

ASYLUM SEEKER ADVOCACY IN THE NORTHERN TERRITORY: BEYOND 2014



Figure 1: DASSAN vigil for Hamid Khazaie

Darwin Asylum Seeker Support and Advocacy Network
DARWIN ASYLUM SEEKER SUPPORT AND ADVOCACY NETWORK (DASSAN)

DECEMBER 2014

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ABBREVIATIONS

AHRC:	Australian Human Rights Commission
APOD:	Alternative Place of Detention
ASSN:	Asylum Seeker Services Network (NT)
BP:	Bladin Point
DASSAN:	Darwin Asylum Seekers Support and Advocacy Network
DIBP:	Department of Immigration and Border Protection
HREOC:	Human Rights and Equal Opportunities Commission (now AHRC)
IDC:	Immigration Detention Centre
IHMS:	International Health and Medical Services
NGO:	Non-Government Organisation
NT:	Northern Territory
NTCOSS:	Northern Territory Council of Social Service
OHCHR:	UN Office of the High Commissioner for Human Rights
OPC:	Offshore Processing Centre
PNG:	Papua New Guinea
PTSD:	Post-Traumatic Stress Disorder
RDH:	Royal Darwin Hospital
TPV:	Temporary Protection Visa
RCOA:	Refugee Council of Australia
UAM:	Unaccompanied Minor
UMA:	Unauthorised Maritime Arrival
UNHCR:	United Nations High Commission for Refugees
WP:	Wickham Point

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1. KEY FINDINGS

The most common problems encountered by asylum seekers in immigration detention in the Northern Territory are:

- 1) Unreasonable delay or denial of medical treatment;
- 2) Conditions of detention, including (but not limited to):
 - a. Access to special needs, for example reportedly inadequate access to nutritious food for pregnant women and young children outside of meal times;
 - b. Restrictions on private access to IT and communication facilities including phone, internet and scanners;
 - c. Access to legal advice; and
 - d. Information about, and assistance with complaints processes.
- 3) Forced transfers with minimal notice to other onshore, and offshore facilities;
- 4) A lack of communication with authorized representatives regarding progress of cases and complaints; and
- 5) Low capacity for self-advocacy within detention.

The most commonly encountered problems advocates face in detention involve constantly shifting interpretations of rules and limitations on detention visits, and inconsistent application of those rules by DIBP and service provider staff.

The most pressing needs for detention visitors and advocates are:

- 1) Regular training for detention visitors on advocacy best practices;
- 2) Comprehensive guidance regarding legal limits on outside advocates' rights and responsibilities;
- 3) Awareness and constructive collaboration with other service providers and complaints mechanisms that have a mandate to respond to the needs and problems of immigration detainees;
- 4) Enhanced collaboration between detention visitors and formal service providers; and
- 5) Better access to networks of lawyers and migration agents that are willing to provide pro bono assistance to immigration detainees.

2. THE DARWIN ASYLUM SEEKERS SUPPORT AND ADVOCACY NETWORK

DASSAN is a Darwin-based network and was formed in 2010 in response to concerns about asylum seekers detained in Darwin. DASSAN is an unincorporated, informal network of approximately 1000 supporters of asylum seekers and human rights (in a city of 180,000). DASSAN is entirely volunteer run on a consensus decision-making model and currently has no funding, staff or office.

DASSAN works in three main areas, coordinated by volunteer organizers:

- **Community education and awareness:** running and participating in frequent events, such as weekly market stalls, workshops, trainings and public and school speaking, media work. It also produces information and maintains an up to date website and weekly bulletin;
- **Support:** coordinating a visitor program to people in detention, letter writing, donations, and support for asylum seekers in the community; and
- **Advocacy:** for individual asylum seekers and on the issues affecting asylum seekers in detention more generally.

For the past four years DASSAN volunteers have been providing a range of services to asylum seekers in the Northern Territory. Over the past twelve months alone, DASSAN has assisted over 700 asylum seekers with friendly visits and advocacy on health issues and conditions of detention. DASSAN visitors have assisted hundreds of asylum seekers to gain legal representation, prevented forcible transfers to offshore facilities for medical reasons, and forcible returns to countries of origin. Volunteers have also worked closely with lawyers to gather lists of people subject to re-detention, and have identified groups and individuals willing to be involved in class action litigation regarding their detention and migration status (for example children born in detention post-19 July 2013, and issues surrounding the January 2014 privacy breach).

DASSAN members have also conducted media interviews, written policy submissions and appeared before Senate Inquiries to draw attention to the plight of asylum seekers in Darwin and advocate for change. DASSAN has a strong reputation with key stakeholders in Darwin and beyond and has managed to maintain an effective working relationship with Serco and DIPB without compromising its support and advocacy for asylum seekers.

DASSAN works effectively with referring and partner organisations to cater to the support and advocacy needs of asylum seekers in the Northern Territory. Some of DASSAN's key achievements are listed at Annex X.

Figure 2: DASSAN Reza Barati Vigil on the Nightcliff Pier, February 2014.



3. INTRODUCTION

This is a research project undertaken by DASSAN, in partnership with the Northern Territory Council of Social Service (NTCOSS) and other support agencies and service providers in the NT and across Australia. The research and analysis for this report was conducted by Ben Pynt with the assistance of a Steering Committee of senior DASSAN advocates and the Acting Director of NTCOSS.

A. WHY NOW?

This research project was developed in response to government policy developments, including restriction of funding available for asylum seeker service providers, as well as a growing constituency of detained asylum seekers for DASSAN to assist on a no-fee basis.

Although some detention centres are closing across the country, Darwin is experiencing an influx of asylum seekers from those centres, as well as continuing to act as a hub for sick and injured asylum seekers who are being held at Christmas Island detention centres and Offshore Processing Centres (OPCs) at Nauru and Manus Island.

The problems faced by individual asylum seekers in detention in Darwin, are often part of a broader pattern of treatment. This report will identify problems regularly encountered by asylum seekers and detail both how advocates currently respond, and how practices might be streamlined for efficiency and effectiveness.

As more asylum seekers are transferred to Darwin detention centres it is becoming increasingly important for the community sector to respond in an organized, cooperative manner, bearing in mind the extra strain on services given that the level of services available in the Northern Territory are not commensurate with other States.

DASSAN proposes to create a permanent position, Coordinator of Detention Advocacy for Northern Australia, to assist the service sector to more efficiently and effectively meet the needs of asylum seekers in the NT and beyond in a formal capacity.

B. THIS REPORT

This report examines the needs of asylum seekers in detention in Northern Australia, and explains how a Coordinator of Detention Advocacy might best go about the task of addressing those needs.

The report first gives an overview of current issues facing refugees and asylum seekers in Australia, including complaint resolution paths and detention oversight mechanisms. It then outlines the current detention situation, needs and service providers in the Northern Territory,

The Report then discusses mental health issues faced by asylum seekers, which are often catalysts for rapid physical health deterioration, and is a key consideration in all detention advocacy.

The next section outlines advocacy approaches, including the advocacy framework and practices of DASSAN. Finally, the report presents findings and recommendations.

4. AIMS

This project was designed to:

1. Identify the most pressing needs of asylum seekers in detention in the Northern Territory (NT);
2. Identify practical solutions to address those needs;
3. Identify how potential solutions might be implemented;
4. Work with partner agencies and local service providers to improve advocacy coordination and guard against gaps in detention oversight;
5. Develop systems and procedures to streamline DASSAN's advocacy and ensure consistency and efficiency of regular activities;
6. Develop a more constructive relationship with government agencies; and
7. Determine the feasibility of establishing a full-time paid position for a coordinator of detention advocacy in the NT.

5. METHODOLOGY

At project inception, a rough plan for the study was developed to identify potential problems and solutions based on accumulated knowledge and reference to industry best practices.

The research was guided by a steering committee of DASSAN members including input from advocacy, stakeholder and legal perspectives.

Research on the ground was conducted in several ways:

1. Open and frank conversations with:
 - a. DASSAN members;
 - b. Immigration detention service provider staff;
 - c. Community stakeholders; and
 - d. Government representatives.
2. Shadowing DASSAN advocates on detention visits and in interactions with stakeholders;
3. Questionnaires for asylum seekers and stakeholders; and
4. Conversations with immigration detainees over the phone and internet.

