Christian services. This is facilitated by ACM'.⁶¹ However, the Minister of the Broome Anglican Church described to the Inquiry the difficulties he experienced regarding the arrangement of visits to conduct services for Christian detainees:

Visits were not permitted during weekdays [which] severely restricted my access. Broome is approximately 200km from Curtin IRPC, which meant that I could not perform my duties in Broome on Sunday and also visit Curtin IRPC. This meant Saturday was the only possibility for the Christians to have formal Christian services.

On many occasions, subsequent to initial permission being granted for my visit, it was revoked without any real explanation, only a generic one ('operational concerns'). This meant that the Christian children would be expecting to go to a church meeting, and as late as the day before being told that it had been cancelled (often without any explanation) ...

When access was granted, the Christians within the centre were not allowed to meet as one group.

- This meant only groups of 20 (and sometimes 25) were permitted at any one time. As a result the children of Christian parents who would come to these gatherings were never present all together. This in conjunction with the short duration allowed by ACM to meet with each of these groups meant that special teaching activities specifically for children were not able to be included.
- This also reduced informal personal contact time where children were able to openly share their concerns and needs (spiritual, emotional, or physical) with me as their Christian minister. This would be a normal part of church life in the Australian Christian context.⁶²

The Anglican Minister also claimed that the treatment of Christian detainees differed from other religious groups at the centre:

[The] restricted meeting protocol was in sharp contrast to [members of] the more freely [practised] majority religion in the centre, who, although no special arrangements were made for them, were able to meet without special permission due to [their] numbers within the body of the camp.⁶³

In response to this allegation, the Department indicates that although the Anglican minister's visit was approved in principle, operational considerations, such as the size of the group and tensions at the centre one month previously, had some bearing upon the restrictions described in this case.⁶⁴

At Woomera, the various Department Managers reported regular visits by local Christian clergy.

However, visits by Muslim clergy do not appear to have been regular. A teacher employed at Woomera in 2001 told the Inquiry that the Muslim detainees were neglected by Muslim clergy in the community:

During my time the Imam from Adelaide only visited the Woomera centre once ... There was little support from the Muslim community outside. [The local Catholic nun] tried to get them to come on a regular basis and to help in other ways. Apart from a supply of winter jackets it didn't work out. So it was left to those inside (the detainees) to organise prayer and other meetings (often done on a country basis for Iran, Iraq and Afghanistan). There were some [detainee Imams] at the start to help with this though this was more difficult with their release. When the Imam did turn up on one occasion there was a demonstration and ... some people were frightened or angry, particularly some Christians and Sabian Mandaean. [The nun] tried to calm them down saying the Imam was there to bring peace and harmony.⁶⁵

It appears the above visit was the only time a Muslim cleric visited Woomera. A Muslim former detainee there recalls it as follows:

There were no religious representatives. In one occasion, ACM invited a Muslim religious leader to the camp and it was when detainees had hunger strike, and they set the building alight as a sign of protests. They invited him to make detainees calm down, he made promise on behalf of ACM and also give them free telephone card. He also told detainees if they don't stop, then ACM won't give them early breakfast (Sahari) for Ramadan, when Muslims are fasting.⁶⁶

A refugee teenager who was detained at Woomera told the Inquiry:

INQUIRY: Did you ever have a visit from a religious leader?

BOY: Yeah. In my time and during the fasting month, Ramadan, we had a religion man. He came to advise the people and give them some ideas about the fasting, yep.⁶⁷

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A teacher working at Woomera in 2001 said that the Sabian Mandaean at Woomera were even more neglected than the Muslims from outside:

There was only one visit by a [Mandaean] priest from Sydney. So [the local Catholic priest and nun] catered to both the Christians and the Sabian Mandaean with services and pastoral care.⁶⁸ It could mean 1-2 visits a week by [the priest] and 3-4 visits a week by [the nun]. The Christians and Sabian Madaeans either worshipped together on some occasions or apart on other occasions. Then there were separate holy or feast days for Christians and Sabian Madaeans and they might invite [the nun] to attend these.⁶⁹

Port Hedland's Department Manager reported during 2002 that 'religious leaders visit weekly to provide pastoral services and pastoral care' but she was referring to Christian clergy only.⁷⁰ In September 2002, the Baxter Department Manager reported that 'ACM have facilitated access to site by local ministers association, which is providing pastoral care for Christian detainees'.⁷¹

At Christmas Island, Muslims went to the local mosque every Friday, the Buddhists went to the local temple and the Christians to church services.⁷²

(a) Findings on visits by clergy

The Inquiry finds that the Department and ACM did not prevent children from receiving visits from religious clergy in detention. However, the remote location of Woomera, Curtin, Port Hedland and Baxter centres, with the highest child populations, has had the effect of restricting some children's access to pastoral visits. While Christian ministers were able to visit on a more regular basis, the Muslim population of the towns near these detention centres is small or non-existent. However, in the absence of Imams visiting for Friday Prayers, Muslim detainees appointed religious leaders from among the population and this appears to have been adequate. As with the Muslim clergy, Sabian Mandaean clergy visited detainees in remote centres infrequently.

The Inquiry is also concerned that operational considerations within detention centres may have had the effect of limiting the access of clergy to children at various times.

15.4.3 Religious instruction in detention

The Inquiry heard that religious education was primarily left to parents; as one submission advised:

Were the children able to have religious instruction from their parents?

Families themselves are free if they want to teach their children.

Were there any daily programs in place to ensure that their language, religion, arts and traditions of children's culture were met?

There was no such program to cover children's religion, language, art etc needs.⁷³

The Inquiry also heard that the impact of detention on parents affected their ability to undertake religious instruction:

With the children not receiving appropriate and adequate instruction, only having access to instruction from their parents who are too concerned about their own plight means that those children are missing at a crucial time in their life some very important aspects or teachings that are crucial to their development as human beings at a time that they are so impressionable that will impact on their life as adults and it is really at this time that they need as much support as possible from community leaders and from people who are appropriately qualified in matters of religion and culture and history.⁷⁴

One submission alleged that children detained at Woomera did not have access to the correct books, materials or teachers to practise their religious faith.⁷⁵ Although a former ACM staff member employed at Woomera told the Inquiry that in mid-2000 the Department provided a number of Qur'ans 'to assist with the ... spiritual development of the detainee community'.⁷⁶

Nevertheless, in a few instances it seems that assistance with religious instruction was offered to detainee children. For example, child detainees at Christmas Island attended religious schools outside the detention centre. The school-aged children, all of whom were Muslim, received instruction in Islam at the local Malay Islamic School from 2 September 2002.⁷⁷

The Department also states that the local Muslim Association at Port Hedland offered religious instruction classes after school to detainee children at Port Hedland. However, the offer was not taken up by the children and their families. It is not clear when that offer was made or why it was refused.⁷⁸

At Curtin, the Inquiry heard that one family was receiving religious education by correspondence.⁷⁹

(a) Findings on religious instruction

The Inquiry finds that children in detention were not prevented from receiving religious instruction from their parents, and in some instances the Department and ACM facilitated access to religious instruction by external authorities. However, the Inquiry is concerned that children without family in detention, and especially those located in remote facilities, are at a disadvantage in accessing religious instruction. Moreover, although copies of the Qur'an were provided at Woomera in 2000, there were no religious libraries to assist the parents, nor was there evidence of the routine provision of relevant religious texts.

15.4.4 Religious and cultural activities in detention

UNHCR Guidelines on Refugee Children emphasise the importance of cultural activities such as traditional music and dance, the celebration of traditional events or festivals, and sports, games and other recreational activities.⁸⁰

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In its submission, the Department states that cultural celebrations are held in detention 'throughout the year', with voluntary participation by all detainees regardless of religion. For example, at Port Hedland:

[A]n evening concert was held on 20 December 2001. Approximately 200 detainees attended the concert, including many children. Community guests (about 20) also attended, including a local flautist who performed. Staff and residents performed. A karaoke machine was used to support a number of songs performed by ACM staff. Residents danced and performed songs in English, Arabic, Farsi, Dari and Somali. The children were presented with class awards and one class sang a Christmas carol. All the children were provided with wrapped Christmas gifts donated by the community. The concert was harmonious and the residents have requested for such events to occur again in the future. Similarly, during the Eid Al-Adha celebrations in Port Hedland, all children received a present consisting of a book or toy, depending on the age and requirement of the child and a t-shirt. The toys were selected specifically for each child by the ACM Activities Officer, using her knowledge of the children's preferences. The residents also received a choice of cake or sweets with their breakfast and a can of drink and an ice cream with their lunch.⁸¹

However, the only centre that recorded regular cultural and religious meetings between the ACM Programs Manager and detainees was Villawood.⁸² The minutes from these meetings at Villawood in 2001 do not generally include or discuss children, although 'the children's programs organised for the detainee children' is referred to once in the context of discussion about the possible introduction of classical cultural dances and songs.⁸³ In September 2002, the Department Manager noted that there had been a Chinese Mid Autumn Festival, and guitar lessons introduced in two of the compounds, although it is unclear whether children were involved.⁸⁴

As discussed more fully in Chapter 13 on Recreation, ACM staff – guards, teachers and nurses alike – have made efforts to mitigate the boredom for child detainees in detention centres. Moreover, the Inquiry heard in one submission that for the most part, it is left to detainees to provide daily cultural and religious activities for the children, 'with scarce resources and lack of motivation through depression'.⁸⁵ For example, a group of unaccompanied children at Woomera organised their own event:

BOY: We [unaccompanied minors] had one night with officers. We did something for officers. We made the officers dance!

