Asylum seekers’ experiences in Australia between 2012 and 2014: The Structural-Personal Interaction Process

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Abstract

Social structures are intangible forms of human organisation in which people's everyday lives occur. They are therefore integral to understanding human experiences. Australia's policy context is a social structure that excludes asylum seekers from conditions that would fulfil their human rights. This research, using constructivist grounded theory methods, aims to understand the mechanisms through which Australia's policies contribute to the everyday life experiences of people seeking asylum in Australia.

Participant observations took place in one detention centre and across two organisational settings in the community. Asylum seekers and those who work with them participated in informal key-informant interviews, formal semi-structured interviews, and surveys. Particular policy documents were reviewed, selected on their applicability to asylum seekers and their relevance to asylum seeker statuses.

The 'Structural-Personal Interaction Process' was identified through analysis of the data. It illustrates interactions between structures (status and policy), and human beings (personal characteristics) to create human experiences. This process uses the participants' language, which differs from human rights language. It explains how asylum seekers are assigned a status that determines relevant policies, which in turn, shape the situations that they encounter. These situations interact with individual personal characteristics to contribute to human experiences. Policies and situations that harm and protect asylum seekers are identified. Human experiences that result from the Structural-Personal Interaction are distributed along a continuum that spans from suffering (mental distress and having 'nothing to do') through to wellbeing (feeling hopeful, feeling safe, and 'having something to do'), referred to in this thesis as the suffering-wellbeing continuum.

Drawing on this empirical analysis and existing theories, conceptualisations of suffering, wellbeing, harming, and protecting are explored. Mechanisms through which policies affect asylum seekers' everyday human experiences are considered in terms of emotional responses and engagement in meaningful activities. Each person's human experiences are unique, created out of an interaction between social structures and personal characteristics. Yet, a pattern of predominantly harming policies contribute to harming situations which are linked to a tendency for most asylum seekers' human experiences to lie in the suffering zone on the continuum, especially for people assigned the status 'person in detention'. This pattern illustrates the structural violence inflicted upon asylum seekers.

Engagement in meaningful activities is a concept that flows from policy to human experience. The concept of engagement in meaningful activities embodies the human rights to
engage in work, housing and privacy, education, welfare, freedom of movement, self-expression, an adequate standard of living, physical and mental health, dignity and freedom from cruel treatment, and participation in cultural life. Nonetheless, this research found that asylum seekers tend to have 'nothing to do'.

The tendency for Australia's asylum seeker policies to be harming, contributing to harming situations, with asylum seekers' experiences lying predominantly in the suffering zone of the suffering-wellbeing continuum, provides a concrete example of how structural violence occurs. The Structural-Personal Interaction Process offers new insights into mechanisms through which status and policy structures contribute to situations that interact with asylum seekers personal attributes to shape their human experiences.
Declaration by author

This thesis is composed of my original work, and contains no material previously published or written by another person except where due reference has been made in the text. I have clearly stated the contribution by others to jointly-authored works that I have included in my thesis.

I have clearly stated the contribution of others to my thesis as a whole, including statistical assistance, survey design, data analysis, significant technical procedures, professional editorial advice, and any other original research work used or reported in my thesis. The content of my thesis is the result of work I have carried out since the commencement of my research higher degree candidature and does not include a substantial part of work that has been submitted to qualify for the award of any other degree or diploma in any university or other tertiary institution. I have clearly stated which parts of my thesis, if any, have been submitted to qualify for another award.

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Publications during candidature

Bennett, S. & Campbell, E. 2014, ‘People detained for prolonged periods in immigration detention experienced significant psychological and interpersonal difficulties that make it difficult to rebuild their lives following release from detention’. *Australian Occupational Therapy Journal*. 61(1), 33-34.


Publications included in this thesis

No publications included.
Contributions by others to the thesis

Vickie Frater (PhD Candidate, University of Queensland) and Birte Ahlhaus (PhD Candidate, University of Queensland) provided substantial amounts of feedback and contributed to the interpretation of research data as peer reviewers throughout the PhD milestone process. Professor Katharine Gelber (School of Political Science and International Studies, University of Queensland) provided guidance and feedback formally as an academic reader at the Confirmation milestone, and informally through questions and comments at the Mid-Candidature Review milestone.

Statement of parts of the thesis submitted to qualify for the award of another degree

None.
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**Keywords**

Social structures, asylum seekers, refugee, human rights, suffering, wellbeing, harming, protecting, citizenship, Australia

**Australian and New Zealand Standard Research Classifications (ANZSRC)**

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<td>940106</td>
<td>Citizenship and National Identity</td>
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**Fields of Research (FoR) Classification**

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<td>1117</td>
<td>Other Health and Health Services</td>
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</tr>
<tr>
<td>1605</td>
<td>Policy and Administration</td>
<td>10%</td>
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# List of Abbreviations used in the thesis

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<th>Full Form</th>
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<tr>
<td>AHRC</td>
<td>Australian Human Rights Commission</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>DIAC</td>
<td>Department of Immigration and Citizenship</td>
</tr>
<tr>
<td>GP</td>
<td>General Practitioner</td>
</tr>
<tr>
<td>IAP</td>
<td>Individual Allowance Program</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic Social and Cultural Rights</td>
</tr>
<tr>
<td>IHMS</td>
<td>International Health and Medical Service</td>
</tr>
<tr>
<td>M4H</td>
<td>Music for Humanity</td>
</tr>
<tr>
<td>PEO</td>
<td>Person Environment Occupation (model of occupational therapy)</td>
</tr>
<tr>
<td>SSAS</td>
<td>Support Services for Asylum Seeker</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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Introduction

The first half of 2013 saw the worst levels of forced displacement in decades and the numbers of displaced people is likely to continue to rise, according to the United Nations High Commissioner for Refugees (UNHCR). Worldwide, at least 987,455 asylum seekers had pending cases in 170 countries at 30 June 2013 (United Nations High Commissioner for Refugees 2013b). In Australia the number of asylum seekers registered was 25,218.¹

While the number of asylum seekers in Australia is small compared to other states, 0.025 percent (United Nations High Commissioner for Refugees 2013b), asylum seeker applications in Australia have more than doubled in the past year. The number of asylum seekers has increased over 26 times since 2008-9 (Department of Immigration and Border Protection 2013a). With increasing numbers of displaced people internationally, and the number of asylum seekers arriving in Australia rising at a rapid rate, the experiences of asylum seekers under Australian policy are important to understand. This dissertation explores the experiences of asylum seekers in the context of Australia’s asylum seeker policy using grounded theory methodology. It presents the findings that there are both personal and structural influences on asylum seekers’ experiences, and that structures of policy and citizenship are extremely detrimental to the wellbeing of asylum seekers.

Inspiration from discomfort and empathy

My discomfort with maltreatment of other human beings and my empathy for those who are suffering underpin this thesis. My discomfort with the Australian government’s treatment of asylum seekers, and my empathy for people I have met who are seeking protection in Australia have motivated me throughout this project. However, my interest in human rights and in the social forces that disrupt the wellbeing and dignity of others stem from an accumulation of consequential moments in my life which I share below.

A tsunami swept across Aitape in Papua New Guinea (PNG) when I was twelve. Watching the tragic news on TV, I was concerned that the children in Aitape would no longer have the things they needed for school and play, which were of great importance to me. At the dinner table that evening I talked with my parents about things I could do. Perhaps I could collect toys, pencils, and books at school and we could send them to the children whose homes had been hit by the tidal wave. As a result of that evening’s dinnertime discussion, I soon found myself standing in front of my schoolmates at assembly, asking them to buy tickets to a raffle to raise funds to support the

¹ The figure does not include asylum seekers who were sent to third countries (e.g. PNG) for refugee status determination processing.
people in PNG. A cheque was written for the amount raised and donated via the Society of St Vincent De Paul to the Catholic Church Diocese of Aitape Rehabilitation Committee. The letter I received from the Archbishop of Port Moresby in thanks made me realise that the suffering brought on by the disaster would not disappear tomorrow, and that it would take the people of Aitape “a long time to recover and rebuild their lives” (Barnes 1998).

During the collection, I wondered how the children in PNG must have felt. The hand-written letter from the Archbishop spoke about the suffering of the people affected by the tsunami who were rebuilding their lives. I reflected that what I had done had somehow affected the lives of people across the ocean. This brought a sense of connection with the people in Aitape. I began to feel a sense of shared humanity.

At twenty-one, I read Lewis’ Race Against Time (2005) which explained the suffering of people in Africa. Lewis promoted volunteerism as a useful means to reduce the suffering of people living in poverty and to move closer to the targets set by the Millennium Development Goals. The egocentric nature of young adulthood compelled me to feel his call for volunteerism as a personal one. I felt he was calling me to act on the sense of shared humanity I had developed as a twelve-year-old girl.

As a student I had neither time nor resources to travel to Africa and with the guidance of a mentor from World Youth International volunteer organisation, I made my way to Nepal for a month. In Nepal, I volunteered in an orphanage. At the orphanage, Bal Mandir, I was asked to support the carer who was responsible for children around the age of 18 months.