5. PROBLEMS IN EXECUTING THE STUDY

Visits with asylum seekers in detention for the purpose of this research study were not possible, as the Department denied such visits on the basis that '*research is not consistent with [DIBP] visiting principles.*' This decision was immediately appealed, however the appeal was not processed in time for the publication of this report.

Personal visits with asylum seekers were possible, however, only with some negotiation. Although it is not possible to use the information gleaned during those visits for the purpose of this research study, it is relevant to note that more than 30 Freedom of Information requests were lodged and 12 formal complaints were made (with legal assistance and input) on behalf of asylum seekers in detention during October 2014, in the context of regular friendly and advocacy visits.

It is also relevant to note that conditions at Wickham Point APOD have not improved since the author previously visited in August 2013 and August 2014. In fact, there is a marked decrease in morale, and noticeable increases in both physical and mental health problems that remain untreated in both detention centres. It is clear that the threat (real or perceived) of transfer to Offshore Processing Centres remains the primary concern of asylum seekers in detention in Darwin.

It is concerning that the Department attempted to block each and every visit with asylum seekers in context of this research study. Personal visits were eventually permitted, however information gathered in those visits is not included in this report.

6. REFUGEES IN AUSTRALIA

A. ENTERING AUSTRALIA

Under s189 of the *Migration Act 1958* (Cth), all persons reasonably suspected of entering Australia without a valid visa *must* be detained upon arrival. This includes persons intercepted outside of Australia's *Migration Zone* who are seeking to enter Australian territory (for example, by boat).

Immigration detention is mandatory for all *Unauthorised Maritime Arrivals* (UMAs).¹ There are currently no time limits on immigration detention.²

Australia has an offshore resettlement program that sees the government bring recognized refugees into Australia on permanent protection visas. These people do not ordinarily form part of DASSAN's constituency.

B. REGIONAL PROCESSING

Pursuant to s198AD of the *Migration Act*, asylum seekers who arrive without a valid visa (as a subset of *Unlawful Non-Citizens*) *must* be removed from Australia as soon as practicable to a Regional Processing Country. At present, only Nauru and Papua New Guinea have been designated as Regional Processing Countries under s198AB of the *Migration Act*.

The Minister has the discretion to exempt a person from offshore processing under s198AE of the *Migration Act* if s/he thinks it is in the public interest to do so.

As at 30 June 2014 there were 2358 asylum seekers being held in Offshore Processing Facilities (OPCs) at Manus Island, Papua New Guinea (PNG), and Nauru.

Australia has concluded memoranda of understanding with the governments of PNG and Nauru, which attribute the bulk of responsibility for the treatment and processing of asylum seekers to the host nation. The UNHCR, OHCHR and human rights NGOs maintain that Australia retains joint responsibility for the welfare of asylum seekers while they are in detention.³

There are several challenges before Australian and Papua New Guinean courts regarding the lawfulness of offshore processing of asylum seekers.

Approximately 120 asylum seekers who were at offshore processing centres have been transferred to Darwin for medical treatment over the past year. Continued contact with those asylum seekers is a paramount concern for DASSAN, as these people are subject to return to Manus or Nauru with little to

¹ Note: *Unauthorised Maritime Arrival* and *Illegal Maritime Arrival* are official designations, however DASSAN recognises that it is not a crime to seek asylum. Asylum seekers who enter a receiving state without authorisation, but who present themselves to the authorities without delay, are specifically exempt from punishment under Article 31(1) of the *Refugees Convention*.

² *Al-Kateb v Godwin & Ors* [2004] HCA 37, (2004) 219 CLR 562.

³ UNHCR, *Monitoring Visit to Manus Island, Papua New Guinea 11-13 June 2013*, available at: http://unhcr.org.au/unhcr/files/2013-07-12_Manus_Island_Report_Final%281%29.pdf

no notice, and are often suffering significant health issues. DASSAN has been successful in advocating on behalf of this group to ensure adequate health care, obtain legal representation, and in some instances prevent premature or inappropriate returns to offshore processing centres.

C. STAYING IN AUSTRALIA

On 26 September 2014 the Minister for Immigration and Border Protection, Scott Morrison, announced that the government would seek to re-introduce Temporary Protection Visas (TPVs).⁴ At that time there were approximately 30,000 asylum seekers with unresolved refugee claims.

To further its policy of ‘stopping the boats’, the government pledged to prevent asylum seekers who arrive in Australia by boat from receiving permanent protection. TPVs are a core plank of this promise, although they remain widely criticized by refugee and human rights advocates as arbitrary, inhumane, and in violation of Australia’s international obligations.⁵

The refugee status determination process is complex and often protracted, and advocates are regularly asked to become involved. It is important for advocates to be clear about what kind of assistance they can provide. For example, providing information about general procedures and processing times is acceptable, providing migration advice is not permitted unless the advocate is a registered migration agent on an official visit. Realistically, advocates are **not** able to influence the status determination process except in extenuating circumstances.

For up-to-date information on refugee status determination, consult the Refugee Advice and Casework Service (RACS) website at <http://www.racs.org.au/factsheets/>

D. DISTINCTIONS ACCORDING TO DATE OF ARRIVAL IN AUSTRALIA

There are four distinct groups with differing rights and obligations based on their date of arrival in Australia, however it is important to check the individual’s visa as conditions may vary from case to case.

1) **Arrival prior to 13 August 2012**

- a. Generally these people have been through part of the refugee status determination process, and may be at the merits or judicial review stages;
- b. People on a Bridging Visa E from this period usually have work rights, however this may change upon re-grant.

⁴ Scott Morrison, *Reintroducing TPVs to resolve Labor’s asylum legacy caseload, Cambodia*, Press Conference: Canberra, 26 September 2014, available at: <http://www.minister.immi.gov.au/media/sm/2014/sm218131.htm>

⁵ See, for example, Refugee Council of Australia, *New legislation strips away checks on Ministerial powers*, RCOA, 26 September 2014, available at: http://www.refugeecouncil.org.au/n/mr/140926_AsymylumLegacyBill.pdf

2) Arrival between 13 August 2012 and 19 July 2013

- a. These people may not have their refugee status determined for up to 5 years;
- b. If they are residing in Australia on a Bridging Visa E, they are unlikely to have work rights, and are only permitted to volunteer with approved organisations.
- c. Study is not usually permitted, except for English classes organized by DIBP or official providers; and
- d. These people are subject to transfer to an offshore processing centre, although under the current circumstances offshore transfer for this group is unlikely.

3) Arrival between 19 July and 31 December 2013

- a. These people are subject to transfer to an offshore processing facility, although this is unlikely if they have not already been transferred offshore; and
- b. Are ineligible for a permanent protection visa.

4) Arrival after 1 January 2014

- a. The only post-1 January 2014 arrivals at the time of this report were the 157 asylum seekers who were intercepted on the High Seas by Australian border protection officials. That group was transferred to Nauru under s198AD of the *Migration Act*. These 157 people are the plaintiffs in the High Court proceedings *XXXXXXX v Minister for Immigration and Border Protection*;
- b. Successful arrivals are subject to transfer to an offshore processing centre; and
- c. Asylum seekers who attempt to come to Australia by boat are now liable to be ‘pushed back’ on the high seas by Australian border protection officials,⁶ although the government’s power to do so under the *Maritime Powers Act 2013* (Cth) is currently being examined by the High Court.⁷

The rights and obligations afforded to individuals are subject to modification due to policy updates, court proceedings and the exercise of Ministerial discretion.

In the Northern Territory, Wickham Point detention centre currently comprises asylum seekers predominately in the third group who arrived between 19 July and 31 December 2013. Bladin Point is mostly home to post-19 July 2013 arrivals, although there are some who arrived before that cutoff date.

There are also an increasing number of people who arrived prior to July 19 2013 and have either been re-detained, some after living in the community for many years, or have been detained long term – sometimes waiting on security clearances, and sometimes for reasons not known to the asylum seeker.

⁶ Emma Griffiths, ‘Immigration Minister confirms 12 asylum seeker boats turned back since start of Operation Sovereign Borders,’ *ABC News*, 18 September 2014, available at: <http://www.abc.net.au/news/2014-09-18/immigration-minister-confirms-12-asylum-seeker-boats-turned-back/5752262>

⁷ *CPCF v Minister for Immigration and Border Protection & Anor*, before the Court on Tuesday 14 October 2014.