INQUIRY: Traditional dance?

BOY: Yes, Afghani. They didn't want it. One boy danced and another officer with a woman also they danced.

INQUIRY: With Afghani music on a tape?

BOY: No, tabla.

INQUIRY: You had a tabla with you in the detention centre?

BOY: Somebody made it in the camp. Most of the people made things from wood. I carved from rock and I was always doing things.⁸⁶

Detainees are dependent on ACM approving any such events, and for the provision of food, props and space essential for the conduct of such activities.

Hence, although there is no evidence that children were denied cultural activity, there is also little evidence of a consistent program of events at each detention centre specific to the children's culture. However, for special religious festivals, ACM and the Department have a good record of service provision, as discussed below.

(a) Muslim festivals

At all detention centres, ACM made commendable efforts to accommodate the fasting month of Ramadan. During that month, Muslims are permitted to eat and drink between sunset and sunrise only. Therefore, to accommodate Ramadan, meal times needed to be changed and detainees needed to be out of the sun, as they were not permitted to drink water during the daylight hours of Ramadan.

The 2002 Ramadan menu at Port Hedland shows an effort to provide special food for different nationalities of Muslim detainees, and chips and toys for the children at the Eid al-Fitr celebration of the breaking of the fast.⁸⁷

Villawood's 2001 'Ramadan Program' included rostering on a detainee Muslim cook for the month, changing of meal times and organising suitable sweets for the final Eid celebration.

At Curtin in 2001, ACM catered for Ramadan – for both Shi'a and Sunni detainees – on the advice of the WA Islamic Council.⁸⁸ ACM issued comprehensive operational orders regarding Ramadan to staff.⁸⁹ Detainees were given a special ration of yoghurt and dates during the (otherwise ordinary) evening meal, and breakfast was served from 1:30am to 3:00am. Staff rosters were modified to reflect the Ramadan daily routine, staff were given a glossary of Ramadan terminology and a seven page overview of Islam. The ACM Food Services Coordinator reminded management that:

Residents who participate in this month long fast will have to be treated with respect and tolerance during this period, as they are unaccustomed to the northwest heat and humidity. These conditions usually cause short tempers on both sides, residents and staff. Again staff are reminded to understand the importance of this occasion and accommodate the changes that occur and sometimes need to be made.⁹⁰

Detainees at Curtin also participated in the 'Ashura' festival in March 2002.⁹¹

Ramadan was not as well catered for at Woomera, at least in 1999-2000.⁹²

INQUIRY: What about preparing food in the night for Ramadan? Were you able to eat at the time that you wanted to?

BOY: Very hard. We didn't have our food on time, you know. We had the same food like always and in Ramadan you eat once a day and [it was] just some bread, some rice and that's it.⁹³

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Another former detainee child told the Inquiry:

In Woomera detention centre they were searching our dongas [demountable sleeping quarters] for two reasons, ...the second reason for food. They just wanted to make sure that we don't have enough food, any food around... Some of our friends were actually fasting, and they didn't want to eat it at that particular time that they wanted them to eat, and they wished to take it with them and eat it at the right time according to our religion but then they were not allowed to do that. I still wonder why they weren't allowed to.⁹⁴

However, Woomera's catering for Ramadan appeared to improve.⁹⁵ The Inquiry met an Iraqi teenage boy later found to be a refugee, who had been detained at Woomera for three and a half months in early 2001. He told the Inquiry that those who wanted to fast could request food at a specific time. Food would be given at breaking the fast time and the remainder would be kept with the detainee until the early morning meal.⁹⁶

The Inquiry heard that at the Woomera Housing Project, staff planned the 2001 Ramadan with detainees and followed their suggestions.⁹⁷

However, it appears that as late as 2003, other group celebrations were not always easy to facilitate. At Baxter in February 2003, the Inquiry heard allegations that the Department did not permit detainees to conduct a group religious service for Eid Al-Adha festival, which takes place after Ramadan. Evidently the decision was subsequently changed, as not long after detainees were reporting to friends in the community that they were able to pray in a group. However, this example demonstrates that, as late as March 2003, there was not a consistent policy on large group prayer sessions across the detention centres.

(b) Sabian Mandaean festivals

The Inquiry heard that the ability of Sabian Mandaean children to practise their religion was hampered by their confinement in detention centres. Their religion requires them to live near water yet most have been detained in the desert.⁹⁸ Even in Villawood, a Sabian Mandaean family reported that they were unable to attend an important religious ceremony (baptism in river), despite making a request to the Programs Manager well in advance.⁹⁹ A child in this family told the Inquiry:

We had the festival in May, and we asked them to go to baptism ... and they asked that we give them the request about one month before, and after one month they told me, 'you're not allowed to go to the festival'. Do you think this is not persecution?¹⁰⁰

Following the refusal to attend this ceremony, ACM medical records indicate that the whole family was in a state of distress on finding that they could not attend the festival, which was the holiest day in the Sabian Mandaean religion.¹⁰¹

Although the reason for the refusal is unclear, this example indicates the inherent restrictions of a detention environment for religious practice by certain groups such as Sabian Mandaeans.

(c) Christian festivals

The Inquiry heard evidence that Christian festivals, in which non-Christian detainee children could also participate, have been facilitated in the detention centres. For example, there was a Christmas celebration in the Curtin airport hall one year, and special food was provided on Christmas Day 2002 at all centres.¹⁰²

(d) Findings on religious and cultural activities

The Inquiry finds that the Department and ACM have facilitated general cultural activities for detainees on a few occasions, although with the exception of Villawood, there is no evidence of a consistent approach to providing activities which allow child detainees to enjoy their culture. For the most part this has been left to detainees themselves to facilitate.

However, the Inquiry finds that ACM has taken commendable measures to facilitate specific religious festivals and events in detention. For the most part, religious groups were able to hold important religious festivals such as Ramadan, and special arrangements were put in place to accommodate these.

The Inquiry notes, however, that the inherent constraints of detention meant that such activities were not as easily organised as in the outside community. Detainees must first obtain permission from the Department and ACM to hold such an event. Further, religious requirements may not always be able to be accommodated for those detained in remote desert areas; for example the Sabian Mandaean requirement for baptism in a river.

15.4.5 Culturally appropriate food and meal times

The Department states that:

Detainees are able to observe religious requirements and cultural preferences in relation to food, taking into account, in an equitable way, the different ethnic and religious food sensitivities and requirements of the changing detainee populations in each immigration detention facility.¹⁰³

Food is an important element of preserving the culture of children in detention. Although it is reasonable to expect strange new food in a new country, the length of children's detention risks alienating them from their food practices. Submissions to the Inquiry alleged that eating arrangements were culturally inappropriate because a child's mother is unable to cook and serve the family meal in accordance with the family's cultural practices, or even choose what time to eat. Preparing and eating food can be an important cultural practice. The importance of family cooking is implicitly recognised in the Residential Housing Project in Woomera, discussed further in Chapter 6 on Australia's Detention Policy, where detainees are able to cook for themselves.

Current and former detainees spoke about a lack of respect for their cultures, and for children this was 'most notable with the food, where the children and families are continually given food that isn't part of their regular diet'.¹⁰⁴ Many parents of

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young children in Woomera and Villawood complained to the Inquiry that the food served there was too spicy for children.

In focus groups, former detainee children who were Muslim said that they had been told that the food was halal, but they were still not sure whether this was true or not. The Inquiry did, however, observe current halal certificates in the detention centre kitchens during its visits in 2002.

ACM also states that it has in place detainee committees to advise on menus and that cooks from various ethnic groups work in the kitchens of detention centres, 'contributing to ethnically recognisable menus', although it provided no evidence of when this practice began in each centre.¹⁰⁵ The Inquiry met detainees (all adult men) who staffed the kitchen and cooked food from their cultures, with 'Afghan' menus some days and 'middle eastern' on others.¹⁰⁶ The Inquiry notes, however, that there were many different cultural groups in detention centres and the food that was appropriate to one group was not always appropriate to another. This was a cause of tension for some detainees. In Woomera in June 2002, ACM staff were about to introduce a new system where both Afghan and Iranian food would be available every day.¹⁰⁷

As discussed above, ACM have made some efforts to provide appropriate food for detainees at religious festivals.