The children came to the room each morning, sang songs, did drawings, ate, slept, and played games. In this room, there was also an adolescent girl, Lata, who was in a wheelchair. Her legs were thin and weak, her wrists and fingers were curled and stiff, her body could barely withstand the force of gravity, and her head was barely hers to control. Yet, her eyes were alive. She watched the toddlers in the room. She made noises and smiled when the teacher sang, her pupils grew wider when someone would hold her hand, sit with her, or tell her stories. To me, Lata’s suffering was horrific. The following are extracts from my diary

Sunday 9 July

The thirteen year-old girl, Lata, is in a wheelchair; she can’t walk, speak, or feed herself, and she drools all the time. But she has the biggest smile and likes to show it off. Every now and then she bursts into fits of laughter. She shows you affection by holding your hand with her slimy slobber hand, holding on really tight, rocking backwards and forwards, and making noises. When she is excited,
she claps. She also claps when you sing – so we spent lots of time singing and clapping today.

Monday 10 July

Covered in her pee I walked away leaving Lata lying on a thin piece of material on the concrete floor – helplessly, she was reaching out to me so I went back and put some clothes from a nearby clothesline under her head, which she had been involuntarily banging on the concrete. Once more Uma [a Nepali orphanage worker] told me “everybody leaves her here every day – it’s okay!” Just because everyone does it, doesn’t mean it’s right, but we had more work to do in the children’s’ room and there was a lady waiting impatiently to lock the room, so I put my hand on Lata’s bloated stomach and said “pheri betaaulaa” – see you later, and hesitantly walked away.

A lump began to form in my throat and as I held back the tears, I began to feel sick. I felt as though I could barely walk on the way home from the orphanage.

As soon as I came into my room I tore off my clothes that were stained by Lata’s urine, curled up on my bed, and began to shake and then cry. How could anyone, how could I, leave a girl who cannot talk, cannot walk, cannot move her own body, or stop her own head from smashing into the concrete floor, covered in her own pee lying on the hard ground outside her locked room, with no one around her, to wait for her night-time carer?

Over the month, I saw Lata each day, and I became increasingly aware of the circumstances of poverty, the cultural perceptions of disability, institutions, and education that dictated our different life circumstances. I reflected on my invulnerability to ever living a life of suffering such as hers by the lucky chance that I was born in the country and in the family that I was. Through my connection with Lata, my sense of shared humanity with those who are suffering grew stronger, despite the social inequalities that have shaped our very different lives.

Two years later, my experience as an occupational therapy student on fieldwork placement in the Homeless Health Outreach team on the Gold Coast in Australia, brought back that niggling sense of shared humanity. I accompanied my supervisors to visit homeless people of the Gold Coast in parks, hostels, cafes, food vans, and hospital emergency departments. We discussed their interests, hopes, and dreams. They shared stories of prison, domestic violence, fear, difficulties accessing services they needed to sustain their mental health, to access welfare, to care for their children, to work, or to re-integrate into society after chosen or forced isolation. Why is it that passers-by in the street look down upon them without a thought as to why they are in those
situations? Why do I not suffer these conditions? What makes us live such different lives when we are all equally human?

These questions echoed in my mind as I worked as an occupational therapist with children with autism in Brisbane, Australia; with children with disabilities in Cochabamba, Bolivia; with asylum seekers in Brisbane, Australia; and now with Aboriginal and Torres Strait Islander people in Brisbane, Australia. If we are all connected by our shared humanity, what structures contribute to the suffering of some groups more than others? Why do these structures exist? What can be done to reduce the suffering of people who belong to groups that are disregarded or harmed by these structures?

With reference to human rights abuses globally, Farmer (1999: 1489) explains,

The fact that we study, rather than endure, these abuses is a reminder that we too are implicated in and benefit from the increasingly global structures that determine, to an important extent, the nature and distribution of assaults on dignity.

I am strongly aware of my disconnection from the experiences of the people who have fired my concern for the suffering that others experience because of inequalities. In spite of the chasm between their adverse situations and my privileged position in the global population with respect to human rights, the sense of our shared humanness bubbles under my skin and I experience an impassioned response to their suffering. My passion for the amelioration of suffering inspires all undertakings explained in this document.

Sitting between two disciplines

My dissertation sits in the relatively uncultivated space that lies between individual (micro) focused disciplines, such as occupational therapy, and structure (macro) focused disciplines, such as political science and international studies. As an occupational therapist, I have embraced the challenge of stretching my understanding and broadening my world view by completing this dissertation as a political science scholar. I have been challenged to learn and integrate the discipline specific knowledge, language, perspectives, research methodologies, writing conventions, and frames of reference from two complimentary, yet vastly different, disciplines. By working across disciplines, I have produced a dissertation that contributes knowledge regarding how social structures affect people’s unique life experiences.

Why asylum seekers?

Through moments in my life when I connected with people who were suffering, I became aware of and uncomfortable with the social inequalities that create suffering. My discomfort and
Empathy deepened as I carried out research interviews with asylum seekers and read their stories repeatedly to the point that, at night, I would dream about the cruel treatment they endured, not only in their home countries, but also here in Australia. All of their responses were of despair and hopelessness: grief-stricken for the hope they had lost. What were these structures that created such despair??

The experiences of asylum seekers, the focus of this dissertation, epitomise the suffering brought about by social inequalities that is so concerning to me. When I was an occupational therapy student, I engaged in research that focused on home safety for refugees. I was amazed at the support Australia offers to the limited number of refugees it accepts. In contrast, as the coordinator of the volunteer program for an asylum seeker service delivered by the organization Lifeline in 2010 and 2011, I was shocked at the little support provided to asylum seekers by the Australian government.

I write the remainder of this dissertation in third person, however I wish for my personal connection to thesis work to be present in the reader’s mind while taking in the contents. If looking through a peephole at my workspace, the onlooker would see me with a worried look on my face, reading and re-reading to stories of mental suffering, constraint, isolation, brutal direct physical violence, and suicidal attempts out of despair, as a response to my own government’s policies. Maintaining an analytical mindset with the goal of abstracting concepts, relationships, and processes from these stories, was an exercise in mental discipline. Guidance from and deliberation with supervisors, mentors, and peers were integral to maintaining a balance between academic rigour and human sensitivity.

Research using constructivist processes acknowledges the researcher as a contributor to the generation of knowledge. Just as the findings are presented in a form that I have fashioned, presenting an understanding of how structures of citizenship and policy shape asylum seekers’ experiences, I too have been moulded by engagement in participant observations, interviewing, and reading and re-reading the words of asylum seekers. I have been particularly touched by the stories asylum seekers have shared with me, and their passion to see the system change to benefit those who might seek to protect their lives or safety in Australia in the future.

**Underpinning assumptions and theoretical frameworks.**

This research is underpinned by grounded theory methodology which is detailed in Chapter Five. The societal and theoretical context for the research and its findings is presented in Chapters One to Five preceding the research findings. However, these chapters were written in retrospect of the data analysis because grounded theory methodology encourages data analysis separate to consideration of existing theory (Charmaz, 2006). It may come as a surprise to some readers
(especially those trained in political and/or social sciences) that the research findings (Chapters Seven, Eight, and Nine) are presented in isolation of broader research and theory and that this discussion occurs later in the dissertation. This thesis presents the findings in their pure form, as they have arisen out of the data analysis, and the discussion of the findings follow. This structure is suggested for grounded theory research (Charmaz 2006) and is akin to traditional health and social sciences formats. Thus, Chapters Seven, Eight, and Nine are informed by the data analysis, and all other chapters are underpinned by a cosmopolitan perspective which is critical of the Australian governments’ approach to asylum seeker policies which differentially respect (or disrespect) human rights based on state citizenship, severely restricting the human rights of asylum seekers based on their lack of Australian citizenship or citizenship-like status.

My understanding of the cosmopolitan perspective which underpins this dissertation, is based on the following assumptions that:²

- systems of human organisation (social structures), for example, states, organisations, international norms that shape the behaviour of states (such as human rights law), or cultural norms, should never override the wellbeing and dignity of individuals. Those systems should be designed and continuously improved to support the wellbeing and dignity of all people
- state borders are secondary to human dignity and wellbeing
- while people may be citizens of a state, they are also part of a wider global community of fellow human beings, and
- as part of the wider global community, individual people have a responsibility towards other individual people and groups of people not to cause harm and to do what is reasonably in their power to promote the human rights of all others.

This understanding of cosmopolitanism has been developed through consideration of the work of Morris (2009, 2010), Linklater (1998, 2007, 2011) and Shapcott (2010, 2013).

As noted in the list of assumptions above, a cosmopolitan perspective on citizenship can include both local (e.g. state) membership as well as membership of a global community. In this dissertation, when the term ‘citizenship’ is used, it refers to membership of a local community (state membership). The author’s preferred understanding of citizenship is the conception in which all people are citizens of a global society of equal human beings and therefore have a responsibility to respect and support each others’ human rights. Conversely, the findings presented in Chapters Six to Nine draw from Australian Government documents which use the term ‘unauthorised non-citizens’, to refer to those who do not hold valid visas in Australia and are not automatically

² There are many conceptualisations of cosmopolitanism (Shapcott 2010), this dissertation presents one version of cosmopolitanism, particularly aligned with Linklater’s (1998, 2007, 2011) perspective.
members of the state (citizens). For clarity, when the term citizenship is used in this dissertation, it refers to local membership within a state rather than global citizenship.