7. DETENTION OVERSIGHT

A. OFFICIAL DOMESTIC OVERSIGHT (NATIONAL)

There are four principal official domestic detention oversight bodies: the Australian Human Rights Commission (AHRC), the Commonwealth Ombudsman, the Red Cross Humanitarian Observer Program, and the Minister's Council on Asylum Seekers and Detention.

The Australian Human Rights Commission's role is to investigate complaints about alleged breaches of human rights in detention, conducting detention visits and national inquiries, making submissions about proposed laws affecting asylum seekers, and developing minimum standards for the protection of human rights in detention.⁸

The Immigration Ombudsman also investigates complaints about administrative decisions made by the Department of Immigration. However, perhaps its most important role is reviewing cases of people who have been in immigration detention for more than two years under s486O of the *Migration Act*. Those reviews are regularly tabled in Parliament.⁹ The information in these reviews is unavailable elsewhere in such depth and breadth. In 2013 there were 686 reviews covering 754 asylum seekers who had all been in detention for more than two years, with an average of 32 months.

A report analyzing the Ombudsman's 2013 s486O reviews was conducted by human rights research and advocacy group Humanitarian Research Partners, and is available online.¹⁰

B. OFFICIAL DOMESTIC OVERSIGHT (LOCAL)

In the Northern Territory there are three primary agencies that have a mandate to receive complaints, including from immigration detainees.

- 1) NT Health and Community Services Complaints Commission
- 2) Families and Children's Services – Child Protection
- 3) NT Children's Commissioner

C. INFORMAL DOMESTIC OVERSIGHT

Non-government organisations (NGOs) complement and augment the formal oversight provided by the AHRC and Ombudsman. NGOs complement their work by assisting asylum seekers and refugees to make

⁸ Australian Human Rights Commission, *The Commission's Role* (website), available at:

<https://www.humanrights.gov.au/commissions-role>

⁹ Reviews are available online at: <http://www.ombudsman.gov.au/reports/immigration-detention-review/>

¹⁰ Ben Pynt, *Who will be for me? Report on the Ombudsman's 2013 reviews of asylum seekers in long-term detention under s486O of the Migration Act 1958 (Cth)*, Humanitarian Research Partners Open Source Project on Asylum, May 2014, available online at: <http://bit.ly/1ngqrJw> (HRP: 2014).

complaints regarding conditions of detention and visa status. NGOs augment this oversight by conducting their own research and advocating for asylum seekers in the public arena.

The Refugee Council of Australia (RCOA) is the peak refugee and asylum seeker NGO body, representing over 180 member organisations and 700 individual members.¹¹ The RCOA helps NGOs and support networks to come together to share information, strategies and resources to better advocate for the rights of refugees and asylum seekers.

Support networks such as DASSAN maintain an important role in ongoing detention visits, monitoring general conditions of detention as well as the care of individuals and progress of cases. With further restrictions of funding and mandate for formal domestic oversight mechanisms, this NGO function will become even more crucial.

In the last two years, mainstream and social media have had an enhanced role in advocating for asylum seekers, mostly by simply exposing conditions of detention that would otherwise remain secret.

D. DETENTION SERVICE PROVIDERS

Immigration detainees have a right to complain about detention service providers, directly to those service providers. Making a complaint to service providers is often a pre-condition of valid complaints to official national oversight bodies. Primary detention service providers include the Department of Immigration and Border Protection, Serco, International Health and Medical Services (IHMS), MAXimus Solutions, and Save the Children.

There is generally a lack of awareness amongst immigration detainees about their rights regarding complaints and complaints procedures.

For further information regarding the roles of detention service providers, please see below section 10.

E. INTERNATIONAL OVERSIGHT

International NGOs such as the Australian Red Cross and Amnesty International have a special role in monitoring detention, as they are allowed access to facilities at a level rivalled only by formal domestic oversight agencies. However, visits are scheduled at regular intervals (often twice a year or quarterly), and asylum seekers and staff often report that detention centres are 'cleaned up' before representatives arrive.

Although the Red Cross is limited in its reporting capabilities by the Seven Fundamental Principles,¹² Amnesty International Australia has been outspoken about conditions of detention, particularly

¹¹ Refugee Council of Australia website: www.refugeecouncil.org.au

¹² See the Australian Red Cross website: <http://www.redcross.org.au/principles.aspx>

regarding offshore processing centres.¹³ Red Cross continues to run its detention monitoring program, which has in the past seen official visitors at NT detention centres several times a week. Amnesty has less of a role in publicizing conditions of onshore detention centres than RPCs.

The UNHCR also has a public monitoring role in offshore facilities however does not report publicly on mainland facilities. The UNHCR's reports on offshore facilities have been very direct by international standards, identifying multiple human rights violations at both Manus and Nauru and attributing joint responsibility to Australia and the host countries.¹⁴

UN human rights special procedures mandate holders and international treaty bodies are increasingly becoming involved in monitoring Australia's immigration detention network. Several advocates, lawyers and NGOs are working closely with human rights mandate holders and treaty bodies to advocate for asylum seekers at the international level. While UN communications may be seen as a largely ineffective diplomatic process, it is important in the context of building the public narrative of immigration detention and ensuring Australia is held to account for human rights violations at the international level.

¹³ Amnesty International Australia, *This is Breaking People: Human Rights Violations at Australia's Asylum Seeker Processing Centre on Manus Island, Papua New Guinea*, AIA, December 2013, available at:

http://www.amnesty.org.au/images/uploads/about/Amnesty_International_Manus_Island_report.pdf; see also Amnesty International Australia, *This is Still Breaking People: Update on Human Rights Violations at Australia's Asylum Seeker Processing Centre on Manus Island, Papua New Guinea*, AIA, May 2014, available at:

http://www.amnesty.org.au/resources/activist/This_is_still_breaking_people_update_from_Manus_Island.pdf

¹⁴ See, for example, UNHCR, *Monitoring Visit to Manus Island, Papua New Guinea 11-13 June 2013*, available at:

http://unhcr.org.au/unhcr/files/2013-07-12_Manus_Island_Report_Final%281%29.pdf; UNHCR, *Monitoring Visit to the Republic of Nauru 7 to 9 October 2013*, available at:

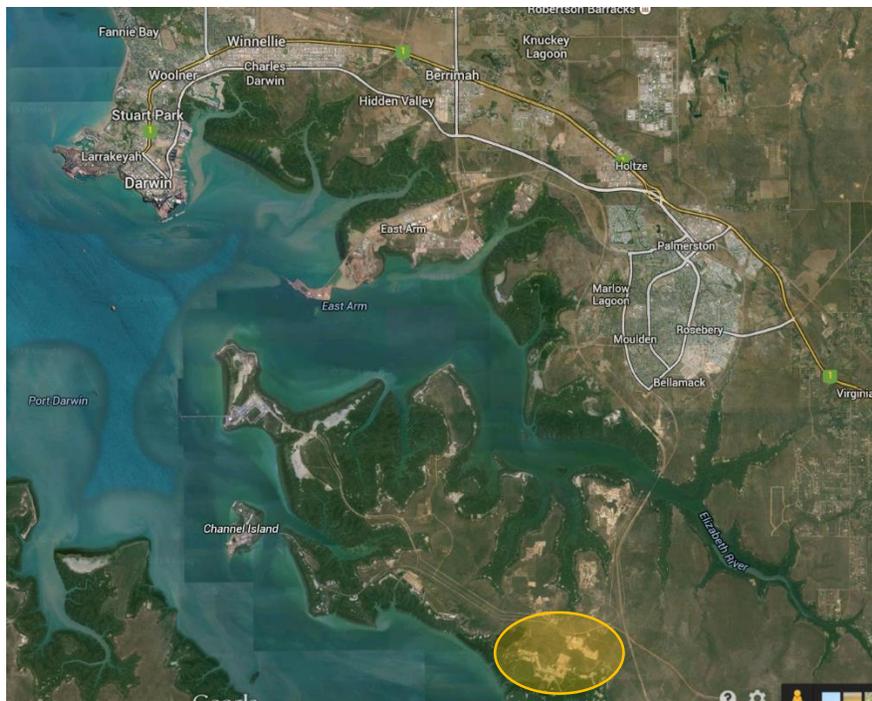
<http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Nauru%20of%207-9%20October%202013.pdf>

8. DETENTION IN THE NORTHERN TERRITORY

DASSAN conducts advocacy for asylum seekers throughout the immigration detention network in the Northern Territory. DASSAN is a critical part of the Destitution Working Group, and several members work with resettled refugees living in the NT community.