(a) Findings on food preparation and mealtimes

Although not comparable to the cultural experience of food preparation and mealtimes which take place in normal homes in outside communities, the Inquiry finds that some efforts were made by ACM to provide culturally appropriate food prepared according to religious requirements. It also made efforts to assist detainees with special food preparation to celebrate religious festivals. However, the Inquiry is concerned that over prolonged periods of detention, the absence of family food preparation and enjoyment deprives a child of a key means of cultural identity.

15.4.6 Development and preservation of language in detention

If a child's first language is not developed, especially if other aspects of culture and traditions are not practised, the child risks losing his or her cultural identity.

Amnesty International states that:

in the environment of a detention centre there are inadequate provisions for the maintenance and practice of a child's language, religion or culture. If these needs are not met this could undoubtedly have a negative impact on their social integration skills and sense of identity, which may lead to emotional problems.¹⁰⁸

The Inquiry did not receive any evidence that children are prevented from using their own language in the detention centres. Children have an opportunity to speak and develop their language with their families and other detainees from the same language group without interference.

However, while the use of the child's mother tongue is not prohibited in detention centres, it is not facilitated either. All education classes for children, both internal and external, are conducted in English. The Department states that education classes in detention focus on learning English, since it allows them 'to learn and improve their English skills while maintaining their first language'.¹⁰⁹

There is nothing wrong with encouraging and teaching English, especially considering that many of the children will eventually be granted a visa. However, it is important to remember that the detention environment imposes restrictions on children which make it more difficult to develop and maintain their first language outside of regular classes. For example, access to written materials in a child's first language is limited. The Inquiry inspected libraries in detention centres and noted that the majority of children's books were in English. Unlike for children in the community, there were no Saturday morning classes or distance education classes available in the children's mother tongue. Furthermore, while children accompanied by their families might be encouraged to develop their first language skills further, unaccompanied children may not receive such encouragement without special measures in place to address this.

Further, for those children who speak minority languages, the detention environment imposes some difficulties on the exercise of the right to use their mother tongue, because there may not be many people in the detention centre speaking the same language. The International Commission of Jurists' Australian Section states that:

Children from minority cultural groups in detention centres suffer disadvantages with problems in maintaining language and cultural identity. For example, Tamil children in immigration detention centres have very few people with whom they can communicate freely and with whom they share a religion. It has been reported that Tamils often feel very isolated in large detention centres such as Port Hedland and Woomera and that young Tamil boys are at risk of self-harm because of this.¹¹⁰

The Department states that it:

acknowledges that language is an important element of a child's identity, and it is for this reason that interpreters are provided to enable communication in languages that can be understood by detainees who do not speak English. These interpreters are available to children.¹¹¹

However, while access to interpreters is an essential element in facilitating cross-cultural communication, interpreters are not employed to provide opportunities for children to practise and maintain their language and identity. They may provide an opportunity for children to speak their language on occasions, but this is not part of their job requirement. In any case, there were a number of complaints about the lack of interpreters during the period covered by this Inquiry (see section 10.4.3 in Chapter 10 on Physical Health).

The Department also notes that the use of detainees as teacher aides up to mid-2002 facilitated the children's first languages.¹¹² ACM also asserts that this measure allowed children to receive their lessons bilingually.¹¹³ As discussed in Chapter 12

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on Education, there has been some positive assessment of the use of detainee teachers in classrooms who were able to interpret for some children from the same language group. However, this measure was not applied as a uniform policy to assist children maintain and further their own language skills.

(a) Findings on language

The Inquiry finds that children in detention are not denied the right to use their first language. However, it also notes that there are no measures in place to actively facilitate the maintenance and development of this language. They do not have access to written materials or language schools, and are therefore reliant on practising and developing their language with their families and other detainees. This situation may be of concern in particular for unaccompanied children and children from minority languages who either may not have family support for language learning or have limited opportunities to maintain and develop their language with other detainees.

15.4.7 Prevention of interference in children's right to practise their religion in detention

The Department has an obligation to both facilitate opportunities to practise religion and prevent interference by others.

The Inquiry did not receive any substantial evidence that staff in the detention centres deliberately interfered in children's right to practise their religion. Therefore, this section examines whether there was any interference from other detainees and visiting clergy.

(a) Interference from other detainees

Religious differences amongst detainees appear to have had a negative impact on some children's lives in detention centres. A community service provider working with former detainees told the Inquiry of the effect of detention on religious tensions:

There are conflicting groups forced into close proximity with each other that leads to tensions. ... Religious tensions that may have caused people to flee in the first place are part of everyday life in the detention centres.¹¹⁴

The Inquiry heard that children in particular are affected by religious tensions in detention:

Children in detention suffer religious discrimination from other children, which is a replication of the discrimination they faced in their home countries, which caused their parents to flee. The exposure of children to the religious tensions of their home countries has a significant detrimental impact on general and religious development. Sabian Mandaean [children] reported ongoing discrimination in the centre from non-Sabian children. This was a significant issue for all children of this faith.¹¹⁵

The Sabian Mandaean Association generally raised the long-standing persecution of Sabian Mandaeans by Muslims, often the very reason why Sabian Mandaeans sought asylum in Australia in the first place.¹¹⁶

The Inquiry heard that at Woomera, children were 'fearful of others in the compounds that [practise] different faiths'.¹¹⁷ A Christian mother reported to the South Australian child protection agency that she was:

persecuted by Muslims in the detention centre because of her religious beliefs. They view her as unclean and she was assaulted by a Muslim detainee when she tried to pass food to him while she was working in the detention centre kitchen.¹¹⁸

Although the Inquiry heard no allegations of Christian children not being able to worship, the South Australian Family and Youth Services (FAYS, within the Department of Human Services) reported that 'the additional stress of being part of a distinct minority in the detention centre and having an ongoing sense of rejection and persecution heightens the risks' for two Christian boys at Woomera in 2002.¹¹⁹ FAYS reported that the brothers aged 17 and 13 years old:

were immovable in their belief that they were being persecuted because of their religious group. ... The persecution theme has been reinforced in many ways both in the Detention Centre and in transition to Australia. The boys recounted an incident on the boat where one of them drank water blessed by the largely Muslim 'passengers' and although water was a scarce commodity it was poured into the seas because of contamination by a Christian.¹²⁰

When the Inquiry visited Curtin, Port Hedland and Woomera, Sabian Mandaean families complained about their treatment at the hands of some Muslim detainees housed in the same compounds. As well as physical assaults, Sabian Mandaean families complained of verbal abuse (being called 'untouchable' and 'unclean'). In its submission to the Inquiry, the Sabian Mandaean Association said that:

Situations where there are very few Mandaean children and a large number of Muslim children have resulted in the prevalence of severe forms of bullying ... Often, Mandaean children ... find that the playground of the place wherein they are incarcerated is essentially no different in the treatment it affords them from the playgrounds of the countries they have escaped. Often, also, there are only Muslim children to play with and as this is itself unpalatable to Muslim children of extremist parents, Mandaean children are physically and emotionally secluded within detention.¹²¹

A priest who visited Woomera regularly said that Sabian Mandaean children at Woomera:

are constantly subjected to verbal harassment by both adults and peers. Sometimes it happens that [Mandaean] children and Muslim children develop a friendship. On these occasions, it is not uncommon for the Muslim child to be instructed by his or her parents to inform the [Mandaean] child that the [Mandaean] is not to touch the Muslim, nor to share food, or to be in

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any sort of contact, as this would render the Muslim child 'unclean'. This has a serious psychological impact on the [Mandaeen] child, amounting substantially to persecution.¹²²

The Inquiry heard of a Sabian Mandaean mother at Woomera who had attempted to modify her normal behaviour in order to assimilate with Muslim families, but it was unsuccessful.¹²³ She and her children felt so harassed that ACM eventually moved them to a different compound for their own safety. The South Australian Department of Human Services commented on a Sabian Mandaean family detained at Woomera as follows:

An Iranian family reports that they are ostracised/persecuted within the centre because they belong to John the Baptist Church. The family report that the children are called names, pushed around and taunted. The parents are not accepted by 'social groups' in camp because they are considered 'dirty, unclean because (they) aren't Muslim'. Other detainees won't eat with the family in the shared food hall.¹²⁴

In February 2003, the Department stated that it 'takes all claims of discrimination and persecution very seriously and investigates all such allegations'.¹²⁵ This is reiterated in its response to the first draft of this report.¹²⁶

Evidence before the Inquiry indicates two identifiable measures undertaken by the Department and ACM to prevent such interference and bullying on religious grounds.