What follows (chapter outline)

In what follows, my PhD dissertation explores asylum seekers’ experiences, and how Australia’s policies contribute to their experiences. The research pivots on a central theme: the effect of social structures on human experiences. Grounded theory methods were used to identify a basic social process, the Structural-Personal Interaction Process. This process explains how structures of status and policy create situations which interact with personal characteristics to create human experiences.

The introductory chapters at the beginning of this dissertation, and the discussion chapters at the end are underpinned by the methodology, assumptions, and theoretical frameworks listed above. Chapters Six, Seven, Eight, and Nine present the research findings.

In Chapters One through to Four, I explain who asylum seekers are, my account of their human rights, Australia’s approach to their human rights, and details of Australia’s exclusion of asylum seekers from conditions that are commensurate with the fulfilment of their human rights. In Chapter One I provide descriptions of the structures in which asylum seekers exist by providing the context of their personal journeys as they travel across the globe to seek protection. I explain the complex and difficult journeys they take before arriving in Australia only to encounter harsh detention policies after applying for refugee status. I also explain the typical personal journeys of asylum seekers and ask how social structures of citizenship and policy might shape their experiences.

In Chapter Two, I provide an account of human rights that sees all people, including asylum seekers, as ‘rights-bearing agents’ (Lamey 2012) simply because they are human beings (Griffin 2001a). This account sees international human rights law as a formalised expression of the rights possessed by all people. I explain that for asylum seekers, many human rights are latent: while their human rights might not be realised or guaranteed by a state, they do not cease to exist. The phrase ‘latent human rights’ is employed to emphasise the ongoing rights-bearing nature of people, especially asylum seekers, rather than the articulation of human rights in legal documentation.

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3 Lamey (2012) used the term ‘right-bearing agents’, and as asylum seekers bear many human rights, the term has been adapted to emphasise the many rights borne by asylum seekers. Thus the term ‘rights-bearing agents’ is used.

4 Existing commonly used terms to describe disrespected human rights such as ‘unfulfilled’ ‘unrealised’ ‘violated’ ‘breached’ tend to suggest human rights are situated in legal documents (positive law) and that these legal stipulations have been contravened. The phrase ‘latent human rights’ is employed to emphasise the ongoing rights-bearing nature of people, especially asylum seekers, rather than the articulation of human rights in legal documentation.
framework provides a link between the individual/personal and the structural aspects of the experiences of asylum seekers. Considering the alignment of human rights with personal and structural approaches to dignity and wellbeing, I have used human rights as a central framework in the introductory chapters to this dissertation.

Chapter Three centres on citizenship as a social structure that excludes asylum seekers as ‘non-citizens’. In Chapter Three, I explore how civil rights might apply differentially to citizens and non-citizens, while human rights exist (morally and intellectually) and apply (legally) universally, regardless of citizenship. Chapter Three explains that the current situation of asylum seekers in Australia is the result of the government considering them ‘unauthorised non citizens’ based on the *Migration Act 1958*. By the same token, the Australian government escapes its responsibility to guarantee their human rights. This provides an example of how social structures of policy and citizenship might shape individual life experiences and this approach to the rights of asylum seekers is critiqued from a cosmopolitan stance. Chapter Three argues that while the provision of civil rights can be dependent on state citizenship, human rights are deserved by all people as members of a global community, and governments as well as non-government agents should respect and provide conditions commensurate with human rights to all people regardless of citizenship.

Policy structures that relate to asylum seekers in Australia are the focus of Chapter Four. In particular, I discuss policies that exclude asylum seekers from conditions that would fulfil their human rights based on their status as ‘unauthorised non-citizens’. Australia’s policies of offshore processing and resettlement, onshore community detention arrangements, and onshore detention centres are considered in light of human rights.

In Chapter Five, I outline the constructivist methods used to identify the social process occurring. I explore the incongruence of theoretical conceptualisations of human rights and research participants’ understandings of human rights in Chapter Six.

In Chapters Seven, Eight, and Nine, I outline the findings of the research, providing a rich description of the Structural-Personal Interaction Process. This process explains how structures of status and policy contribute to the human experiences of asylum seekers, by interacting with their personal characteristics. Human experiences are presented as lying along a continuum between suffering and wellbeing. The Structural-Personal Interaction Process elucidates the mechanisms through which asylum seekers’ suffering in Australia comes about. The status assignment mechanism involves designation of a status, either ‘person in detention’ or ‘client in community detention’ to asylum seekers by the government. This designation of status determines policies that contribute to the situations encountered by asylum seekers. In the translation to human experiences mechanism, human experiences are consequences of the interaction between status-assignment (in
particular the resulting situations) and personal characteristics because experiences arise through a cascade of links between designation of a status, relevant policies under that status, contributions of policies to situations, and interactions between situations and personal characteristics.

In Chapter Seven, I explain the foundational information regarding these social processes that were abstracted from the data. I outline concepts identified as part of the Structural-Personal Interaction including status-assignment, policies, situations, personal characteristics, and asylum seekers’ human experiences along a continuum between suffering and wellbeing (the ‘suffering-wellbeing continuum’). This chapter also imparts the story of an asylum seeker, Riti, to illustrate the processes identified. The status assignment mechanism is central to Chapter Eight and the translation to human experiences mechanism is central to Chapter Nine.

In Chapter Ten I review the findings and discuss the Structural-Personal Interaction Process in light of structural violence. I explore three concepts from the Structural-Personal Interaction process in more depth. These are harm, suffering, and a lack of meaningful activities (having ‘nothing to do’). I discuss asylum seekers’ human rights and their relevance to the Structural-Personal Interaction Process. I also cautiously make policy recommendations with the hope of reducing the harm and suffering imposed upon asylum seekers by social structures. I discuss the context-specific nature of this project and the implications for the interpretation of the research findings and for further research. I consider the completeness of the Structural Personal Interaction process as a potentially developing theory in Chapter Ten. Then Chapter Eleven provides a brief conclusion to this dissertation.

My research offers empirically grounded insights regarding the mechanisms through which social structures, personal characteristics, and human experiences are linked. It provides a novel conceptualisation of human experiences as lying along a suffering-wellbeing continuum. Most importantly to me and to the asylum seekers who participated in the research, this dissertation offers hope that movement of asylum seekers’ experiences in the wellbeing direction is possible if personal characteristics, situations, policy structures, status structures, and potentially a range of other structural mechanisms can be addressed.
Chapter One.
Journeys across the globe

Situating asylum seekers’ experiences in the context of their personal journeys as they travel across the globe to seek protection, this chapter provides descriptions of the structures in which asylum seekers exist. Particular attention is paid to asylum seekers who apply for refugee protection in Australia. This chapter details the complex and difficult routes they take before arriving in Australia only to find themselves subjected to harsh detention policies after applying for refugee status. The difficulties encountered by asylum seekers in seeking protection, and in particular the harsh asylum seeker policies in Australia, provide impetus for this project’s research questions. How do Australian asylum seeker policies contribute to asylum seekers’ experiences?

The number of asylum seekers worldwide, and specifically in Australia, is increasing (United Nations High Commissioner for Refugees 2013b) and the policy structures that apply to asylum seekers tend to be exclusionary and discriminatory (Andersson and Nilsson 2011). Asylum seekers flee persecution inflicted upon them in their home countries, take arduous journeys to seek safety, and are discriminated against as non-citizens, being treated as less-than-human, in host countries (Bales 2013; Isaacs 2013; Morris 2010b). In host countries such as Australia, asylum seekers are subjected to harmful exclusionary policies including detention, limited financial and social support, and extraterritorial arrangements (Andersson and Nilsson 2011; Hynes 2011; Kalt et al. 2013; Kneebone 2009a; Rosenberger and Konig 2012).

Asylum seekers’ personal journeys are trying. They experience exclusion and oppression in the context of citizenship structures and exclusionary policy structures. This chapter explains the typical personal journeys of asylum seekers and asks how social structures of citizenship and policy might shape their experiences.

Who are asylum seekers?

Asylum seekers are people who are seeking protection from persecution in their home countries and have arrived in countries where they are not citizens (Field 2006; Price 2010). They apply for protection because they state that they fulfil the requirements of the Convention Relating to the Status of Refugees (Refugee Convention) and the Protocol Relating to the Status of Refugees (United Nations General Assembly 1951 1967). They are people who have crossed state borders, leaving their home countries to seek protection in a host country and have not yet been officially recognised as refugees (Field 2006).
In contrast to refugees, asylum seekers are people who have applied and are waiting for refugee status determination after arrival in the host country. Refugees are people who have applied for and been accepted as refugees before arriving in the host country and then arrive already holding a protection visa (Raveendran 2012).

This project investigates the experiences of asylum seekers who have arrived in Australia where they have applied for refugee status and remain non-citizens during the visa determination process. The experiences of asylum seekers who are socially, economically, and physically excluded from Australia through a ‘national detention network’ (Hathaway 1991) are of particular interest.