Although in the past there have been up to six designated places of detention in the NT, today there are only two: Wickham Point Immigration Detention Centre and Alternative Place of Detention (theoretically split into two sections, although it is one centre) and Bladin (formerly Blaydin) Point Alternative Place of Detention. These two detention centres are located approximately 40km from Darwin (by road), next to the Ichthys construction project (Figure 2).

Figure 3: Wickham and Bladin Point APODs (Google Earth)



Whilst part of Wickham Point has been designated an Alternative Place of Detention (APOD) (rather than an Immigration Detention Centre (IDC)) in early 2014, this is a misnomer. Most APODs are low-security facilities where detainees are allowed significantly more freedom of movement, and have access to more and better facilities than standard IDCs. IDCs traditionally resemble high-security correctional facilities, with high razor-wire, electrified fences, airlock-style internal gates and heavy CCTV monitoring. Whereas Bladin Point fits the archetypal APOD category, the entire Wickham Point facility should be considered a high-security IDC.

Wickham and Bladin Point occupy a common area renowned for its infestation with biting midges and mosquitos. One study commissioned by the Ichthys Gas Project, whose laydown yard is not 20 metres from Bladin Point APOD, shows that during the build-up and wet season, especially at high tide, during

the morning and evening one can expect up to 10,000 midge bites per hour with a small area of exposed skin.¹⁵

There are currently approximately 900 asylum seekers in immigration detention in the NT, however Wickham Point has a capacity of 1500, and Bladin Point has capacity for over 1200 detainees.

9. SERVICE PROVIDERS IN THE NORTHERN TERRITORY

DASSAN is one of several refugee and asylum seeker service providers in the NT. Other key service providers include:

1. **The Department of Immigration and Border Protection (DIBP):** DIBP staff undertake case management, operational management, policy, guardianship for unaccompanied minors and are responsible for the processing and determination of claims for a protection visa.

DIBP administer detention contracts and are responsible for the overall running of detention centres.
2. **The Department of Human Services (DHS):** DHS administers payments for asylum seekers living in the community.
3. **Serco:** Serco Australia Pty Ltd manages of detention centres; provides some activities and services; and transport and escort services. Serco runs day-to-day operations in all Northern Territory Detention facilities at present.
4. **International Health and Medical Services (IHMS):** In January 2009 DIAC signed a contract with IHMS to provide a range of health services to people in immigration detention around Australia. This includes the provision of primary health services related to mental, physical and dental health. IHMS do not provide advanced care.
5. **The Australian Red Cross:** Red Cross provides a range of services including independent humanitarian observers and international tracing services.

Red Cross Australia is also responsible for providing support to people being released from detention into both community detention and onto bridging visas. In theory the support for people being released on bridging visas is provided for a limited time period while people find accommodation and work, however it has in the past intervened in other circumstances where clients have special vulnerabilities.

¹⁵Medical Entomology Section of the Centre for Disease Control, Department of Health and Families, *Ichthys Gas Field Development Project: biting insect survey of Blaydin Point, Darwin*, NT Department of Health and Families and INPEX Browse, September 2009, available at: <http://digitalibrary.health.nt.gov.au/prodjspui/bitstream/10137/593/1/Blaydin%20Point%20report%20V2%20Sep09.pdf>

6. **Melaleuca Refugee Centre:** Torture and Trauma Survivors Service of the NT.

Melaleuca is a member of the Forum of Australian Services for the Survivors of Torture and Trauma (FASSTT) Network, the Refugee Council of Australia and the Settlement Council of Australia. FASSTT has a representative on the International Rehabilitation Council for Torture Victims (IRCT), linking Melaleuca to the international network of torture and trauma centres.

Core functions include torture and trauma counselling, settlement services (under the Humanitarian Settlement Services program) and community development services. Services currently include:

- Detention counselling (no limit);
- BVE counselling through the Red Cross (limited to six sessions per referral);
- Program for Assistance for Survivors of Torture and Trauma (PASSTT) (no limit);
- Humanitarian Settlement Services (available for the first 12 months after arrival in Australia);
- Housing assistance and homelessness prevention under the *Reconnect* program;
- Refugee parenting support programs and alternatives to violence;
- Welcome to country;
- Education and training on trauma informed workplaces and the experience of trauma for asylum seekers and refugees (no limit); and
- Supporting the Football Without Borders movement in the NT.

7. **Save the Children:** StC provides independent observer and general support and activities for unaccompanied minors in detention in the NT.

8. **Northern Territory Council of Social Service:** NTCOSS is the secretariat for- and coordinator of the Asylum Seeker Services Network (ASSN). The ASSN is made up of organisations and groups delivering services, formal and informal, to asylum seekers in Darwin that subscribe to the principles of the network. The main aim of the ASSN is to facilitate information exchange and coordinated services delivery that leads to better outcomes for asylum seekers in the NT.

9. **Northern Territory Government:** Memoranda of Understandings exists with State/Territory Government Departments for the provision of health services and education of asylum seekers living in the community (except Western Australia, which does not have an education agreement in place). Under agreement, the NT Government provides health services to asylum seekers in detention (including transferees from offshore facilities) at the Royal Darwin Hospital.¹⁶

The NT Government also provides public education to asylum seeker children in detention, mostly in school environments.

10. **Legal Aid:** NT Legal Aid services and community law centres (CLCs) provide free advice to all in the Northern Territory, including asylum seekers in detention and in the community, through the Legal Aid hotline (free call 1800 019 343). The Legal Aid Hotline provides legal information, referral to other relevant services and appointments for their in-person legal service.

¹⁶ Natasha Blucher, Caz Coleman, Justine Davis, *DASSAN Advocacy Handbook Draft of 6 August 2013* (unpublished).

Appointments are only available for family law, civil law and criminal matters. No migration advice is available under current funding arrangements.

11. **Darwin Community Legal Service (DCLS):** DCLS offers free legal advice in relation to civil matters only. DCLS are able to provide advice regarding Code of Behaviour matters.

12. **General community services:** Services currently provided include:

- a. Activities such as cooking classes, English classes, yoga, sport and recreation;
- b. Services relating to children and families (for example playgroups);
- c. Information and education for clients;
- d. Education and training for staff involved in detention services;
- e. Visiting services;
- f. Religious services and support; and
- g. Other advocacy support.

There is currently no organisation with a mandate to conduct formal detention advocacy in the NT.

10. MANDATORY DETENTION AND MENTAL HEALTH

The consequences of detention on mental health are well-established; on a long-term basis detention causes substantial mental harm.¹⁷ This report does not propose to present further evidence of mental harm in detention, however it is important to identify key mental health problems facing immigration detainees.

Upon arrival in the detention system, survivors of torture and trauma are at risk of re-traumatisation due to the nature of restrictive detention environments.

After three months there is a marked effect on mental health for most detainees, and regular visitors indicate that this is when they first start to notice a deterioration in the demeanour and behaviour of asylum seekers.

Regular detention visitors report that after one year, asylum seekers often lose all hope of release and maintaining a normal life after incarceration.

Data obtained from the Immigration Ombudsman's 2013 s486O Reviews of long-term immigration detainees show that after two years, rates of mental illness are extremely high (see figures 4.1 and 4.2 below). Key problems include (in order of precedence) depression, anxiety, threatened or attempted self-harm, sleep problems, voluntary starvation (hunger strikes), and threatened or attempted suicide.