Firstly, the Department states that it has in place a complaints mechanism, which allows detainees to raise issues or concern with ACM and the Department.¹²⁷ In the case of the allegations of religious interference and harassment it emphasises that:

Many of the allegations referred to were not brought to the attention of either the services provider or the department at the time they are alleged to have occurred by those involved. Where allegations have been subsequently been brought to the attention of the department and the services provider, through third parties, these have been thoroughly investigated where there has been sufficient evidence for this to occur. The police have been requested to investigate numerous allegations but, to date, there has been insufficient evidence on which to lay charges.¹²⁸

Secondly, the Department demonstrates that it took such allegations seriously by offering separate accommodation to Sabian Madaeans on several occasions. The Department offered the Sabian Madaeans at Port Hedland an opportunity to move to another compound and went as far as putting in phones there, but the offers were regularly refused. Sabian Mandaean detainees at Port Hedland told the Inquiry that they did not want to be separated like this as it would mean that they were even further isolated from facilities, and this would be difficult for the children to accept.¹²⁹ However, the Inquiry heard that at Port Hedland there was one instance where Sabian Madaeans agreed to be housed separately because the situation became dangerous:

They were threatened with death, basically, and they couldn't really bear being there for very long because they already felt they were being punished,

and now they were punished even further [by being isolated] for being persecuted on top of that. Although they are being persecuted in detention, they are getting statements by the government saying, well, no, we don't accept that you are persecuted back home, even though you are being persecuted here in detention, and we are refusing to acknowledge that. So their situation, as you can imagine, is dismal in the extreme.¹³⁰

In this case, the Department states, local police were called to attend the centre to speak to all parties concerned. However, insufficient evidence was found on which to pursue charges.¹³¹

In September 2002, the Department took action to protect Sabian Mandaean detainees by reserving a compound at the newly-commissioned Baxter facility exclusively for them. Some families stated that they felt safe for the first time. A young detainee told the Inquiry:

We are twelve families that we have been separated from the other camp because we are all minorities ... and the Muslim people told us that we were dirty and did not want to touch anything that we touched. So, we wrote a letter and complained and it is better now than what it was before. They don't bother us any more.¹³²

The fact that such drastic measures needed to be implemented to protect those families demonstrates the serious impact which religious tension can have on their sense of safety and well-being within the detention environment.

Neither the Department nor ACM provided any detailed evidence of other preventative measures undertaken to protect children from harassment and interference in detention centres regarding religion. Possible preventative measures could have included: educational programs for children focussing on the importance of tolerance; inviting religious leaders to address the problem; and developing specific training for detainees and staff setting out how to treat people of different religions and the consequences of the failure to do so under Australian law. The absence of positive reinforcement as to a child's right to practise his or her religion, and the right not to be harassed, may partly explain the fact that relatively few complaints were brought to the attention of the Department and ACM by detainees.

(b) Interference from visiting clergy

The Inquiry heard allegations from community groups about interference in children's right to practise their religion freely, in the form of visiting clergy performing conversions to Christianity on Muslim children.

The Lebanese Muslims Association told the Inquiry that:

the presence of people who are actively converting Muslims to Christianity in the IDCs also makes it difficult for parents to maintain and transmit their own religion to their children. The pressure to convert is increased by the notion that it might increase peoples' chances of success in applying for refugee status. Children are not excluded from [being] proselytised to and this also mitigates against the preservation of their original religion and culture, breaching the Convention of the Rights of the Child.¹³³

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Its submission also claimed that the Mufti of Australia was refused entry to the Villawood detention centre by the Minister on the grounds that this could be seen as proselytising:

[Staff said that the request for access] was referred to DIMA who referred it to Canberra – apparently they did not have the authority to make a decision without referring the matter to the minister. The answer came later that they could not allow the Mufti to make an official visit as this could be seen as proselytising. It would seem that the Minister on this occasion was not prepared to allow Muslim detainees the 'solace' of their own religion. Yet on other occasions such as [on] the Radio National 'Religion Report' he seems to support similar efforts by Christian clerics. This contravenes the prohibition against discrimination on religious grounds in the Convention on the Rights of the Child, the Refugee Convention and Australian law.¹³⁴

The Inquiry was not provided with further evidence concerning this allegation, and therefore makes no conclusions as to its truth.

Additionally, the Inquiry heard no direct evidence from current or former detainees of visiting Christian clergy trying to convert children. In the case of the remote detention centres, a local nun or priest were detainees' only visitors and provided support and someone to talk to, regardless of their respective faiths. Neither did the Inquiry receive any evidence that Muslim clergy were trying to convert non-Muslim detainees.

The Inquiry did hear that a number of baptisms have been performed on adult detainees who were formerly Muslim but the evidence suggests that the conversions were at the detainees' request.

(c) Findings on protection from interference in children's religion

The Inquiry finds that some children in detention have felt threatened, both verbally and physically, by other detainees because of their religious beliefs. This can have a direct impact on a child's ability to practise their religion freely.

The Inquiry finds that the Department and ACM took action to protect children from interference with religion, on some occasions, by investigating complaints and offering separate accommodation. However, they were unable to ensure complete protection from such treatment at all times.

The tension between Muslim and Sabian Mandaean families, for example, appears to have reached such heights that it could only be solved by putting the two groups in separate and secure compounds, as occurred in Baxter in late 2002. While better education on the need for tolerance would be a preferable way of preventing the issue at the outset, the Inquiry acknowledges that this measure solved the immediate problems facing the Sabian Mandaean families at that time.

These issues highlight the inherent difficulties of detention, where people of different cultural and religious backgrounds are forced to live together in a confined space. The problems are exacerbated by the fact that some religious minorities may be

forced to live alongside members of a group whose religious affiliation may have prompted flight from their home countries.

15.4.8 Cultural awareness and sensitivity of detention staff

In addition to protecting detainees from interference from other detainees, the Department and ACM must ensure that staff treat children with respect and encourage tolerance and understanding of diverse cultures.

As outlined in the Department's policy, all staff at detention centres are expected to have an understanding and appreciation of the diversity and cultural backgrounds of detainees, as well as the ability to effectively communicate and work with detainees of a diversity of backgrounds.

(a) Cultural sensitivity of staff

The Inquiry heard mixed reports about the cultural sensitivity of detention staff.

ACM provided a list of over 136 staff members who spoke languages ranging across 49 cultures, some of them relevant to the backgrounds of detainees.¹³⁵ The list was not specific as to when, where and for how long these staff members were employed. However, it does suggest that there were some efforts to promote cultural diversity in its workforce. This cultural diversity may have had some positive impact on cultural sensitivity towards detainees.

There were some indications that gradual efforts were made to improve cultural sensitivity over the period covered by the Inquiry. For example, in mid-2000 the Department's Manager reported to Canberra:

Good progress in arranging facilities for Shi'ite Muslims, but need further cultural training on other religion and sects.¹³⁶

By the first quarter of 2001, he reported:

Improved sensitivity shown towards residents by ACM staff. For specific religious occasions arrangements made in consultation with the residents, eg. playing of prayer through the loudspeaker has been arranged for special occasions. An issue remains the presence of an Imam, but it will not be resolved by ACM acting in isolation.¹³⁷

Further, he acknowledged:

the progress at Woomera with respect to social interaction, and in particular the presentation of the Samoan Cultural night by Sierra detainees which is one of many examples of positive social interaction.¹³⁸

On the other hand, other evidence indicated a lack of cultural sensitivity on the part of certain ACM officers, which hurt the feelings of child detainees.

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For example, a psychologist employed at Woomera in 2002 told the Inquiry that while some staff were kind and helpful, others were disrespectful of religion:

While some officers sincerely and helpfully responded to detainees, other officers and staff displayed a lack of understanding towards detainees. For example during one religious ceremony an officer said in response to my query 'oh that is just some stupid mourning thing they do'. I noted an officer going through the clothes of a Muslim woman while her husband objected. The officer ignored his concern. There was a pervasive attribution of the distress that they exhibited as being due to 'their culture'.¹³⁹

A former Department Manager at Woomera told the Inquiry that some nursing staff 'exhibited racist attitudes' and:

Some staff, having often come from a prison background, did approach detainees in a way that I thought lacked sensitivity and understanding. ACM management locally did deal with this issue by removing some staff and introducing training programs. However, later some of these staff were returned to [Woomera] by ACM Sydney.¹⁴⁰

A former ACM health staff member at Woomera believed that her colleagues were racist:

I'm sorry, I've worked [all over] this country, I love working with people but in Woomera I hated everything, I just hated it because I found the [nurses] racist, I found the people careless, irresponsible and unprofessional. I will never, ever forget this experience.¹⁴¹

Notwithstanding whether certain staff members displayed cultural insensitivity to children directly, to their parents or to their group in general, it appears the children witnessed such behaviour. A child psychiatrist who has treated detainee children told the Inquiry:

The intimidation I think – I mean, the families reported to me – and this is obviously their report – intimidation of the children in calling them 'towel heads, little terrorists'. A mother asking for some new head gear for her daughter has been told, 'why don't you make it out of the curtains?' I mean a systematic kind of undermining and insulting of the parents and of the children.¹⁴²

A nurse employed at Woomera in 2000 stated:

I've seen and heard guards laughing at the pain and suffering of the people imprisoned in Woomera. Singing to the Iraqis who have had a rejection, 'I'm leaving on a jet plane, goin' back to see Saddam Hussein'. Witnessed the guard making a detainee beg for soap. No English did this woman speak, she had learnt the word soap from someone. To the guard she said, 'soap'. The soap was proffered and withdrawn when she reached for it, again and again until she said 'please'. I watched these poor women in their purdahs, cringe in shame as we forced them to abandon every cultural sensitivity they had and attend a mixed clinic, sit in a room with men and then have to ask for sanitary products. They would stuff them under their abeyahs or

jumpers and scurry heads down, shame emanating, to the puerile little boxes we provided for them to sleep in.¹⁴³

A former detainee at Curtin described ACM harassment during a detainee protest there on 8-9 June 2000, alleging that they 'heaped curses and indecent words on us like "You are terrorists", "You are Islamic terrorists" '.¹⁴⁴

While these individual allegations have not been tested by the Inquiry, the number of complaints reproduced in submissions made to the Inquiry concerning the cultural insensitivity of officers towards families in detention seem to indicate more than an occasional instance.