**Unique lives, common journeys**

The journeys of asylum seekers are many and varied. Each person’s experience is unique. However, there are commonalities amongst the journeys which are inherent to being an asylum seeker. These include persecution in their home countries, travel to a host country in which they intend to apply for a protection visa, sometimes stopping in other locations on their way to the host country, and finally waiting in the host country for refugee status determination, often under exclusionary conditions. The outcome of the refugee status determination process then dictates whether asylum seekers become refugees or return to their home country. If the outcome is positive, they become refugees and live under citizenship-like status. If their claims are judged invalid, they are returned to their home countries, or they can appeal the negative decision and

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5 This project, acknowledges the diversity of people involved in forced migration. These include refugees who have been granted protection visas (Hathaway 2007), asylum seekers who are awaiting status determination (Kneebone 2009b), people who are internally displaced due to life threatening situations in their home countries (United Nations High Commissioner for Refugees 2013a), travelling across air land or sea to a country in which they wish to seek protection (Global I. D. P. Project 2004), and residing in a host country with or without a visa to avoid persecution but have not yet made an application (Pallis 2002). This research distinguishes between refugees and asylum seekers. However, it emphasises that asylum seekers, like refugees, are protected under the stipulations of the Refugee Convention (Schuster 2011). In fact the Refugee Convention, Article 31 states

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article One, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

This indicates that regardless of whether people are refugees who arrive in a country holding a protection visa or asylum seekers who have applied for a protection visa after arriving in a state’s territory, they are entitled to the rights outlined in the Refugee Convention.

6 Categories defining displaced people such as asylum seekers, refugees, and migrants are ambiguous and dynamic. For example, while the Australian government considers asylum seekers as those who have made a refugee claim but have not yet been granted a visa, and refugees as a separate group of people who have been provided a protection visa, the Refugee Convention considers asylum seekers to be in the same group as refugees. This dissertation explores the experiences of asylum seekers under Australian policies, drawing it’s understanding of these categories from the data collected. Therefore, it takes the Australian government’s definitions of asylum seekers (embedded within international law) as its point of departure.
remain asylum seekers in Australia for additional time. Few asylum seekers in Australia are found to have invalid claims and returned home (Department of Immigration and Border Protection 2013a 2013b; Department of Immigration and Citizenship 2012a 2013a). The events prior to refugee status determination are outlined below to place the experiences of asylum seekers who are awaiting the determination of their refugee visa status in Australia within the temporal and global contexts of the overall asylum seeker journey.

**Persecution**

In their applications for refugee status, asylum seekers state that they have left their homes due to fear of persecution. Persecution is central to the legal status of refugees and asylum seekers (Bagaric and Dimopoulos 2004) and to their personal experiences (Kissoon 2010). While the United Nations’ Handbook for determining refugee status (United Nations High Commissioner for Refugees 1979, re-edited 1992) explains that no definition of persecution is universally accepted, it also explains that Article 33 of the Refugee Convention implies that threats to life or freedom and violations of human rights constitute persecution. The handbook also explains that refugee status may be granted whether the persecution feared by the asylum seeker would be carried out by a state or a private actor (United Nations High Commissioner for Refugees 1979, re-edited 1992).

Persecution involves systematic infliction of serious and illegitimate harm on people, including “detention, arrest, interrogation, prosecution, imprisonment, illegal searches, confiscation of property, surveillance, beatings or torture” (Begzatowski 2002), “threats to freedom of life” and “non-life threatening violence and physical abuse” (Tamas-Mercea 2000). To be classified as serious, the harm must “rise above mere harassment” (Begzatowski 2002). Moreover, persecution involves discrimination (Bagaric and Dimopoulos 2004). That is, for harm to be considered persecution, it must be “part of a course of systematic conduct” (Chan Yee Kin 1989) of harm against a specific class or identifiable group. Some scholars also argue that, to be considered as persecution, harm must also be considered unacceptable by the international community based on the benefits to the state’s citizens or according to international law (Price 2010). In sum, asylum seekers’ claims of persecution are contained within their stories of threats or experiences of harm inflicted on them as a matter of discrimination in a way that is considered unacceptable by the international community.

In Australia, the Refugee Review Tribunal (RRT) is the body which reviews refugee status determination decisions by the Department of Immigration and Border Protection that have been appealed. The RRT reports that decisions in Australia regarding whether a person is at risk of persecution are based on an assessment of the person experiencing significant harm if they were to
return to their home country. The RRT (Australian Government 2013b) states that a person would be at risk of significant harm if

the person will be arbitrarily deprived of his or her life, the death penalty will be carried out on the person, the person will be subjected to torture, the person will be subjected to cruel or inhuman treatment or punishment, [or] the person will be subjected to degrading treatment or punishment.

According to the Migration Act 1958, a person’s asylum application should involve a claim that s/he fulfils the Refugee Convention. This involves an asylum seeker being outside his/her home country and having a well-founded fear of persecution based on “race, religion, nationality, membership of a particular social group or political opinion” (United Nations General Assembly 1951). The Migration Act 1958 (Section 36) also contains provisions for complementary protection to those who do not fit the groups listed in the Refugee Convention if there are “substantial grounds for believing that, as a necessary and foreseeable consequence of the non-citizen being removed from Australia to a receiving country, there is a real risk that the non-citizen will suffer significant harm”. According to Section 36 in the Migration Act 1958, significant harm will occur if

a) the non-citizen will be arbitrarily deprived of his or her life; or
b) the death penalty will be carried out on the non-citizen; or
c) the non-citizen will be subjected to torture; or
d) the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
e) the non-citizen will be subjected to degrading treatment or punishment.

What happened in their home countries?

Isaacs (2013) explains the difficulty in articulating, let alone defining, the persecution that spurs people to flee their homes and become asylum seekers. He explains that asylum seekers are impelled to leave their home countries and seek protection because they “face physical persecution, beatings, torture, sexual violence and even death.” He goes on to explain that “even these words do not do justice to what families are escaping” (Isaacs 2013). He gave the example of a family that included a mother, father, two sons (3 and 14 years), and grandparents. The family identified as Hazara people and had fled Afghanistan to Iran to escape beatings. The beatings had been so severe they resulted in the mother’s arm being broken. In Iran, the family had no work or education rights, so the father returned to Afghanistan where the Taliban killed him.

Kissoon (2010: 14) enlightens her readers that “stories of persecution are personal and private devastations that are often unspoken”. She elaborates on the political and gender persecution experienced by Sham, an Iranian woman. Sham and her husband were involved in
political activism and her husband was incarcerated. Months after his imprisonment, Sham and her son went to the prison for his release from custody only to be forced to witness his hanging instead. Sham was then forced by her father-in-law to marry her brother-in-law and both men repeatedly beat her brutally; shattering her eardrum and fracturing her skull and jaw.

Other examples of persecution experienced by people before fleeing their home countries and becoming asylum seekers include:

- torture, using hot oil and sharp gravel, of a man who had been charged with defying his country’s president, (Reyes 2011),
- forced female genital mutilation on the eldest daughter of a family and fear that this would be carried out on the younger daughters despite the parents’ opposition to this practice (Reyes 2011),
- being treated as a criminal because of a person’s sexual preferences (Spijkerboer 2013), and
- gender-based violence and rape (Baillot, Cowan and Munro 2014; Keygnaert, Vettenburg and Temmerman 2012)

In their Annual Report, the RRT (Australian Government 2013b) provided case studies explaining a number of reasons for seeking asylum in Australia. These included experiences of: incarceration for political or religious reasons, systematic insult and physical harm, discrimination for being politically active in minority ethnic groups or religions, family members going missing or being killed due to involvement in political activities, and being beaten or tortured due to ethnicity and being part of a political group.

**Perilous Paths**

The traumatic experiences of persecution or fear of serious harm drives people from their home countries to seek refuge as asylum seekers in countries that can provide them with protection. Isaacs (2013) expands on the arduous journeys that asylum seekers take to avoid situations in which they fear persecution. He continues his story of the Hazara family. The mother and her two sons walked for four hours to cross into Turkey illegally. The mother carried her three year old at her chest to stop him from crying. In Turkey, they secured forged passports and flew to Indonesia where they lived in a refugee compound described as squalid. In the compound, the family feared deportation, physical and sexual abuse. They then took a boat to Australia.

The paths taken to arrive in host countries, where asylum seekers apply for refugee status, are many and varied. For some asylum seekers, the migration route is a pre-planned strategy, while for others the route travelled to arrive in the host country occurs as opportunities arise (Bloch,
After leaving their home countries, many asylum seekers pass through other countries, known as ‘third countries’ (Stephen 2003), as ‘transit migrants’ on their way to seek protection elsewhere (İçduygu and Yükseker 2012). They might not stay in these countries because they might also fear persecution there, or they might not be able to seek protection if that country is not party to the Refugee Convention (Stephen 2003). For example, many asylum seekers from Afghanistan and Iran pass through Turkey as transit migrants on their way to other European countries (İçduygu and Yükseker 2012); Ukraine is often a country of transit for asylum seekers moving between Europe and Asia (Uehling 2004); and Malaysia is often a transit country for those travelling to Australia (Vas Dev 2009).

Journeys to the host countries might also involve asylum seekers resorting to irregular migration channels including human trafficking networks in order to access transport and gain entry into host countries despite lacking visas or other documentation (Betts 2009; Koser 2000). Use of human trafficking often places asylum seekers in situations where they are exploited in terms of finances or labour and they or their families are threatened by the traffickers (Peterka-Benton 2011).