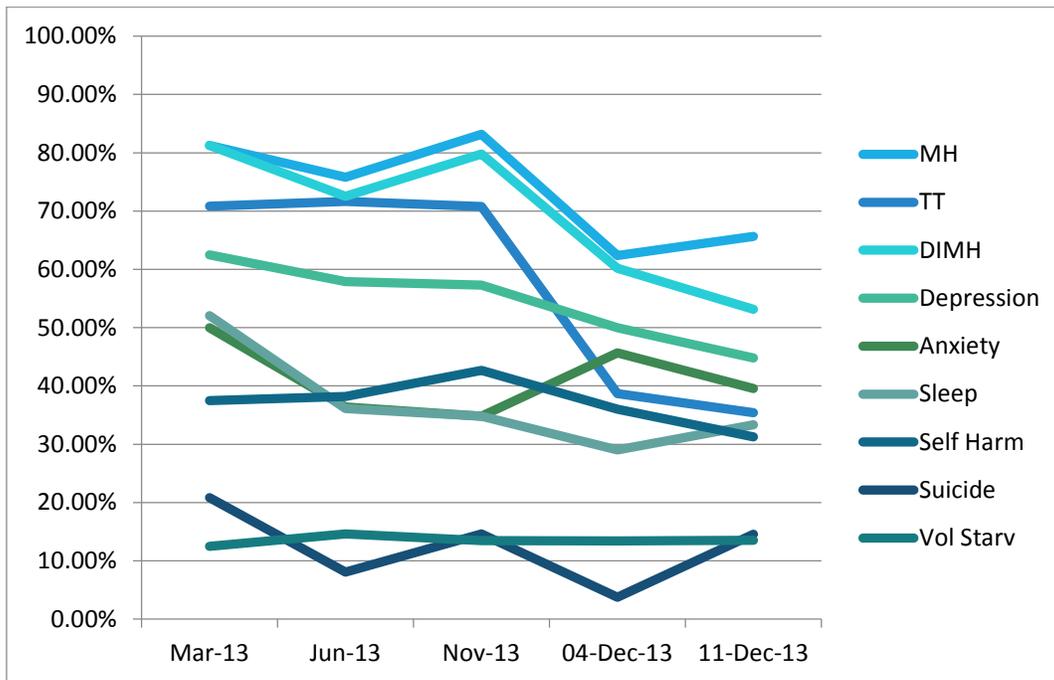
Figure 4.1: Mental health indicators for long-term immigration detainees¹⁸

	Mar-13	Jun-13	Nov-13	04-Dec-13	11-Dec-13	Average
Mental Health	81.25%	75.82%	83.15%	62.37%	65.63%	73.64%
Torture/Trauma	70.83%	71.64%	70.79%	38.71%	35.42%	57.48%
DIMH*	81.25%	72.54%	79.78%	60.22%	53.13%	69.38%
Depression	62.50%	57.91%	57.30%	50.00%	44.79%	54.50%
Anxiety	50.00%	36.42%	34.83%	45.70%	39.58%	41.31%
Sleep Problems	52.08%	36.12%	34.83%	29.03%	33.33%	37.08%
Self-Harm	37.50%	38.21%	42.70%	36.02%	31.25%	37.14%
Suicide	20.83%	8.06%	14.61%	3.76%	14.58%	12.37%
Vol Starv	12.50%	14.63%	13.48%	13.44%	13.54%	13.52%

*DIMH: Detention-induced or –exacerbated mental harm

¹⁷ Tony Ward, *Long-term health costs of extended mandatory detention of asylum seekers*, Yarra Institute for Religion & Social Policy: Melbourne, October 2011.

¹⁸ HRP: 2014 at p. 15, Table A2.

Figure 4.2: Graph: mental health indicators for long-term immigration detainees¹⁹

Regular detention visitors confirm that mental health in NT detention centres is declining sharply. Most asylum seekers at Wickham Point have been in detention since 19 July 2013, and have reached the turning point where there is little that can be done to stymie this rapid deterioration. Asylum seekers have reported that IHMS provides minimal mental health support. There is the possibility of referral to the Melaleuca Refugee Centre for torture and trauma counselling or treatment in the Cowdy psychiatric ward at RDH for the treatment of severe cases.

Mental health treatment in detention in the NT is, in the words of a veteran DASSAN visitor and mental health expert, *“totally inadequate for this population with their history of past and ongoing trauma.”*

Most asylum seekers at Bladin Point have been in detention for at least 17 months, having predominantly arrived before 19 July 2013. Despite less harsh conditions of detention than at Wickham Point, lack of treatment for mental health issues is a serious and ongoing problem commonly encountered by DASSAN advocates.

A large number of detainees at Wickham, and fewer at Bladin APODs are at high risk of return to OPCs once medical staff determine that treatment options have been exhausted, or the medical condition (usually the sole reason for onshore transfer) has been alleviated. Several have been returned without treatment. Those people have been assessed by visitors as being as under severe mental strain, with constant re-traumatisation occurring as they remain in a restrictive detention environment. Many asylum seekers at Wickham Point arrived before 13 August 2012, and were living in the community with

¹⁹ HRP: 2014 at p.16, Graph A2.

work rights but were re-detained for the purpose of deportation. These people have high support needs and are at risk of rapid mental health deterioration.

Experts agree that there is no possibility of recovery from post-traumatic stress disorder or severe anxiety brought about by the detention environment until a person is released.²⁰ Visitors with a background as mental health professionals commented ‘detention is the last place [they] should be.’

11. ADVOCACY

A. WHAT KIND OF ADVOCACY?²¹

Detention advocacy can take many forms, and DASSAN regularly engages in multifaceted advocacy involving a variety of stakeholders and strategies depending on the circumstances.

Advocacy can include self-advocacy, individual advocacy, group advocacy, systemic advocacy or citizen advocacy. In each context, the aim is to create change where there exists some form of disadvantage or discrimination. Advocacy is active and requires action on behalf of one’s self or others, to create a more just or fair outcome.

With the exception of self-advocacy it is generally agreed that to advocate, or to act on behalf of another person, is to be grounded in the fundamental principle of interest in the disadvantage of the ‘other’ and not based in self-interest.

Therefore, advocacy is **not** designed to advance the reputation, profile or assets of the person or organisation advocating. Rather, the perceived or actual interests of the person who is disadvantaged or who is asking for assistance, are primary.

In general, DASSAN considers that for advocacy to be successful it must be:

- Respectful;
- Focused on the interests and benefits of those for whom we advocate for; and
- Targeted at those who have the power to make change or influence change.

The most powerful form of advocacy is **self-advocacy**. The ability to influence change in relation to one’s own circumstances creates the deepest impact on self-worth, sustainable self-empowerment and long term success in recovery from the damaging experiences related to disadvantage or discrimination.

In supporting asylum seekers, DASSAN believes the first approach should always be to explore the capacity of the person to advocate for him or herself. The provision of materials or contacts to enable

²⁰ See, for example, Caroline Fleay & Linda Briskman, *Hidden men: Bearing witness to mandatory detention in Australia*, 32 Refugee Survey Quarterly 3 112-129.

²¹ This section is drawn from Natasha Blucher, Caz Coleman, Justine Davis, *DASSAN Advocacy Handbook Draft of 6 August 2013* (unpublished).

or enhance self-advocacy, combined with ongoing support and assistance is the most powerful way to assist individual asylum seekers.

However, not all persons are capable or willing to self-advocate for many and varied reasons. The effects of torture and trauma, education levels, effects of diminished mental health, and loss of hope are among the reasons people may not have the energy or capacity to self-advocate. Where such capacity of a person is diminished by disadvantage or discrimination, support in the form of individual, group, systemic or citizen advocacy may be employed.

B. EFFECTIVE ADVOCACY

Once the person or group of people for whom advocacy is required has been identified and evidence of the alleged disadvantage or discrimination is collected, the next important part of advocacy is to identify in what form advocacy should be undertaken. Deciding who will be the object of the advocacy becomes paramount to the success of achieving change.

In many cases the use of writing, speaking, meeting or campaigning are used concurrently depending on access to decision makers. For example, speaking to, or meeting with, the Minister for Immigration (or a representative) may not be possible for an advocate. However, writing to the Minister is possible, as is identifying an appropriate contact who may have the opportunity to speak to, or meet with the Minister.

Using the right medium and language for the right level of influence is an important element to both achieve and outcome and avoid frustration. For example, public servants do not have the decision making power to change key immigration policies.