(b) Cultural training

The Inquiry considers that in the detention environment comprehensive staff training in cultural awareness and understanding is essential to ensure that children and their families are treated with respect.

Some guidance on how to achieve this was submitted to the Inquiry by the Melbourne International Health and Justice Group. The submission suggested that in order to be 'culturally competent',¹⁴⁵ staff need to have an understanding of detainees' culture, and speak the detainees' language or use a trained interpreter.¹⁴⁶ They should also be confident in encouraging detainee children to maintain their knowledge and pride in their own cultures. Importantly, to develop and maintain cultural competence at an organisational level it is necessary to have procedures in place for regular and effective cross-cultural training, preferably at an accredited course, and mechanisms to ensure that detention officers and other staff do not react to detainees in a negative or racist manner.

The evidence of cultural training presented to the Inquiry does not suggest that cultural training was comprehensive, consistent and effective over the period of time covered by the Inquiry.

In November 2001, the Inquiry notes that a meeting between the Department and ACM discussed cross-cultural training of staff across all detention centres:

ACM noted that they have incorporated cross cultural training into their Detention Officer training. Other ACM measures include sending information on the subject to officers and requesting Muslim officers to explain the significance of important parts of their culture to fellow officers. [The Departmental representative] noted that on the training course she conducted recently trainees had a vague awareness of the Koran but did not know what it looked like or its significance. ACM assured DIMIA that Cross Cultural training was now a major part of the training package.¹⁴⁷

In its response to the draft of this report, ACM stated that it has provided training to staff in cultural awareness since the commencement of the contract in 1999. Modules include 'Culture and Diversity', 'Cultural Differences and Cross Cultural Communication' and 'Cross Cultural Communication'. The Inquiry is concerned

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that some aspects of the modules may be culturally insensitive, especially if not explained further or discussed in face-to-face training. For example, Module 2 on Culture and Diversity first states the dangers of stereotyping and then suggests that many Muslim men find it difficult to deal with women in positions of authority, and that it 'suits men of this culture to affect superiority over women' even though this has no basis in the Qur'an.¹⁴⁸ The Inquiry did not receive evidence of how these written modules were delivered, who conducted the training, whether the training covered all staff in all detention centres, or how often the training occurred.

The Department provided the Inquiry with a copy of a resource kit dated December 2001 and entitled *Cultural Diversity in Immigration Detention Facilities*¹⁴⁹ which it states was intended as background information for Department and ACM officials. The Department states that it was also distributed as part of cross-cultural induction training of ACM officers.¹⁵⁰

The resource kit contains information on the most common nationalities and religions amongst detainees. There is a page or two on each nationality and several pages on religions and religious practices. The Inquiry notes that while some information contained in the kit appears useful,¹⁵¹ some of the information appears inadequately targeted to the detainee population. For example, under 'Afghanistan', there is no explanation that the majority of the Afghan detainees are from the Hazara minority or its significance. Similarly, the information provided on Iran, under 'Religions', makes no mention of the Sabian Mandaean religion, despite its followers comprising a significant proportion of Iranian detainees. The Department has since informed the Inquiry that the resource kit has been updated with information about the Sabian Mandaean faith.¹⁵²

The Department's submission states that all detention officers are required to attend cultural awareness training conducted by refugee specialists.¹⁵³ The Department also states that the training program for its Managers and Deputy Managers at the detention centres includes cultural awareness training, and each manager receives an information package on cultural diversity in detention centres.¹⁵⁴ In addition, the Department provided some briefing notes for detention officers (ACM guards) including a section on National and Cultural Backgrounds.¹⁵⁵ However, while this information is current as at April 2003, the Inquiry did not receive information regarding when this training commenced, how often it took place or whether it took place at all centres.

Further evidence on training is provided by the Minister's announcement to Parliament in late August 2002 that ACM guards received:

- approximately 30 hours on cultural diversity issues pre-service ('Module 6: Multicultural Awareness');
- refresher training and support material supplied regarding new cultural groups;
- ongoing assessment including on the job training and performance monitoring.¹⁵⁶

The Minister also said that all ACM staff (not just guards) received induction training including a two-hour topic on 'Multicultural Understanding' which covered:

communication skills, cultural values (including facial expressions, gender roles, touching, greetings, food/diet), barriers to communication, prejudice, racial humour, stereotyping, privacy, effective communication strategies and use of interpreters.¹⁵⁷

Hence, it appears that some cross-cultural training was being provided to staff at detention centres at various stages during the period covered by the Inquiry. However, the relationship between the various training programs mentioned above is unclear, if indeed they refer to the same training.

The Inquiry also received a number of comments from staff and former staff suggesting that the training either did not occur consistently over the period of time covered by the Inquiry, or that it was inadequately delivered.

When the Inquiry asked former ACM staff what cross-cultural training they had received, one man employed as an Activities Officer at Woomera during 2000 said that staff were shown training videos:

The videos were about:

- not being too friendly and getting emotionally involved with 'inmates' (criminals) which we had to translate to detainees;
- the dangers of detainees obtaining anything they could make weapons from;
- general 'management' of difficult clients.

So, they were not about children and family groups, they were about violent male criminal prisoners, and how to deal with them. If anything, this just shows how little consideration was given to the welfare of families in Woomera.¹⁵⁸

Some comments to the Inquiry were critical of the effectiveness of ACM's induction training, suggesting that the cultural component was either non-existent or of limited effect.

A teacher who worked at Port Hedland in 2001-2002 said:

I never heard anything about cultural awareness or understanding ... or religious instruction of children. The first day I started working there they just told me about how dangerous and manipulating 'these people' can be and what to do when a riot etc. starts. When I started teaching, I was neither mentally prepared at all for the traumatised children and adults nor did I know anything about their political or religious situation in their countries. I even had to find out myself where everyone was from. And I even was not supposed to know anything about them. Share no private information was one rule.¹⁵⁹

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A teacher who worked at Port Hedland in 2001 said:

I received a 30 minute induction on arrival to Port Hedland IRPC. Nothing about culture, religion or this manual you mentioned. Induction largely dealt with what to do in a hostage situation and how important my keys were. Nothing to do with race, nationality, religion, refugee issues or cultural sensitivity ...¹⁶⁰

A former ACM teacher who attended induction training sessions at Woomera in October 2000 and March 2001 said that there was nothing presented on 'multicultural understanding', although he believed that later induction training sessions did include such a topic.¹⁶¹

A nurse who worked at Woomera in 2000 said that some nursing staff spoke to interpreters to inform themselves about cultural issues:

Our very kind detainee interpreters informed us on how we should approach cultural issues esp. with treating women. It was very difficult to address certain issues in that close-knit environment.¹⁶²

Even in 2002, it was evident that cultural awareness training was not conducted regularly. Reporting on ACM's performance, the Department Manager at Curtin said in July, August and September 2002 that he was 'not aware of any cultural awareness training having taken place for some months'.¹⁶³

At Port Hedland in June 2002, staff told the Inquiry that they had no knowledge of what detainees had been through to get to Australia or about the persecution the detainees had faced at home. They reported a lack of training on how to treat detainee children but said they were instructed to treat detainees the way they would want to be treated.

At Woomera in June 2002, ACM nurses said there was no cultural training and that everything they learned was through the detainees.¹⁶⁴

While it is clear some cultural training did take place, and that materials had been prepared, on the basis of evidence before the Inquiry it does not appear to have comprehensively covered all staff or to have been effectively delivered at all times during the period covered by the Inquiry.

(c) Findings on cultural sensitivity and training of staff

The Inquiry finds that many current and former detention centre staff who gave evidence to the Inquiry exhibited a caring and culturally sensitive attitude towards detainees.