Asylum seekers’ migration routes often include travel by boat across the Mediterranean, Gulf of Aden, or the Caribbean (Betts 2009). Asylum seekers travelling to Australia most often find their way to Malaysia, then to Indonesia, where they travel south to the Indonesian islands of Bali, Flores, or Lombok, which are departure points for boats controlled by human traffickers to travel to Australia (Expert Panel on Asylum Seekers 2012b; United Nations Office on Drugs and Crime 2011; Zhang 2007). The boat trips are often dangerous (Grant 2011). For example, between 2001 and 2012 there were thirteen reports of sunken, exploding, or missing vessels travelling with asylum seekers towards Australia (Expert Panel on Asylum Seekers 2012b). From those thirteen boats, 964 asylum seekers died or went missing at sea (Expert Panel on Asylum Seekers 2012b). Considering the reasons for leaving their home countries described above, the risks associated with taking a boat and travelling by sea to Australia might seem inconsequential to asylum seekers.

Other asylum seekers arrive in their host countries by air. They might hold student, visitor, working holiday, temporary resident, and family migration visas and then apply for protection while in the host country (Expert Panel on Asylum Seekers 2012a). Few asylum seekers who arrive by air and apply for refugee status are held in detention in Australia (Department of Immigration and Citizenship 2013a).

In Australia, in 2012-13, the number of asylum seekers who arrived by sea was 18 119 and
the number who arrived originally by air with another visa and then applied for refugee status was 8308 (Department of Immigration and Border Protection 2013a). Asylum seekers who arrive in Australia by sea without a visa or passport are deemed ‘unlawful’ or ‘illegal’ entrants (Department of Immigration and Border Protection 2013b; Department of Immigration and Citizenship 2011) despite their status as asylum seekers. According to Article 31 of the Refugee Convention, asylum seekers should not be penalized because of their method of entry into the territory. Ninety seven percent of asylum seekers held in detention in Australia have arrived by boat (Department of Immigration and Citizenship 2013a).

Not yet recognised refugees: what happens while they wait?

After travelling from their home countries across land and/or sea, asylum seekers enter their host countries, the countries in which they apply to be recognised as refugees. This research investigates asylum seekers’ experiences from this point in their journeys when they enter the host country, Australia, up until the end of the refugee status determination process when a decision is made.

Asylum seekers are subject to different reception requirements and conditions depending on the host country. States are allowed a ‘margin of appreciation’ with regard to international law (Legg 2012), meaning that a diversity of interpretations regarding state treaty obligations to asylum seekers’ human rights is allowed (Kneebone 2009b). Consequently, a range of reception conditions exists across the globe.

As noted earlier, asylum seekers might apply for refugee status after entering a country, or at the entry point to that country. Asylum seekers arriving by boat in Australia must apply for refugee status immediately upon entry. This is because boat arrivals are intercepted at sea by the Australian Defence Force’s border protection operation (Australian Defence Force 2014), and the people on the boats are considered unauthorized maritime arrivals (Section 5AA, Migration Act 1958). The Migration Act states that unauthorized maritime arrivals without visas are “unlawful non-citizens” (Section 14, Migration Act 1958) in Australia and should therefore be detained (Section 189, Migration Act 1958). While in detention on Australian territory, protection visa applications can be made (Section 195, Migration Act 1958). On arrival, when asylum seekers make an application for refugee status, they might encounter difficulties due to: a lack of understanding of the procedure to apply for refugee status; need for interpreters or legal

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7 While asylum seekers can apply for refugee protection visas while in detention on Australian territory, at the time of writing, the Australian government is relocating asylum seekers to non-Australian territory in Nauru and Papua New Guinea and as such they are unable to apply for protection from Australia. At the time of data collection, asylum seekers were held in detention on Australian territory (Australian Human Rights Commission 2014).
counselling; or a lack of identification documents (United Nations High Commissioner for Refugees 2000).

Asylum seekers’ living conditions following their applications for a refugee protection visa are dependent on the host country and, generally, asylum seekers are excluded from host countries in an effort to curb their numbers (Andersson and Nilsson 2011). Industrialized countries, such as Australia, traditionally implement policies that aim to discriminate against and exclude asylum seekers (Hynes 2011; Kalt et al. 2013; Kneebone 2009a; Rosenberger and Konig 2012). These policies include dispersion of asylum seekers in the community with little or no social or financial support, extraterritorial arrangements, and detention. These policies are intended to restrict the movement of asylum seekers by making it unattractive for them to leave the geographical areas from which they originally fled (Andersson and Nilsson 2011; Hynes 2011; Kalt et al. 2013; Rosenberger and Konig 2012). Yet, asylum seekers still flee their home countries. Perhaps the danger they face in their home countries outweighs the difficulties that await them in host countries.

Examples of the exclusion of asylum seekers as non-citizens can be seen in the immigration systems in Israel, the Czech Republic, the United Kingdom (U.K), Canada, the United States of America (U.S.), and Australia (the country at the centre of this research project). While the countries listed here use some form of detention during the asylum process for some or all asylum seekers, Australia is the only country that enforces mandatory detention for all asylum seekers on its territory for the entire duration of the refugee status determination process (Bales 2013; Menadue, Keski-Nummi and Gauthier 2011; Phillips and Spinks 2013b). According to Yaron, Hashimshony-Yaffe and Campbell (2013) asylum seekers are known as “infiltrators” in Israel. There, they are arrested, deported or restrained in detention centres. Some are allowed to remain in the community on a “conditional release” visa; however, they receive no government support and are not issued with work permits. Many Eritreans, Ethiopians, and others from African countries are removed from Israeli territory and placed in camps in Ethiopia (Yaron, Hashimshony - Yaffe and Campbell 2013).

The Czech asylum system utilizes quarantine-reception centres for medical and security screening and then open-reception centres from which asylum seekers can come and go. In the Czech system, asylum seekers’ rights to work are denied for the first twelve months following application for refugee status (Szczepanikova 2013).

8 Detention of various forms is used in Australia including detention centres, immigration transit accommodation, house detention, and community detention.
The Canadian Border Security Agency detains asylum seekers in Immigration Holding Centres while identity checks are carried out. During this time, asylum seekers live in prison with guards, cameras, strict rules, confiscation of personal belongings, without activities except for TV, and with provision of primary health care but no mental health services (Cleveland and Rousseau 2013). Following identify checks, asylum seekers in Canada receive temporary protection while their applications are processed, which can take a number of years. During this time, they receive minimal social assistance, minimal access to health services, adults can apply for work permits, and children can attend school (Campbell et al. 2014; Morantz et al. 2013).

The U.K. detains the greatest number of asylum seekers in the European Union (Phelps 2013). Along with detention, the U.K. imposes a policy of dispersal of asylum seekers in the community (Hynes 2011). While waiting for their refugee claims to be processed, asylum seekers in the U.K. community not allowed to work for the first twelve months after they apply for protection. After twelve months, they can apply for a limited range of jobs on the Shortage of Occupations List (Bales 2013).

The U.S. also uses a combination of community arrangements and detention to manage incoming asylum seekers. Asylum seekers in the U.S. receive limited welfare support, but only a small number are granted temporary work permits. In the U.S., asylum seekers can apply for one year of medical insurance; however, no health cover is provided after that one year (Asgary, Charpentier and Burnett 2013).

The Australian policy context in which asylum seekers find themselves is volatile and changing. While policy regarding processing and living conditions for asylum seekers has varied a great deal in Australia, the use of mandatory detention of all asylum seekers throughout the duration of refugee status determination has remained inherent to Australia’s approach to asylum seekers since 1992 (Phillips and Spinks 2013b).

The policy context of asylum seekers in Australia is so volatile that it has changed from the time this project commenced. Currently Australia implements a third country policy, and no asylum seekers are processed on Australian territory. When research data collection commenced in May 2012, Australian policy stated that asylum seekers were to be identified at sea and taken to Christmas Island where health, identity, and security checks would take place over a period of

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9 Further detailed description of Australia’s asylum seeker policies is provided in Chapter Four.
10 At the time of writing, all asylum seekers who arrive by boat in Australian territory are transferred from Australia to a third country, Papua New Guinea or Nauru, where they reside in detention centres until their refugee claims are processed (Department of Immigration and Border Protection 2014a). Those who are accepted as refugees, are then resettled in the third country (Australian Human Rights Commission 2014). This has been policy since 19 July 2013 (Department of Immigration and Border Protection 2014a).
months or years (Department of Immigration and Citizenship 2013b 2013g). When asylum seekers’ health, identity, and security checks were complete, they were transferred to the Australian mainland where they were placed in the detention system, either in a detention facility (such as a detention centre or immigration transit accommodation) or in community detention (Hartley and Fleay 2012; Joint Select Committee on Australia's Immigration Detention Network 2013; Phillips and Spinks 2013b). Asylum seekers who entered Australia under these conditions are the focus of this research.