Asylum advocacy can be undertaken at several levels. Problems often arise when there is a disjuncture between policy and practice, and this can usually be resolved by alerting officials to the existence of the problem. DASSAN uses the following advocacy chart, in order of priority and capacity to enact change:

Figure 5: Targets of detention advocacy²²

Position	Role	Powers
Decision Makers	Members of parliament. Immigration Minister, Prime Minister, Shadow Minister for Immigration, Opposition Leader, Departmental heads and senior officials.	May have minor or major influence over party policy. Can effect legislative or regulatory change. Departmental heads and senior officials often have the power to rectify individual problems quickly.

²² Natasha Blucher, Caz Coleman, Justine Davis, *DASSAN Advocacy Handbook Draft of 6 August 2013* (unpublished).

Representatives	Paid advisors to members of parliament. Independent advisors on policy, process, services and programs.	Can advise members of parliament of an advocate's position or pass on evidence of disadvantage or discrimination.
Administrators	Department of Immigration and Border Protection staff	Depending on position, can pass on evidence of disadvantage or discrimination within DIBP. At senior levels can advise Minister, pass on evidence of disadvantage or discrimination or make decisions relating to minor aspects of policy, process, services and programs.
Stakeholders	May include human rights bodies, service delivery agencies or other interested agencies and prominent individuals. Citizens of Australia with an interest in abolishing the disadvantage or discrimination against asylum seekers.	Can provide non compellable recommendations to decision makers relating to disadvantage or discrimination. Can provide a collective voice to influence a policy position or legislative or regulatory context.
Media	Mainstream and social media	If communication with officials and stakeholders is ineffective in achieving results, taking stories to the media can help bring attention to the problem. NOTE: All media work must be done with informed consent, and with consideration to privacy issues and status resolution.

C. DASSAN'S ADVOCACY²³

DASSAN stresses to its members that advocacy must be:

- Grounded in facts;
- Supported by evidence;

²³ Natasha Blucher, Caz Coleman, Justine Davis, *DASSAN Advocacy Handbook Draft of 6 August 2013* (unpublished) at ss1-2.

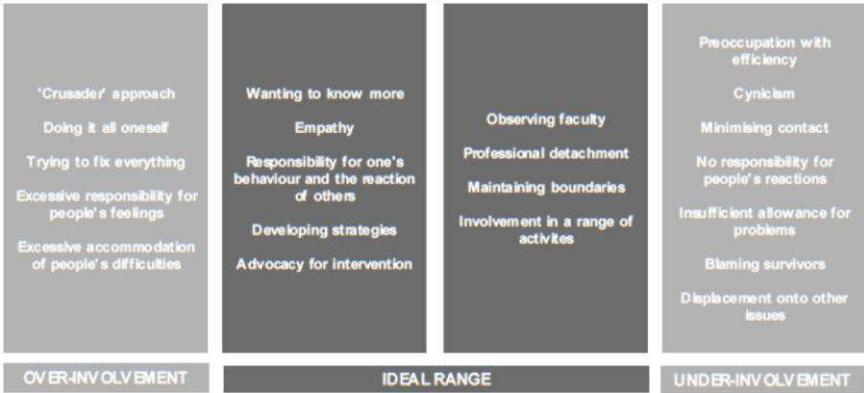
- Realistic in its aims;
- Targeted and purposeful in its approach;
- Undertaken with informed consent at every stage; and
- Respectful to the preferences and sensitivities of the individual.

DASSAN also emphasises the primacy of privacy and confidentiality in its advocacy. Personal details are released to advocates on a need-to-know basis, and are not distributed widely under any circumstances. Personal details are only released to the advocacy target where necessary and appropriate.

In the context of extended detention, it is important not to guarantee results that are unrealistic, or to insinuate an unrealistic timeframe for resolution of problems. Change does not happen overnight, and to promise rapid results is to undermine the reputation of the broader advocacy group among the detention population.

Professional boundaries are an essential part of DASSAN training. The DASSAN Advocacy Manual makes reference to the following framework for self-assessing attitude and boundaries, and encourages advocates to be aware of their level of emotional involvement at all times.

Figure 6: The Over-involvement, Under-involvement continuum²⁴



Volunteer capacity to deal with advocacy needs in the NT is already stretched, and will not likely be able to cope with the expected influx of asylum seekers with complex needs. DASSAN recognises it would be greatly advantageous to formalise detention advocacy to build on the work done by volunteers and support asylum seekers in detention to access justice.

D. FIRST STEPS AND LIKELY OUTCOMES

The first step in any advocacy interaction should be to work with the person involved to identify the key issues with which they need support, and where advocacy may be possible.

²⁴ Victorian Foundation for Survivors of Torture, *The Over-involvement, Under-involvement Continuum*, VFST, Melbourne: 1998, p. 153.

The most effective functions advocates can undertake are often the simplest. Assisting asylum seekers to make a freedom of information request to obtain copies of their detention and health records is a good example of this.

Detention, visa, and health records provide primary evidence of problems encountered in detention. Records can provide confirmation of claims made by asylum seekers, including of failure to provide timely care, or obstructions to a case moving forward. Primary detention records are essential if the case is to be referred for legal support.

In rare cases, advocates are able to achieve concrete outcomes for asylum seekers including stays of transfer (to other detention centres including offshore facilities) or rapid access to advanced medical care. It is important that these functions are carried out in concert with legal representatives.

In most cases, however, advocates can be more effective by supporting formal representatives (such as lawyers) or assisting asylum seekers to make complaints to detention service providers and official oversight mechanisms. Support functions include helping people to fill in documents, providing templates for grants of authority, and collecting basic case information (see below section E).

If an asylum seeker already has legal representation, it is critical to undertake all advocacy in collaboration with that representative.

If there is no need for legal representation for the matter in question, the first step should be to write to the Department of Immigration and Border Protection and the service providers involved (i.e. Serco, IHMS), to inform them of the problem and request resolution. If resolution is not forthcoming within a reasonable period of time, advocates should follow the order of priorities set out above (at s12B) and contact the next appropriate person.

DASSAN advocates regularly lodge FOI requests on behalf of asylum seekers to obtain copies of medical and detention records, arrange legal representation, write to Departmental officials and service providers as outlined above, and act quickly to prevent inappropriate and/or dangerous transfers to alternative onshore or offshore detention centres.

DASSAN visitors and advocates have and continue to work closely with lawyers conducting individual and class-action litigation on behalf of immigration detainees. DASSAN visitors were pivotal in identifying and consulting potential applicants in the cases of children born in detention, and for actions relating to the January 2014 Departmental privacy breach.

It is essential that DASSAN's advocacy training and capacity building activities continue and are expanded upon commensurate with the increase in detention population and as detainees with complex problems spend longer average times in the detention system.

E. NATIONAL AND INTERNATIONAL ADVOCACY

It is imperative that detention advocates are able to effectively communicate systemic issues encountered in detention and develop broad policy responses to developments. National and international advocacy should focus on analysis of primary evidence from advocates and detainees alike.

With the development of stronger and more comprehensive needs and advocacy analysis tools, DASSAN is well placed to make such information public.

Appropriate forums for explaining in-depth findings include national inquiries led by the Australian Human Rights Commission, Parliamentary committees or NGOs and academics.

There is scope for more comprehensive communications with international oversight mechanisms, for instance. The UN OHCHR and special procedures mandate holders have developed a keen interest in conditions of detention and access to services.

However, the Australian government tends not to take notice of pronouncements and decisions by international courts and treaty bodies,²⁵ arguing Australia's internal rule of law and protections against perceived threats are the paramount consideration. There is no consideration of the proportionality or reasonableness of the response.

It is up to NGOs to continue to bring the world's attention to the lack of accountability and transparency concealing inappropriate and dangerous practices in the immigration detention system. Being at the front line working directly with asylum seekers, DASSAN is in the perfect position to provide commentary and analysis of trends its volunteers report. Keeping detailed, searchable records is important to make this work efficient.

²⁵ Radio Australia, 'Australia facing renewed scrutiny over indefinite refugee detentions,' ABC Radio Australia, 27 February 2014, available at: <http://www.radioaustralia.net.au/international/radio/program/asia-pacific/australia-facing-renewed-scrutiny-over-indefinite-refugee-detentions/1272086>

12. FINDINGS AND RECOMMENDATIONS

A. ASYLUM SEEKER NEEDS

I. MEDICAL NEEDS

The most consistent complaint from asylum seekers, and the most-reported problem by detention visitors and advocates, is the persistent unreasonable delay or denial of medical treatment for asylum seekers in immigration detention.