Nonetheless, there have been a number of allegations that detainees have been treated without respect. While the Inquiry recognises that it is difficult to guarantee that all staff will treat detainees in a culturally sensitive manner, the Department and ACM are responsible for making every effort to ensure that children and their families are treated with respect and are encouraged to participate in cultural and religious life.

Comprehensive training is a key mechanism to ensuring the cultural sensitivity of staff. While there have been some efforts to institute cross-cultural training as part of the staff induction training, the Inquiry has received insufficient evidence to conclude that cultural training has been regular and effective over the period covered by the Inquiry.

The issue of cultural training in the context of health staff, and the impact that it has on health care, is discussed in Chapter 10 on Physical Health.

15.5 Summary of findings regarding the right to religion, culture and language in detention

The Inquiry finds no breach of articles 2(2), 8(1), 14, or 30 of the CRC concerning children's right to enjoy their religion, culture and language in immigration detention.

The threshold for compliance with article 30 is that children are 'not to be denied' the right to practise their religion, culture and language. Thus Australia's primary obligation under article 30 is to respect a child's right to engage in those practices. Articles 14(1) and article 8(1) impose an obligation to respect freedom of religion and a child's right to preserve identity and article 22(1) requires Australia to take appropriate measures to ensure that asylum-seeking children enjoy those rights. The evidence available to the Inquiry suggests that the Department took the following steps to ensure that those rights were respected within the detention context.

In most centres there was space set aside for public prayers and services. Children could engage in prayer in those facilities or in their private accommodation, albeit sometimes in cramped conditions. Outside clergy were generally permitted access to the detention centres and detainees were free to appoint their own representatives to conduct religious services. In some cases the Department and ACM organised religious instruction. In any event, parents were permitted to engage in the religious instruction of their children and on some occasions were provided with the appropriate religious texts.

The Department and ACM facilitated certain special cultural events and Muslim and Christian religious festivals. There have also been measures to provide food which is culturally and religiously acceptable. In terms of language, detainee children were not denied the right to use their own language with their families and other detainees.

While the Inquiry finds that the Department generally respected the right of children to identify with their culture, language and religion, it is concerned that some children in immigration detention have felt unsafe due to fears of bullying and harassments on the grounds of their religious beliefs.

Article 2(2) of the CRC requires the Commonwealth to take 'all appropriate measures to ensure that a child is protected from all forms of discrimination'. Immigration detention centres bring different groups into close contact with each other to an extent that does not occur in the outside community. The close environment can

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exacerbate pre-existing tensions between different groups causing behaviour that may amount to discrimination.

The Department has taken some general measures to try to protect families from discrimination and harassment by other detainees on religious grounds. When allegations of assault were brought to its attention, the police were notified for the purposes of investigating the allegations. The Department also offered separate accommodation to Sabian Mandaean families to protect them from the alleged harassment in September 2002 in the Baxter facility.

The Inquiry acknowledges that the placement of Sabian Mandaean families in a separate compound at Baxter resolved many of the issues facing that group of people at that time. However, the Inquiry is concerned that the situation reached the point where such drastic measures had to be pursued. The Inquiry has not seen any evidence of a more comprehensive preventative approach to discrimination and harassment, which may have included educational programs for child and adult detainees, promoting tolerance and respect and advising detainees of the law in this regard.

The Inquiry acknowledges that many detention staff have exhibited a caring and culturally sensitive attitude towards children in detention. While the Inquiry has not found evidence of systemic disrespect by detention staff, there have been some allegations of insensitive treatment. The Inquiry is of the view that there has been insufficient cultural awareness training for most staff members working inside detention facilities over the period of time covered by the Inquiry.

While the Inquiry is of the view that there could have been greater efforts to alleviate the cultural and religious tensions within detention facilities, the evidence before the Inquiry does not support a finding of breach of article 2(2).

A more comprehensive and effective training program would have assisted in ensuring that children in detention were treated with the appropriate respect and dignity required by article 37(c) of the CRC. However, the Inquiry accepts that compliance with the JDL Rules generally suggests compliance with article 37(c) and finds that the provisions made regarding culture, religion and language in detention centres are largely in accordance with the JDL Rules. This issue is discussed further in Chapter 17, Major Findings and Recommendations.

While the Inquiry finds that neither the Department nor ACM denied children the right to religion, culture and language, the Inquiry is of the view that the legislation requiring the detention of children, often long term, places inappropriate fetters on the free and full exercise of those rights. This impacts on an assessment of article 6(2) which requires Australia 'to ensure to the maximum extent possible' a child's development. It also affects an assessment as to whether the detention policy as a whole and the Department's decisions regarding the location of children in detention have properly taken into account the best interests of the child in accordance with article 3(1). This is also discussed in Chapter 17.

The deprivation of liberty places a physical barrier between children and churches, mosques, clergy, religious schools, language schools, cultural centres, culturally appropriate foods and so on. The detention of children in remote areas makes access to those facilities even more challenging. For example, although clergy may not generally be prevented from visiting children in remote facilities, they are much less likely to make pastoral visits to children in these facilities due to the distances. Similarly, the likelihood of being able to access local religious schools or the relevant cultural community is greatly reduced in remote and rural areas. Furthermore, some religious requirements are location-specific, for example the Sabian Mandaean requirement to be able to visit a river at certain times. These factors have been particularly problematic for children from Muslim and Sabian Mandaean religions.

The detention of children in remote facilities has an especially serious impact on unaccompanied children who do not have the cultural and religious reference points that accompanied children have through their families. For unaccompanied children, contact with the outside world through clergy, cultural groups or outside family may be of vital importance for the maintenance of their cultural identity.

Furthermore, children from minority groups which are not widely represented in the detainee community face greater hurdles. For example, the maintenance and development of a child's first language relies on outside contact or specific language assistance. The latter has not been provided within detention centres and the former may be compromised by detention in remote areas.

The problems caused by the restricted environment of detention and the location of the detention centres are exacerbated by the length of time in detention. Thus certain restrictions which may seem minor at the outset, escalate in importance for children over time. For example, if a child is in detention for a short period without a visit from the clergy, or without religious instruction, or without access to culturally-specific community groups that help give a child a sense of identity, this may not be of great concern. However, when a child is in detention for months or years, all these factors have a greater impact. Similarly, the inability of parents to prepare and pass on the skills of preparing culturally appropriate family meals may not be serious in the short term, but in the long term it can affect a child's ability to maintain his or her cultural identity.

Further, the placement of different religious groups, often with a history of antagonism towards each other, in a closed detention environment, increases the likelihood that children will feel unsafe.

While these issues do not of themselves lead the Inquiry to conclude that the rights of children have been breached, they reinforce the Inquiry's overall concern that a failure to ensure that children are detained as a matter of last resort and for the shortest appropriate period, in accordance with article 37(b), can have a serious impact upon the enjoyment by children of their fundamental rights.