Structures shape lives

Social structures shape asylum seekers’ personal life journeys. Some of the social structures cited in the above descriptions include the international system of states; systemic persecution in their home countries; the refugee regime, including the United Nations High Commissioner for Refugees, Refugee Convention, and its Protocol (1967); the Australian Refugee Review Tribunal system; human trafficking networks; legislation including the Australian Migration Act 1958; citizenship structures including categorisation of asylum seekers as “unlawful non-citizens”; and systems of personal identification. After arrival in Australia, social structures of citizenship, and policies become powerful shaping forces on asylum seekers’ everyday lives.11 This research explores how social structures shape asylum seekers’ experiences.

Amidst the corpus of definitions of social structures, two broad conceptualisations can be identified (Elder-Vass 2007 2008; Irwin 2008; Jagannath 2009; López and Scott 2000; Nairn 2009). One sees social structures as identifiable units that organise human beings into certain groups. The other sees social structures as parts of society that are represented by patterns of relations between individuals or groups of people. Elder-Vass (2007 2008) states that these two ways of conceptualising social structures are not necessarily mutually-exclusive, and that social structures might consist of both identifiable units of human organisation across society, and their parts which involve patterns of relations between the people that make up these units, and between the different groups of people.

These social structures, groupings of people and ways of relating within and between groups are constructed and transformed by the people themselves. Simultaneously, they shape and are shaped by people’s experiences. For example, Durkheim (1981) stated,

It [social structure] is constantly becoming and changing [forming and breaking down]; it is life having crystallized to a degree; and to distinguish it from the life

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11 Considering the social structure of citizenship, asylum seekers are excluded; they are outsiders. For example, the Migration Act’s classifies asylum seekers as “unlawful non-citizens”
from which it derives or the life that determines it amounts to dissociating inseparable things.

Social structures are widely accepted as having outcomes for individuals’ everyday experiences in terms of health (Dahl and Elstad 2001), emotional status (Clay-Warner and Robinson 2008), life span (Kennelly, O’Shea and Garvey 2003; Manton, Gu and Lamb 2006), and engagement in meaningful day-to-day life activities (Paluch, Boltin and Howie 2008; Pollard, Sakellariou and Kronenberg 2008). In other words, belonging to particular groups or engaging in certain societal patterns of behaviour can determine a person’s day-to-day life experiences. For Giddens (1984: 169), social structures are “enabling and constraining” and social structures and individual agency interrelate to result in individual experiences.

Detriment can arise out of structural violence and structural exclusion. Structural violence happens when social structures result in harm being inflicted upon groups of people (Farmer 2009; Galtung 1969). Exclusion takes place when some people are not afforded the same beneficial conditions as other people, because social structures segregate, isolate, or differentiate groups that are advantaged and others that are disadvantaged (Linklater 1998 2007). For example, the structure of citizenship differentiates between citizens and non-citizens, affording different treatment to each group. In fact, differential treatment of citizens and non-citizens is accepted as a useful international norm in most instances (Blitz and Lynch 2011; Hurenkamp, Tonkens and Duyvendak 2012; Isin and Turner 2002). Policies that differentiate the living conditions of asylum seekers in detention from the living conditions of other non-citizens such as refugees (with citizenship-like status) and citizens in Australia might be exclusionary if they result in disadvantage for asylum seekers.

Citizenship organises human beings according to membership in political communities (Ballin 2014; Belton 2005; Devetak 2012; Linklater 2001) and can therefore be considered a social structure. The cosmopolitan idea of global citizenship, in which all people are owed human rights as part of the global political community, has been conceptualised in many forms with respect to global institutions of governance, market structures, moral norms, and cultural change or acceptance (Audi 2009; Beck and Szaider 2010; Fine 2003; Grande 2006; Linklater 2001; Morris 2010b; Shapcott 2013). Cosmopolitan conceptualisations of citizenship are relevant to the experiences of asylum seekers because of their lack of protection from the government in their home countries and their need to seek protection for their human rights from another state, calling on their status as global citizens.

The Australian government does not ascribe to a cosmopolitan idea of citizenship, and
employs a liberal-democratic view of citizenship. This liberal-democratic perspective considers citizenship as a legal status granted by the Australian government. This individual membership to the community confers individual rights and obligations to the citizen (Leitner and Strunk 2014).

For example, the preamble of the *Australian Citizenship Act 2007* states

> The Parliament recognises that Australian citizenship represents full and formal membership of the community of the Commonwealth of Australia, and Australian citizenship is a common bond, involving reciprocal rights and obligations, uniting all Australians, while respecting their diversity.

> The Parliament recognises that persons conferred Australian citizenship enjoy these rights and undertake to accept these obligations:

> (a) by pledging loyalty to Australia and its people; and

> (b) by sharing their democratic beliefs; and

> (c) by respecting their rights and liberties; and

> (d) by upholding and obeying the laws of Australia.

In Australia, permanent residents have citizen-like status, in that the government acknowledges “most of the rights and entitlements of a citizen” are also owed to permanent residents (Department of Immigration and Border Protection 2014). Permanent residents are only excluded from the automatic right of re-entry to Australia and the right to vote. Permanent residents are granted rights to welfare, healthcare, and education in a similar way to Australian citizens (Department of Immigration and Border Protection 2014).

States consider those who are not members of their political community, including asylum seekers, as non-citizens (Office of the United Nations High Commissioner for Human Rights 2006). For example, Section 5 of the Australian *Migration Act 1958* classifies those who have not been granted citizenship as ‘non-citizens’. Section 13 specifies that those who hold visas for entry to Australia and are in the migration zone are classified ‘lawful non-citizens’. Section 14 states that those who do not hold visas for entry to Australia, including asylum seekers, and are in the migration zone are classified ‘unlawful non-citizens’. These groupings of ‘citizens’, ‘lawful non-citizens’, and ‘unlawful non-citizens’ then determine the relations between the Australian government and the people to whom each status applies, as well as relations amongst people residing on Australian territory depending on their status (for example, asylum seekers are segregated from citizens through detention). Citizenship can thus be seen as a social structure; it organises human beings into groups, and determines patterns of relations between groups.
seekers are excluded from conditions that would fulfil their human rights because of their status as ‘unlawful non-citizens’ with respect to the structure of citizenship.

This exclusion occurs through Australia’s asylum seeker policies that apply to ‘unauthorized non-citizens’ including the Migration Act 1958, contracts between the government and non-government organisation who manage detention centres, and documents pertaining to community detention of asylum seekers. Following Anderson, policies can be understood as “relatively stable course[s] of action or inaction followed by an actor or set of actors in dealing with a problem or matter of concern” (Anderson 2011: 6). As written documents that dictate the patterns of behaviour of groups or between individuals within a group, policies can also be considered social structures. Australia’s asylum seeker policies translate into exclusionary social structures because they segregate asylum seekers from the rest of Australian society through detention, community detention, and offshore processing arrangements. They determine patterns of behaviour for asylum seekers, services that support and detain asylum seekers, and government relations with asylum seekers.

The policies considered in this dissertation are written policies; their written form indicates their stability. They include legislation and government contracts which specify actions to be carried out with respect to asylum seekers. The following chapters explore citizenship and asylum seeker policies in Australia, aiming to understand better how these social structures are related to asylum seekers’ experiences.

Chapter One in brief

This chapter has provided a definition of asylum seekers and explained the importance of understanding their experiences, in light of increasing numbers of asylum seekers globally. It has placed their experiences while waiting in host countries for refugee status determination in the context of their journeys across the globe to seek protection from persecution. Persecution was described as central to understanding asylum seekers, and their stories of persecution were detailed. Asylum seekers’ journeys from their home countries to host countries were discussed. After these journeys, asylum seekers apply for protection in a host country, and the treatment of asylum seekers by a variety of countries was outlined. This treatment was explained in light of a general trend of exclusionary policies involving detention, extraterritorial arrangements and limiting financial and social support for asylum seekers dispersed in the community. Finally, a picture was painted in which Australia uses some of the world’s harshest and most exclusionary detention policy because asylum seekers are subject to detention for the entire duration of the refugee status determination process. Citizenship and policies were explained as social structures that contribute
to asylum seekers’ experiences in Australia and these structures will be explored further throughout the dissertation.

With an understanding of who asylum seekers are, their journeys across the globe to arrive in Australia, and the harshness of Australia’s asylum seeker policy, the experiences of asylum seekers who are waiting for refugee status determination in Australia are the focus of this research. Chapter Two outlines the account of human rights on which this thesis is founded. Further details regarding Australia’s approach to asylum seekers’ human rights are provided in Chapter Three. Chapter Four details Australia’s asylum seeker policy and the existing research regarding experiences of asylum seekers within this system.
Chapter Two.
An account of human rights

This chapter presents an account of human rights that sees all people, including asylum seekers, as ‘rights-bearing agents’ (Lamey 2012) simply because they are human beings (Griffin 2001a). This account of human rights sees international human rights law as a formalised expression of the rights possessed by all people. It explains that for asylum seekers, many human rights are latent. This means that that while their human rights might not be realised or guaranteed by a state, they do not cease to exist.