Medical complaints reported by asylum seekers over the course of this study included allegedly untreated mental health concerns (ranging from generalized anxiety and depression to profound post-traumatic stress disorder); painful polycystic ovaries; broken limbs; missing teeth and broken jaws that caused significant pain and posed problems eating; pregnancy complications; asthma caused or exacerbated by burn-off ash and dust; heart problems and many, many more. Such findings are consistent with evidence presented to Parliamentary and Human Rights Commission Inquiries into healthcare provision in immigration detention.²⁶

IHMS is only contracted to provide primary healthcare services in immigration detention, and virtually all specialist and advanced care occurs at the Royal Darwin Hospital (RDH). Outside torture and trauma rehabilitation and counselling services are primarily provided by the Melaleuca Refugee Centre.

During this study several medical complaints were submitted however, consistent with prior experience, the only complaints that were actioned were those that referenced material obtained under Freedom of Information rules or as authorized releases from RDH. RDH records can only be obtained with the assistance of advocates, as asylum seekers are not able to lodge those requests with the hospital due to lack of access to scanners and restrictions on movement outside of detention centres.

Specialist medical appointments and advanced diagnostics often take months to be scheduled, and are often cancelled by IHMS or the Department without explanation. Asylum seekers are semi-regularly transferred to one detention centre when their appointments are scheduled to take place in another city or state.

DASSAN advocates have intervened in several cases where asylum seekers had been brought to Australia from an OPC for medical treatment, only to be scheduled for return to those OPCs before medical care had been provided. But for DASSAN's intervention, those people would have been returned and would remain in significant pain or with substantial disabilities.

Advocates have also intervened to obtain rapid advanced medical treatment where it was likely that further delay would result in an asylum seeker's health significantly deteriorating or being permanently damaged. In making such complaints and claims, the author notes, and encourages other advocates to

²⁶ See, for example, transcript of the testimony of Dr Peter Young, psychiatrist and former Director of Mental Health Services for IHMS detention healthcare, to the Australian Human Rights Commission's National Inquiry into Children in Immigration Detention 2014, Thursday 31 July 2014, available at: <https://www.humanrights.gov.au/sites/default/files/Dr%20Young.pdf>; Australian Human Rights Commission, *A last resort? National Inquiry into Children in Immigration Detention*, Human Rights Commission: Sydney, May 2004.

note, that *should significant or permanent damage result, a cause of action would accrue against the government for breach of its duty of care (if it has not already), and that unreasonable delay or denial of medical care amounts to torture under international law.* Where the Department claims that waiting periods are commensurate with those experienced in the broader NT community it is important to remark that, if the problem requires urgent attention that cannot be obtained in Darwin, it is incumbent on the Department to transfer the person to an alternative detention centre where their needs can be met within an appropriate time frame.

Recommendation 1: The Coordinator is to establish easy to follow processes and procedures for advocacy visits, including information gathering and analysis, complaint co-ordination and referrals where appropriate. The Coordinator should oversee this process, and record metadata for periodic reporting.

II. LEGAL NEEDS

Legal needs can be distinguished into two categories: assistance with status determination problems, and conditions of detention.

Status determination problems include migration assistance with protection applications and assistance with merits and judicial review. It will become increasingly difficult to obtain representation and advice as IAAAS funding is no longer available, and asylum seekers will have to rely on pro bono assistance. However, with the rapid slowdown in processing and the Minister's refusal to consider virtually any intervention, few if any migration pathways are available to asylum seekers still in restrictive detention.

Representation for specific, non-migration related matters has been difficult to obtain due to the lack of database or network of lawyers who are willing to act pro bono, including what kind of matter they might be willing to take, and how many they are able to handle at any given time.

Assistance in lodging complaints for unreasonable delay or denial of medical treatment is by far the most pressing need of immigration detainees in the NT, and can be resolved by advocates and lawyers working together to create reliable follow-up chains to escalate complaints where no substantive action is taken by the Department or service providers to improve conditions.

A key problem that has been well reported and is increasingly worrying is an abject lack of access to legal representation for immigration detainees. There is no legal hotline in detention, and restriction (and monitoring) of communication facilities for detainees means there is little awareness of and access to legal services that may be able to help. DASSAN advocates have consistently identified that obtaining legal advice is difficult, and seldom happens without assistance seeking support from detention visitors.

A further problem is the inconsistency in availability of IT facilities such as scanners in detention centres that are crucial in lodging representation agreements and freedom of information requests. There has been no working scanner at Wickham Point since about July 2014 despite multiple complaints having been lodged by asylum seekers and advocates alike.

There is a pressing need for improved, more consistent lines of communication between legal representatives and clients in immigration detention. A lack of knowledge about the progress of their

cases is a strong contributor to ongoing mental health problems including anxiety and depression. A centralized point of contact for lawyers and other authorized representatives could substantially improve the communication process by streamlining requests for updates, thus ensuring representatives are not inundated with emails and phone calls directly from clients.

Recommendation 2: A national database or network is to be established if possible. This would include listing lawyers and migration agents willing to act pro bono, their areas of specialty, and their caseload capacity.

III. COMPLEMENTARY ADVOCACY NEEDS

DASSAN has an active caseload of approximately 200 asylum seekers, however there are close to 1000 immigration detainees in the NT, and this number is expected to increase significantly over the next twelve months.

There is a strong need for triage, case preparation and preliminary advocacy activities to be undertaken by the Position holder and DASSAN volunteers. Advocacy training and supervision is also a core need that must be met by the Position for sustainability, effectiveness and efficiency of volunteer-based detention advocacy.

Recommendation 3: The Coordinator should oversee complementary advocacy needs including lodgment of FOI requests, co-ordination of legal representation, and assistance with formulation of complaints to service providers, and domestic and international detention oversight mechanisms. Centralized coordination could also benefit complaints to service providers and the Department of Immigration regarding the inconsistent and arbitrary application of visiting rules, and a failure to provide access to equipment such as scanners that inhibit access to justice and realization of other fundamental rights.

Recommendation 4: The coordinator should also collate evidence of and manage complaints regarding access to special needs in detention. Such special needs that are not being catered to in NT detention centres (according to multiple reports by detainees and advocates) include sporadic access to food outside of regular meal times for pregnant women and children, and troublesome access to IHMS or mental health support services for detainees with chronic health complaints.

IV. FORCED TRANSFERS

Forced transfers often take place in the context of medical problems (especially transfers to and from OPCs), and these are the transfers advocates are most able to prevent or delay. DASSAN advocates have in the past, and should continue to work alongside lawyers, migration agents and other stakeholders to prevent or reverse inappropriate transfers.

An example of an inappropriate onshore transfer is a female asylum seeker who was sent from a detention centre in Perth to a centre in Darwin, ostensibly for medical treatment. However, that

treatment was available in Perth, and the Department failed to deal with the fact that transfer to Darwin was likely to (and eventually did) exacerbate her poly-systemic rheumatoid arthritis due to tropical heat and humidity.

An example of an inappropriate attempted offshore transfer is a man who was at Manus Island and suffered significant facial injuries during the February attacks. He was transferred to Port Moresby for treatment, however did not receive advanced care as none was available. He was kept in a motel room in Port Moresby for an extended period of time, which added to his psychological trauma. He was in Darwin for approximately three months and did not receive any treatment for his facial injuries or support for his trauma. At that point, the Department attempted to return him to Manus Island. Without the intervention of a senior DASSAN advocate and lawyers based out-of-state, this transfer would have occurred. Due to DASSAN and legal intervention, this man remains in detention, however he still has not received the advanced medical care he requires.

Recommendation 5: Central coordination and an early warning system for inappropriate proposed transfers would assist in the prevention of these transfers. The backbone for such a scheme already exists.

V. CAPACITY BUILDING FOR SELF-ADVOCACY

Asylum seekers in detention are desperate to regain a modicum of control over their lives, however tokenistic it may be. Supporting asylum seekers to run their own complaints and seek advice directly from their authorized representatives can provide this element of control, which can have substantial positive effects for mental health.