Endnotes

- 1 UN Human Rights Committee (HRC), *General Comment 23*, UN Doc HRI\GEN\1\Rev.1 at 38, 8 April 1994, para 6.1. The Committee on the Rights of the Child has made a number of recommendations that State Parties take positive measures to allow children to enjoy their rights under article 30.
- 2 United Nations Children's Fund (UNICEF), *Implementation Handbook for the Convention on the Rights of the Child* (UNICEF Implementation Handbook), United Nations Publications, Geneva, 2002, p455.
- 3 Article 18 of the *International Covenant on Civil and Political Rights* (ICCPR) also guarantees the right to freedom of thought, conscience and religion, subject to the same limitations as article 14 of the CRC.
- 4 Australia has also committed to take measures to eliminate racial discrimination in all its forms under the *Convention on the Elimination of All Forms of Racial Discrimination* (CERD), and has agreed to comply with the *Declaration on Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, which prohibits discrimination on the grounds of religion or belief in particular.
- 5 See HRC, *General Comment 23*, 8 April 1994, para 5.3.
- 6 UNICEF, *Implementation Handbook*, 2002, p459; UNHCR, *Refugee Children, Guidelines on Protection and Care* (UNHCR Guidelines on Refugee Children), Geneva, 1994, ch 3.
- 7 UNICEF *Implementation Handbook*, 2002, p125.
- 8 UNHCR Guidelines on Refugee Children, ch 3, III.
- 9 UNHCR Guidelines on Refugee Children, ch 3, III.
- 10 Parents can include '... where applicable, members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child ...', CRC, article 5.
- 11 CRC, article 30. See also, ICCPR articles 18(1) and 27; *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, article 1(1).
- 12 HRC, *General Comment 22*, Article 18, UN Doc HRI\GEN\1\Rev.1 at 35, 30 July 1993, para 8.
- 13 *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the JDL Rules), rule 48. See also HREOC, *Immigration Detention Guidelines*, para 5.1 and 5.2. See also *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, article 6; *United Nations Standard Minimum Rules for the Treatment of Prisoners*, rules 41 and 42; UNHCR, *UNHCR Revised Guidelines on applicable Criteria and Standards relating to the Detention of Asylum-Seekers*, Geneva, 1999, guideline 10 (viii).
- 14 Note that the word 'culture' in article 31 is used more in its artistic sense, unlike the word 'culture' in article 30. UNICEF *Implementation Handbook* (2002), p465. Chapter 13 on Recreation discusses to right to recreation activities and cultural life.
- 15 See section 3.5.5 of Chapter 3, *Setting the Scene* for more details.
- 16 DIMIA, Submission 185, p45. Other languages spoken by detainees reflect the non-asylum seeker detainee population, for example, Thai, Korean.
- 17 This is despite the fact that the vast majority of Afghans in Afghanistan are of the Sunni faith. The difference is that in Australian detention centres, most Afghan children have been of the Hazara ethnic minority, who are also a religious minority (Shi'a, rather than Sunni).
- 18 Although Sunnis constitute about 90 per cent of the Muslims in the world, Iran and Iraq both have a Shi'a majority. In Afghanistan there are pockets of Shi'a, the main group being the Hazara ethnic group. 77.5 per cent of the detained Afghan children from 1999 to 2002 were Hazara. See section 3.5.5 in Chapter 3, *Setting the Scene* for further information.
- 19 The Sabian Mandaean faith is an ancient Gnostic religion predating Judaism, Islam and Christianity. Its essential religious rituals include marriages and river baptisms. The majority of Sabian Mandaeans live in Iraq (30,000-35,000) and about 5000 live in Iran. As Sabian Mandaeans have remained unmixed with any other race or religion for thousands of years, scholars consider them as both a religion and an ethnicity. The Sabian Mandaean community in Australia is concentrated in Sydney.
- 20 DIMIA, Submission 185, p44.
- 21 DIMIA, Submission 185, pp46, 47.
- 22 DIMIA, Submission 185, p44.
- 23 DIMIA, Submission 185, p44.

- 24 IDS, 1998, http://www.immi.gov.au/detention/det_standards.htm. These are the IDS in force over the period under examination in this report.
- 25 IDS, 1998, para 4.2.
- 26 IDS, 1998, para 10.1.
- 27 IDS, 1998, para 10.2.
- 28 DIMIA, Submission 185, p44.
- 29 IDS, 1998, para 2.2.
- 30 IDS, 1998, para 8.4.1.
- 31 IDS, 1998, para 6.2.3.
- 32 IDS, 1998, para 6.1.1.
- 33 IDS, 1998, para 2.3.
- 34 IDS, 1998, para 2.4.
- 35 ACM, Policy 15.1, Religious and Pastoral Care, Issue 5, 26 March 2002, para 1.1.
- 36 ACM, Policy 15.1 is replicated in ACM Woomera Procedure 15.01, 16 November 2001, and ACM Villawood Procedure 15.01, 7 October 2001, (N1, Q15, F16).
- 37 ACM, Policy 19.10, Detainee Privacy, Issue 1, 30 May 2002, para 5.5.
- 38 ACM, Policy 10.22, Centre Searching, Issue 5, 23 November 2001, para 4.4.
- 39 ACM Woomera IRPC Detainee Induction Booklet: Welcome to Woomera. 1 February 2001. However, its contents are clearly intended for ACM staff as the front cover is marked 'Not for Release to External Agencies or Detainees'.
- 40 Inquiry telephone conversation with Michael Hall, former ACM Health Services Manager at Curtin from 2000-2002, 7 May 2003.
- 41 DIMIA, Submission 185, p46.
- 42 Former detainee mother interviewed in April 2002, in Diversity Directions, Submission 149, p19.
- 43 Inquiry, Focus group, with Afghan unaccompanied children, discussing Woomera, Melbourne, May 2002.
- 44 Teenage refugee girl, NSW Commission for Children and Young People, Submission 258, p53.
- 45 Lebanese Muslims Association, Submission 123, p3.
- 46 NSW Commission for Children and Young People, Submission 258, p53. Detention centre not named.
- 47 Inquiry, Notes from visit, Curtin, June 2002.
- 48 Rev Andrew Ford, Submission 296, p1.
- 49 Inquiry, Notes from visit, Port Hedland, June 2002.
- 50 DIMIA, Services, amenities and facilities at Maribyrnong IDC, at http://www.minister.immi.gov.au/borders/centres/mari_irpc.htm#services, viewed 21 November 2003.
- 51 DIMIA, Detention Centres – Woomera Immigration Reception and Processing Centre (IRPC), at http://www.minister.immi.gov.au/borders/centres/woomera_irpc.htm, viewed 21 2003.
- 52 Inquiry, Interview with Shi'a detainee family, Woomera, June 2002.
- 53 Kirsti Abbott, Submission 15, p3.
- 54 DIMIA Christmas Island, Manager Reports, August 2002, September 2002 (N4, Q1, F1).
- 55 DIMIA, Submission 185, p46.
- 56 ACM Villawood, Church Timetable, undated, (N1, Q15, F16). See also DIMIA, Services, amenities and facilities at Villawood IDC, at http://www.minister.immi.gov.au/borders/centres/villawood_irpc.htm#services, viewed 21 November 2003.
- 57 Inquiry telephone conversation, August 2002. However, the Muslim Women's National Network of Australia met with members of the Immigration Detention Advisory Group on 4 March 2002 to request that a Shi'a Imam be permitted to visit VIDC regularly and conduct Friday congregational prayers, since, at the time, there was no visiting Imam. See Muslim Women's National Network of Australia, Submission 54, p9. The Inquiry also received a submission alleging that the Mufti of Australia was refused a visit to Villawood detention centre by the Minister, Lebanese Muslims Association, Submission 123.
- 58 DIMIA Villawood, Manager Report, September 2002, (N4, Q1, F1).
- 59 Inquiry, Focus group, with Afghan unaccompanied children discussing Woomera, Melbourne, May 2002.
- 60 Patrol Minister in the Kimberley, Uniting Church in Australia, Letter to ACM Curtin Welfare Officer, 24 June 2002, (N1, Q15, F16).
- 61 DIMIA Curtin, Manager Reports, July 2002, August 2002, (N4, Q1, F1).
- 62 Rev Andrew Ford, Submission 296, p1. Rev Ford paid pastoral visits to detainees at Curtin IRPC between October 2001 and August 2002. The Department, noting the date of the exchanges between

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- Rev Ford and ACM on this issue, states that there were particular circumstances which were in operation at that time. On one occasion, the request for a room to worship in occurred a month prior to closure of the centre. On another, the request occurred only one month after 'a period of unease' at the centre. DIMIA, Response to Draft Report, 10 July 2003.
- 63 Rev Andrew Ford, Submission 296, p1.
64 DIMIA, Response to Draft Report, 10 July 2003.
65 Tom Mann, Email to Inquiry, 4 October 2002.
66 Diversity Directions, Submission 149, p19.
67 Inquiry, Focus group, Melbourne, May 2002.
68 This was not the case in Curtin however, where Christian clergy 'asked repeatedly to see the Mandaeans' but the Department's Manager denied access. Inquiry telephone conversation with Rev Andrew Ford of Broome Anglican Church, 4 February 2003.
69 Tom Mann, Email to Inquiry, 4 October 2002.
70 DIMIA Port Hedland, Manager Reports, July 2002, August 2002, September 2002, (N4, Q1, F1).
71 DIMIA Baxter, Manager Report, September 2002, (N4, Q1, F1).
72 DIMIA Christmas Island, Manager Report, August 2002, (N4, Q1, F1).
73 Former Woomera detainee mother, in Diversity Directions, Submission 149, p19.
74 Lebanese Muslims Association, Transcript of Evidence, Sydney, 16 July 2002, p28.
75 Confidential Submission 110, p32.
76 Confidential Submission 242a, p5.
77 DIMIA Christmas Island, Manager Report, September 2002, (N4, Q1, F1).
78 DIMIA, Response to Draft Report, 10 July 2003.
79 Inquiry, Notes from visit, Curtin, June 2002.
80 UNHCR Guidelines on Refugee Children, ch 3. III.
81 DIMIA, Submission 185, p47.
82 This applies to Villawood's 'Stage 2' compound only.
83 ACM Villawood, Minutes from Cultural and Religious Meeting – Stage 2, 18 May 2001, (N1, Q15, F16).
84 DIMIA Villawood, Manager Report, September 2002, (N4, Q1, F1).
85 Diversity Directions, Submission 149, p10.
86 Inquiry, Focus group, Melbourne, May 2002.
87 ACM Port Hedland, Ramadan Menus, undated; Ramadan Last Day Celebration, undated, (N1, Q15, F16).
88 ACM Curtin Food Services Coordinator, Memo, Ramadan 2001, to ACM Centre Manager, 9 November 2001, (N1, Q15, F16).
89 ACM Curtin, Operational Orders, Operation Ramadan, 9 November 2001, (N1, Q15, F16).
90 ACM Curtin Food Services Coordinator, Memo, Ramadan 2001, to ACM Centre Manager, 9 November 2001, (N1, Q15, F16). Ramadan in 2001 was from 16 November – 16 December, when temperatures at Curtin would have regularly been around 40 degrees Celsius.
91 DIMIA Curtin, Manager Report, March 2002, (N1, Q3a, F5). The Ashura festival is a Shiite Muslim festival which commemorates the death of Imam Hussein, grandson of the prophet Mohammed.
92 8 December 1999 to 8 January 2000.
93 Inquiry, Focus group, unaccompanied Shi'a boy, Melbourne May 2002. He was detained at Woomera shortly after it opened in late 1999.
94 Inquiry, Focus group with unaccompanied boys, Melbourne, May 2002.
95 Performance Linked Fee Report, for quarter ending 31 December 2000, mentioned detainees at Woomera complaining of inappropriate foods being served over Ramadan.
96 Inquiry, Focus group, Melbourne, May 2002.
97 ACM Woomera Residential Housing Project, Residential Detention Centre Weekly Report, 7 November 2001, (N1, Q16, F17).
98 Lutheran Community Care, Submission 134, p5.
99 Inquiry, Interview with detainee family, Villawood, August 2002. The family wrote to the ACM Manager complaining that they had had no response for 22 days. The Manager replied (on the same day), saying that 'we are awaiting a reply from DIMIA'. During the Inquiry's visit to Villawood in August 2002, the ACM Centre Manager provided the Inquiry with copies of the correspondence. ACM Villawood, Detainee Request Form, [detainee name deleted], 13 May 2002; ACM Villawood Centre Manager, Letter, to [detainee name deleted], 13 May 2002. Inquiry, Notes from Visit, Villawood, August 2002.