The literature tells of rights as human; natural; moral; legal; civic; civil; citizens’; economic, social, and cultural; civil and political; individual; community; basic; fundamental; positive; negative; liberal; constitutional; first, second and third order; universal; culturally relative; particularist (Beitz 2003; Benhabib 2007; Cranston 1983; d'Entreves 1970; Eide 1999; Falk 1998; Finnis 1980; Forst 1999; Griffin 2001a; Ishay 2004; Koch 2006; Mahoney 2007; Piovesan 2004; Woods 2005). Conceptions of rights are innumerable. Consequently, political figures and scholars contest the meaning, relevance, applications, and classifications of rights (Beitz 2003; Benhabib 2007; Cranston 1983; Donnelly 2013; Falk 1998). Underpinning this thesis is a view that human rights are possessed by all human beings and cannot be taken away: all people are ‘rights-bearing agents’ (Lamey 2012).

All human beings bear human rights

The United Nations (UN) Universal Declaration of Human Rights (UDHR) (1948) states that human rights are the entitlements that each human being inherently holds, forming the foundation for freedom, justice and peace. They are interrelated and they apply equally to all people. While this definition is useful, it is fraught with controversy and is thus the focus of a great deal of debate (Baynes 2009; Beitz 2003; Cranston 1983; Donnelly 2007a; Falk 2004; Finnis 1980; 12 Lamey (2012) used the term ‘right-bearing agents’, however asylum seekers bear many human rights, therefore the term has been adapted to emphasise the many rights borne by asylum seekers. Thus the term ‘rights-bearing agents’ is used.

13 Existing commonly used terms to describe disrespected human rights such as ‘unfulfilled’ ‘unrealised’ ‘violated’ ‘breached’ tend to suggest human rights are situated in legal documents (positive law) and that these legal stipulations have been contravened. The phrase ‘latent human rights’ is employed to emphasise the ongoing rights-bearing nature of people, especially asylum seekers, rather than the articulation of human rights in legal documentation.

14 The UDHR consists of thirty articles outlining civil and political rights (Articles 3-21) including rights to life, free speech, a fair trial, free movement and privacy, along with freedom from slavery, torture, and arbitrary arrest; economic, social and cultural rights (Articles 22-27) specifying rights to social security, rights to work, fair pay, leisure, health, wellbeing, education and participation in the community’s cultural life; and articles that call for the protection of the human rights outlined (Articles 28-30).
Ignatieff 2011; James 2007).

An understanding of human rights as equal deservedness of wellbeing, freedom from suffering, and respect for dignity for all people predicates this thesis. Being human means having the cognitive capacity to be aware of one’s own emotional responses to external and internal stimuli (Steklis and Lane 2013). Many animals have the ability to express their emotional state through physiological responses, such as a raised heart rate or increased body temperature. However, according to Steklis and Lane (2013), neurological observations, experimental studies, and evolutionary research indicate that the capacity for reflective awareness, the ability to attend to and consciously experience their own and others’ emotional states, is unique to the human species. Being aware of their own emotional responses means that people have a conscious awareness of their physical and emotional state, be it of suffering or wellbeing. Unlike other animals, humans not only respond physiologically to their internal and external worlds, but they are also cognitively aware of their emotional responses. Linklater’s (2011, 11) description of a “condition of vulnerability to mental and physical suffering that is also specific to the human species” can be understood in light of this uniquely human capacity to be cognitively aware of emotional responses to harm that might be imposed through the surrounding environment. With the uniquely human ability to be aware of one’s own emotional responses, communicate these responses with others, and be understood, humans are thus able to possess and claim rights to prevent the suffering and indignity of which they are consciously aware. It is through the ability to be consciously aware of their own and others’ emotional responses that human rights exist and therefore human rights are underpinned by a deservedness of wellbeing, freedom from suffering and respect for dignity.

This thesis takes human rights to be universal and inalienable. It makes the distinction, as Donnelly (2007b) does, between conceptual universality and substantive universality. Substantive universality refers to the applicability of lists of human rights to all people in all contexts (Donnelly 2007b). This version of universality situates human rights in international law, which applies human rights to all people.

Situating human rights within people, conceptual universality describes the bearing of human rights by all people because they are human (Donnelly 2007b). Conceptual universality asserts equal rights amongst all people because they are equally human. One person cannot be more or less human than another person, and therefore one person cannot be more or less entitled to human rights (Gardner 2008; Griffin 2001a). Conceptual universality describes universal possession of human rights by all people, whether or not they are institutionalised in international human rights law, or fulfilled by state policy and state actions. In other words, in this account of
human rights, all people are ‘rights-bearing agents’ (Lamey 2012) and all people bear these rights regardless of the structures that may support the fulfilment of their rights or render their rights latent.

While all people possess human rights because they are human, not everyone’s human rights are realised (Donnelly 2013; Griffin 2008). Examples include state violence and political repression, genocide, terrorism, war crimes, suppression of nationalist movements, torture, and cruel and unusual punishments (Bahmueller 2003).

If all people including asylum seekers bear rights, can these rights be removed from their bearers? Understanding human rights as possessed by all people “in virtue of being human” (Griffin 2001a), according to a conceptual universality perspective, allows for a view that human rights are inalienable: human rights cannot be taken away from people because humanness cannot be taken away by any other person or any social structure (Donnelly 2007b). For many people however, the human rights they possess remain latent, because there is no structure, for example no state, that guarantees or fulfils them.

The inalienable nature of human rights comes into question when rights are unfulfilled. If human rights are not fulfilled, they might be seen as lost because they are not being experienced. For example, Arendt (1967) was concerned with the loss of rights for people fleeing their homes because of a fear of persecution, because they had no state to protect their rights. More recently, descriptions of rights being removed include “admission [of the elderly] to a hospital or a move to a care home can lead to the loss of Human Rights” (Morris 2010a: 525); “child marriage brings changes for an adolescent including separation from family, relinquishing of formal education, [and] loss of human rights” (Gennari 2013: 59); governments in host countries see asylum seekers as “as temporary guests with no civil, political and social rights” (Kibreab 2003: 38); and for asylum seekers, exile from home countries is “a symptom of the loss of such [human] rights” (Long and Crisp 2010: 56).

However, this thesis takes the view that even if unfulfilled, human rights continue to be possessed by all people. Unfulfilled human rights are latent human rights, not lost human rights. Based on an understanding of human rights as being borne by all people, human rights remain with people, and their expression in legal documents continues to assert what people ought to experience. The idea of inalienable human rights arose out of the conception of natural rights (d'Entrèves 1970; Leavitt 1992). According to d’Entrèves, natural rights is a version of natural law that is underpinned by rationalism, individualism and radicalism. More specifically, according to d’Entrèves, natural rights are underpinned by rational reasoning rather than religious foundations,
global valuing the individual, and claims asserting that “any government which proves destructive of the ‘inalienable rights’ of man should be altered or abolished” (d’Entreves 1970: 60). Accordingly, the inalienable nature of a right is evident when it arises out of human existence, such as a human right, in contrast to a right that arises out of social structures such as the state. Moreover, according to d’Entrèves’ explanation, unlike rights that arise out of social structures, if a state’s government infringes upon an inalienable human right, the right continues to exist.

Asylum seekers are sometimes referred to as aliens (Griffiths 2012; Shaw 2004; Tom 2009). The Oxford dictionary (Stevenson 2010) defines an “alien” as “1. a foreigner, especially one who is not a naturalised citizen of the country where he or she is living” and “2. a hypothetical or fictional being from another world”. Asylum seekers have left their home countries and entered the territory of a foreign state; they are foreigners. Describing asylum seekers as aliens emphasises their non-citizen status. Yet, the term alien is a misrepresentation of asylum seekers. The term alien can also imply a condition that is other-than-human, ‘hypothetical’ or ‘from another world’. Referring to asylum seekers as aliens devalues their humanness, the characteristic that underpins their inalienable human rights. As human beings, asylum seekers possess rights in virtue of their humanness, and neither their humanness nor their human rights can be reduced or removed by any external person or structure.

Embracing interdependence: human rights and human rights law

If all people are ‘rights-bearing agents’ and human rights are therefore situated with people and not substantiated by or limited to what is contained in structures such as law, how do international human rights law and human rights relate? This thesis proposes that human rights law is a formal expression of the human rights possessed by humans who are the ‘rights-bearing agents’. According to Benhabib, (2007) the interdependence of human rights and their concrete expression in international human rights law should be embraced in order to understand universal human rights in their real-world contexts.

In line with the work of Donnelly (2007b), Griffin (2001a), and Gardner (2008), this thesis views human rights as conceptually universal and inalienable. Moreover, it regards substantive universality of human rights law as an ideal outcome, but acknowledges that lists of human rights, such as those specified in international law, are expressions of ideas about the human rights that people possess.

Benhabib (2007: 9) draws attention to the “necessary connection between human rights as
moral principles and their legal form."^{15} Articulations of human rights in legal documents are socially embedded (Benhabib 2007). Benhabib explains that legal documents that define human rights are concretizations of the moral principles of human rights specified in legal content. In these documents, ideas of human rights are expressed in a certain (multi)cultural, political, technological and temporal contexts and are thus not necessarily exact formulations of universal human rights that apply to all people, in all contexts, in all times. Nonetheless, human rights law is the best attempt made thus far for an internationally agreed upon articulation of human rights as indicated by the ratification rates for international human rights treaties. For example, by February 2013, the Convention on Civil and Political Rights had been ratified by 167 states out of 196 (85.2 percent) and the Convention on Economic Social and Cultural Rights has been ratified by 160 out of 196 states (81.6 percent) (Office of the High Commissioner for Human Rights 2013). Moreover, Donnelly (2013) has calculated an overall 88 percent ratification rate of human rights treaties. This indicates that while not all states agree, there is a high level of agreement amongst states regarding what constitutes human rights.