Supporting self-advocacy can be as simple as providing FOI and complaint templates, and making asylum seekers aware of complaint mechanisms they are able to utilize. As mentioned above, there is no legal hotline programmed into detention phones, so handing out phone numbers and providing instructions for the use of the NT Legal Aid Hotline can be a useful and powerful action. Once one person has successfully used the service, they often recommend it to their friends, sometimes going so far as assisting others with their first contact with those services.

Recommendation 6: DASSAN volunteers should be trained in the use and dissemination of templates and pro formas to asylum seekers in detention to enable more self-advocacy.

VI. DATA AND CASE MANAGEMENT

DASSAN is overflowed with requests for friendly and advocacy visits, and does not have a full time employee to manage cases and record key indicators and problems faced by clients.

Recommendation 7: The Coordinator should provide case oversight and management by maintaining a register of active cases, key information and indicators, including milestones achieved and actions taken to support asylum seekers.

B. ADVOCATES' NEEDS

I. ADVOCACY TRAINING

Two formal advocacy training sessions were undertaken by the author over the course of the study. The first session was tailored for experienced DASSAN advocates, whereas the second session was more geared towards educating professionals who deal with immigration detainees as to the specific needs and vulnerabilities of asylum seekers in long-term detention.

A core element of complementary advocacy is the effective and efficient use of other actors and stakeholders to take claims where appropriate. Lawyers should be engaged for legal matters, and migration agents for visa processes and appeals, however it is also important that community advocates are aware of other service providers who support asylum seekers in the area, and keep open lines of communication with those services to cater to the needs of vulnerable clients. For example, when advocating on behalf of an unaccompanied minors in detention, it is appropriate to first contact Save the Children when the new contract enters into force to determine whether they are already apprised of the situation, or are in a better place than the community advocate to effect a meaningful change in circumstances.

Recommendation 8: Continuing advocacy training is imperative to ensure harmonized standards of advocacy, the use of common forms to streamline processes and complaints, to ensure advocates are aware of their rights and responsibilities as detention visitors, and that they are able to effectively advocate for their clients and themselves (in the context of arbitrary application of visiting rules).

II. COLLABORATION AND COMMUNICATION

Increased collaboration between detention visitors and other service, advocacy and legal providers is essential in the current climate. Reports of duplication of services are common; eliminating overlaps in service provision will enable providers act without fear that efforts are being duplicated, and time and resources unnecessarily expended. This can only be done with increased collaboration with outside service providers, and the maintenance of a central register as has now been developed by DASSAN.

Migration agents, lawyers and outside service providers must be willing to share information on a confidential basis (and with informed consent), and keep open dedicated lines of communication with detention advocates for the purpose of coordinating activities, and minimizing gaps and overlaps in service provision.

Recommendation 9: The Coordinator should try to bring service providers together and facilitate better communication between stakeholders regarding individual cases, keeping better information lines open, and including clients in conversations wherever possible.

III. CREATING A NATION-WIDE PRO BONO NETWORK

In the context of the total withdrawal of IAAAS support for asylum seekers, increasing reports of unreasonable delay and denial of medical treatment, and across the board refusals by the Minister to consider intervention except in the most extreme circumstances, it is imperative that lawyers and migration agents who are willing and able to act pro bono for immigration detainees are contactable in a more organized, methodical manner.

A nationwide asylum pro bono register would record not only the willingness of a member to be included, but also whether that person or organisation is already acting for clients on a no-fee basis, whether they have capacity for further clients, and what kind of work they are able to take on (i.e. migration, tort, civil or criminal matters).

DASSAN recognises that it is not the most appropriate agency to be coordinating a nationwide pro bono asylum register, however the author has approached several legal and other bodies about the possibility of working together to create such a database. It is hoped this will be feasible within the next twelve months.

Recommendation 10: The Coordinator should work with organisations including State-based Law Society pro bono clearing houses, Australian Lawyers for Human Rights, the Human Rights Law Centre and Asylum Seeker Resource Centre to establish a nation-wide refugee pro bono register.

13. COORDINATOR OF DETENTION ADVOCACY

The position of coordinator of detention advocacy for Northern Australia should be created (**the Position**). There is enough work for such a position to be held full time, and this workload is only likely to increase with the continued movement of asylum seekers in offshore centres, and given projected closures of other centres around Australia.

This position should include the following functions:

- 1) Advocacy training, supervision and assistance;
- 2) Coordination of advocacy visit requests;
- 3) Lead advocate for asylum seekers with complex problems;
- 4) Case management and oversight, including maintenance of visits and advocacy registers;
- 5) Ongoing communication with the Department of Immigration (including senior officials), detention service providers, outside care providers (eg. Royal Darwin Hospital), community stakeholders and the media; and
- 6) Maintaining close relationships with partner organisations and referring agencies.

This Position could take several forms in terms of focus, and should be fluid and adaptable to supply (of volunteer advocates) and demand (for advocacy). The Position should be able to respond to changes in supply and demand by shifting emphasis between advocacy coordination and execution.

Personalized, private advocacy should be the main focus of the Position. Broader advocacy, including submissions to national inquiries and international oversight mechanisms should be secondary, although still encompassed in the Position description. The Position should also liaise with other domestic and international organisations, and be willing to share (de-personalised) data and statistics, and other information where appropriate.

The Position should have a core responsibility of establishing a formal legal referral process, and liaising with interstate services and providers to ensure supply is commensurate with demand. The Position should act as a clearing house for legal representation requests to maintain consistency of referrals and elimination of frivolous or unviable requests to minimize the strain on legal services and promote long-term sustainability of the process.

The Position should also act as on-the-ground liaison for interstate lawyers who are unable to attend meetings with their clients in detention in the NT. Either the Position holder or volunteers can perform paralegal tasks with minimal training, such as organizing grants of authority, coordinating FOI requests, and sorting through FOI releases to create summaries of issues to minimize the workload for lawyers.

The author and DASSAN have developed a master visits and advocacy spreadsheet that records the status of all asylum seekers currently being visited, and all actions taken by DASSAN visitors. This spreadsheet must be maintained and improved as a core part of the Position. The developed database will enable data mining for detailed, evidence based submissions to domestic and international detention oversight mechanisms and inquiries.

It is also important that the Position holder provide ongoing advocacy and process training. Several organisations have indicated they would be interested in advocacy and awareness training, meanwhile less formal DASSAN sessions should continue on a regular basis.

Depending on the employment model, the Position holder will report to a steering committee or senior advocates who will oversee the execution and progress of the work.

The Position should be supported by volunteers where appropriate, with supervision by the Coordinator.

14. CONCLUSIONS

There are comprehensive advocacy services for asylum seekers in the community and as a group at large throughout Australia. However, there is little in terms of organized advocacy for individual asylum seekers still in detention. DASSAN proposes to fix that gap and act formally on behalf of asylum seekers with complex needs.

There is an overwhelming need to address the effects of systemic problems on individuals, particularly where adverse or negligent treatment results in harm or human rights violations.

The findings of this report are entirely consistent with evidence presented at multiple inquiries, in academic writings, and throughout the mainstream and social media. Detention is harmful to mental and physical health, yet the average time spent in detention continues to increase and reached 426 days at 31 October 2014.

Despite moves by the current government to close down several detention centres across Australia, most of the affected asylum seekers will simply be moved to other centres or types of detention, rather than being resettled temporarily or permanently as members of the Australian community.

Darwin is rapidly becoming the detention capital of Australia, yet the support services available to asylum seekers in the NT are not commensurate with the rest of Australia. DASSAN would like your help to bridge the distance between asylum seekers and their lawyers, migration agents and medical specialists. DASSAN needs your support to establish a full-time job for a coordinator of detention advocacy who will follow up complex cases, manage visit requests, facilitate communication between stakeholders and their clients, and advocate for asylum seekers in detention.

15. KEY RECOMMENDATIONS

1. A permanent position of Coordinator of Detention Advocacy should be established to cover IDCs and APODs in the Northern Territory.
2. A national pro bono legal register should be created to enable quick referrals according to area of specialty, availability and existing caseload.
3. Advocacy training in the NT should continue and be strengthened to include input from stakeholders and specialists.
4. Communication between stakeholders and representatives, both locally and nation-wide, must be strengthened and clients must be kept better informed of progress in their case.
5. A central register of clients should be kept by organisations, and a file shared by or with DASSAN in the event of a transfer to or from Darwin (with the consent of the asylum seeker) to minimize duplication of advocacy activities.