- 100 Inquiry, Interview with detainee family, Villawood, August 2002.
- 101 ACM Villawood, Medical Records, 14 May 2002. ACM, Response to Draft Report, 1 October 2003, Attachment 18.
- 102 DIMIA, *Immigration Detainees Enjoy Season's Festivities*, Media Release, 20 December 2002, at http://www.immi.gov.au/media_releases/media02/d02099.htm, viewed 21 November 2002.
- 103 DIMIA, Submission 185, p75.
- 104 Confidential Submission 119, p2.
- 105 ACM, Response to Draft Report, 5 September, 2003.
- 106 ACM Port Hedland, Ramadan Menu. The menu features separate meals for Afghan, African, Iranian, Iraqi, Palestinian and Sri Lankan nationalities, (N1, Q15, F16).
- 107 Inquiry, Notes from visit, Woomera, June 2003.
- 108 Amnesty International Australia, Submission 194, pp12-13.
- 109 DIMIA, Submission 185, p45.
- 110 International Commission of Jurists' Australian Section, Submission 128, p17.
- 111 DIMIA, Response to Draft Report, 10 July 2003.
- 112 DIMIA, Response to Draft Report, 10 July 2003.
- 113 ACM, Response to Draft Report, 5 September, 2003.
- 114 Lutheran Community Care, Submission 134, pp4-5.
- 115 Association of Major Charitable Organisations in South Australia, Submission 121, p8.
- 116 Sabian Mandaean Association, Transcript of Evidence, Sydney, 17 July 2002, p66.
- 117 Confidential Submission 110, p32.
- 118 DHS, Woomera Detention Centre Assessment Report, 12 April 2002, Submission 181a, p16.
- 119 DHS, FAYS Assessment Report, 22 February 2002, on an Iraqi Christian family at Woomera, (N2, Q7, F6).
- 120 DHS, FAYS Assessment Report, 22 February 2002, (N2, Q7, F6).
- 121 Sabian Mandaean Association, Submission 260, pp6-7.
- 122 Letter from priest to Refugee Review Tribunal, cited in *SCAT v Minister for Immigration & Multicultural & Indigenous Affairs* [2003] FCAFC 80 at 8-10.
- 123 DHS, Woomera Detention Centre Assessment Report, 12 April 2002, Submission 181a, p17.
- 124 DHS, Woomera Detention Centre Assessment Report, 12 April 2002, Submission 181a, p16.
- 125 DIMIA, Director of Public Affairs, Letter to the Editor, *The Age*, 7 February 2003.
- 126 DIMIA, Response to Draft Report, 10 July 2003.
- 127 DIMIA, Response to Draft Report, 10 July 2003.
- 128 DIMIA, Response to Draft Report, 10 July 2003.
- 129 See also Sabian Mandaean Association, Transcript of Evidence, Sydney, 17 July 2002, p68: 'what we were told by these people, by the Mandaeans, is that it is bad enough as it is, the situation is bad enough as it is. If you were to take away the few privileges that they have or the rights that they have, it would just be unbearable for the children, and the children themselves have made it clear to their parents that they don't understand why they have to be isolated'.
- 130 Sabian Mandaean Association, Transcript of Evidence, Sydney, 17 July 2002, p68.
- 131 DIMIA, Response to Draft Report, 10 July 2003.
- 132 Inquiry, Interview with detainees, Baxter, December 2002.
- 133 Lebanese Muslims Association, Submission 123, p3.
- 134 Lebanese Muslims Association, Submission 123, p3.
- 135 ACM, Response to Draft Report, 5 September, 2003.
- 136 Woomera Department Manager Report, July-September 2000.
- 137 DIMIA Woomera, Manager Report, January-March 2001, (N1, Q4a, F5).
- 138 DIMIA Woomera, Manager Report, January-March 2001, (N1, Q4a, F5).
- 139 Lyn Bender, Submission 206, p3.
- 140 Anthony Hamilton-Smith, Submission 282, paras 11-12.
- 141 Inquiry, Confidential interview, Sydney, 2002.
- 142 Dr Sarah Mares, Transcript of Evidence, Adelaide, 2 July 2002, p41.
- 143 Note that on 17 January 2003, the Department said that there was a system in place for dispensing sanitary products. DIMIA, Provision of Sanitary Products to Female Immigration Detainees, at <http://www.immi.gov.au/detention/sanitary.htm>, viewed 21 November 2003. See also Moira-Jane Conahan, First-hand account of Woomera, at http://www.chilout.org/information/first_hand_account_of_woomera.html, viewed 21 November 2001.

A last resort?

- 144 Unsigned affidavit of Roebourne Prison inmate dated 17 July 2000, in Confidential Submission 263, section 3.5.
- 145 Melbourne International Health and Justice Group, Submission 63, p50. The submission defines 'cultural competence' as the 'ability of individuals and systems to respond respectfully and effectively to people of all cultures, in a manner that affirms the worth and preserves the dignity of individuals, families and communities'.
- 146 There have been some deficiencies in the availability of interpreters over the period of time covered by the Inquiry. See further section 10.4.3 in Chapter 10 on Physical Health.
- 147 DIMIA, Contract Operations Group Minutes, 22 November 2001, (N1, Q3, F4).
- 148 ACM, Response to Draft Report, 5 September, 2003.
- 149 Toni Patrick, *Cultural Diversity in Immigration Detention Facilities*, DIMIA, December 2001, (N1, Q15, F16). This is an updated version of the Resource Kit.
- 150 DIMIA, Response to Draft Report, 10 July 2003. This resource kit was not mentioned by ACM in its response to the draft report.
- 151 For example, advice to staff on how to avoid causing religious offence to followers of Islam. Toni Patrick, *Cultural Diversity in Immigration Detention Facilities*, DIMIA, December 2001, (N1, Q15, F16).
- 152 DIMIA, Response to Draft Report, 10 July 2003.
- 153 DIMIA, Submission 185, p48. Specialists mentioned are the Victorian Foundation for Survivors of Torture and the Refugee Council of Australia.
- 154 DIMIA, Submission 185, p48.
- 155 DIMIA, Roles and responsibilities for immigration detention centres, undated, (N1, Q15, F16).
- 156 Question 552, Commonwealth House of Representatives Hansard, Thursday 29 August 2002, p6219.
- 157 Question 552, Commonwealth House of Representatives Hansard, Thursday 29 August 2002, p6220.
- 158 Nigel Hoffman, Email to Inquiry, 5 November 2002.
- 159 Elvira Leaver, Email to Inquiry, 1 October 2002.
- 160 Katie Brosnan, Email to Inquiry, 2 October 2002.
- 161 Tom Mann, Email to Inquiry, 2 October 2002.
- 162 Donna Bradshaw, Email to Inquiry, 2 October 2002.
- 163 DIMIA Curtin, Manager Reports, July and August 2002, (N4, Q1, F1).
- 164 Inquiry, Notes from visit, Woomera, June 2002.