Considering international human rights law as the best articulation of human rights at the current time and that it is the account of human rights which is in practice, this thesis uses international human rights law as its foundation for discussing the human rights of asylum seekers. Legally, human rights are enshrined in an array of international human rights agreements which recognise the universality of human rights and state human rights obligations (Donnelly 2007a). For example, the Refugee Convention considers that

The Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.

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^{15} Benhabib’s (2007) discourse-theoretic account of human rights suggests that universal human rights can be accounted for, for example in legal documents, in a context dependent manner through a dialogic practice of negotiation which is dependent on certain conditions to ensure “good reasoning” and to arrive at agreement about the content of human rights that applies to a specific place and time. While Benhabib’s conceptualisation of human rights is much narrower than the account of human rights presented in this thesis, both accounts understand human rights as spanning the legal and moral domains. This thesis aligns itself with Benhabib’s view that human rights language straddles the divide between a moral concept of human rights as borne by all people and legal documentation of these human rights. Benhabib critiques ‘agent-centric’ accounts of human rights, such as this thesis presents, and views human rights as socially constructed through discourse. However, on closer reading Benhabib is not opposed to the idea of people bearing rights. In fact she argues that all people possess human rights, and that her discourse-theoretic process is a method for concretizing, or expressing, the rights that are held by all humans. The validity of a discourse-theoretic process to arrive at the content of human rights is a question left to other scholars. Benhabib’s underpinning argument that human rights are moral principles which are concretised in law, rather than her discourse-theoretic account of human rights, is of relevance to this thesis.
This promotes the view that all people should enjoy human rights universally, without discrimination. Therefore, according to international law, regardless of citizenship, all people are entitled to human rights. This means that despite asylum seekers’ non-citizen status in Australia, they are still entitled to human rights, not only because they are human and therefore bear human rights, but because they are legally entitled to those human rights.16

What rights do asylum seekers have?

As human beings, asylum seekers bear human rights. International human rights law provides a basis for understanding what these human rights are. With particular focus on the Refugee Convention (United Nations General Assembly 1951), the International Covenant on Civil and Political Rights (ICCPR) (United Nations General Assembly 1966a), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Nations General Assembly 1966b), the rights to which asylum seekers are legally entitled can be understood. The provisions in these human rights conventions are discussed below as they relate to Australia’s obligations for the human rights of asylum seekers.

International law can be described as rules ratified by states which aim to govern the behaviour of states (Klabbers 2013). Treaty law is a form of international law that involves consensus amongst two or more states by signing a written agreement known as a treaty. Customary law refers to repeated general practice which is accepted as law (Article 38, Statute of the International Court of Justice, United Nations 1946). International human rights law specifies state obligations for the human rights of all people without discrimination. There are conventions that specify the rights of specific groups of people who are often particularly vulnerable to discrimination including children (United Nations General Assembly 1989), women (United Nations General Assembly 1979), people with disabilities (United Nations General Assembly 2007), and asylum seekers and refugees (United Nations General Assembly 1951).

While international human rights law in the form of conventions is legally binding, there is no overarching body to enforce it (Klabbers 2013) because states are sovereign entities, meaning no other state can interfere with their internal domestic affairs (Gelber and McDonald 2006). Therefore, each state is responsible for fulfilling its obligations, but these obligations are usually not enforced (Klabbers 2013). In light of the lack of an enforcing body for international human rights law, pressure to comply with human rights law is created through reporting requirements to

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16 This argument refers to all human rights, except for a number of civil and political rights which are specified as being exclusive to citizens rather than universally borne by all people, such as Article 25 of the ICCPR which specifies citizen rights to take part in public affairs, to have access to public service, to vote, and to be elected at periodic elections. See Chapter Three for further discussion regarding civil rights versus human rights.
United Nations human rights bodies, pressure from other states, economic sanctions, non-government organisations monitoring, and naming and shaming (Bantekas and Oette 2013).

According to the Australian Human Rights Commission (AHRC) (2013b), human rights agreements that express the human rights of asylum seekers while they wait for their refugee claims to be processed in Australia include the following:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (United Nations General Assembly 1984)
- Convention on the Elimination of All Forms of Discrimination against Women (United Nations General Assembly 1979)
- International Covenant on Civil and Political Rights (ICCPR) (United Nations General Assembly 1966a)
- International Convention on the Elimination of All Forms of Racial Discrimination (United Nations General Assembly 1965)
- International Covenant on Economic, Social and Cultural Rights (ICESCR) (United Nations General Assembly 1966b)
- Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (United Nations General Assembly 2003)

Australia is a party to all of these conventions and therefore has legal human rights obligations under these agreements.

The Refugee Convention is a legally binding document to which Australia has been a signatory since 1954 (United Nations General Assembly 2014). It is an international agreement amongst 145 states. Its Protocol (United Nations General Assembly 1967), to which Australia has been a signatory since 1973 (United Nations General Assembly 2014), removes the geographical and temporal limitations that were originally stated in the Refugee Convention. When this thesis refers to the Refugee Convention, it assumes the removal of geographical and temporal limitations as outlined in the 1967 Protocol.
The Refugee Convention (United Nations General Assembly 1951) considers asylum seekers to be entitled to the same rights as refugees until their applications are processed. It does not only apply to people who have been granted refugee status, it extends to people who are awaiting refugee status determination. In its introductory note, the Refugee Convention recognises that “the seeking of asylum can require refugees to breach immigration rules” (United Nations General Assembly 1951: 3), such as Australia’s requirement under Sections 13 and 14 of the Migration Act 1958 that anyone entering Australia must hold a valid visa while in Australian states, territories, resource and sea installations. The Refugee Convention states that asylum seekers should not be penalised based on their method of entry, specifying “prohibited penalties” including “being arbitrarily detained purely on the basis of seeking asylum” (United Nations General Assembly 1951: 3). Article 31 of the Refugee Convention states that

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article One, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

This indicates that asylum seekers have a ‘presumptive’ right not to be penalised because of their ‘unauthorised’ method of entry into a country; accordingly, they should be treated without penalty while their refugee status is being determined (Feller, Turk and Nicholson 2003). This indicates that people who arrive in Australia without authorisation to apply for refugee status, known as asylum seekers, are included under the regime of the Refugee Convention (United Nations General Assembly 1951). The Refugee Convention, a legally binding document, includes asylum seekers when it uses the term ‘refugee’.

While many aspects of the Refugee Convention are contentious, it does apply to asylum seekers and it does specify their political, economic, and social rights. Scholars make claims that the Refugee Convention is not inclusive enough, and politicians, policymakers, and activists have attempted to redress these problems. For example, scholars claim that the Refugee Convention does
not include people who might be considered refugees including those who flee their homes due to natural disasters and climate change (Ramlogan 1996; Salcedo Mesa 2007); those experiencing non-persecutory violence (Hyndman and Nylund 1998; Sharpe 2012; Turner 1994; United Nations High Commissioner for Refugees 2006); it does not extend to internally displaced people (Lee 2001); and lacks sensitivity to gender-based claims of persecution in the definition of refugees (Harvey 2000; Pomeroy 2010; Wallace 1996). Guidelines, regional agreements, region specific processing arrangements, institution of refugee organisations, and ongoing dialogue have been established to address these concerns regarding the refugee convention (Harvey 2000; Hyndman and Nylund 1998; Lee 2001; Pomeroy 2010; Ramlogan 1996; Salcedo Mesa 2007; Sharpe 2012; Turner 1994; United Nations High Commissioner for Refugees 2006; Wallace 1996)." Others claim that the Refugee Convention is unclear and allows for too much leeway in its application at a domestic level, often resulting in poor treatment or unfair processes for asylum seekers in many parts of the world (Arboleda and Hoy 1993; North and Chia 2006; Phuong 2002). North and Chia (2006: 105) assert that

While the [Refugee] Convention is a universal humanitarian treaty, designed to offer universal protection, the interpretation of the treaty differs from country to country… seeking asylum, in the words of the European Council on Refugees and Exiles (ECRE 2004), becomes a ‘dangerous lottery’. 

Despite these limitations of the Refugee Convention, it does apply to asylum seekers, and it does specify their human rights. In combination with other human rights law, the Refugee Convention is a useful document for identifying the human rights of asylum seekers, because it is widely accepted as the best current articulation of their rights and it is legally binding in terms of the treatment of asylum seekers.

Along with the principle of non-refoulement (Article 32), the Refugee Convention specifies both civil and political rights, and economic social and cultural rights to which states that are party to the convention are obligated. Regarding civil and political rights, the Refugee Convention states that asylum seekers are entitled to equal treatment as non-nationals, as a minimum. This aligns with the view that this thesis presents in Chapter Three that Australia is not obligated to

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17 For examples of strategies aiming to redress issues with the Refugee Convention (United Nations General Assembly 1951) consider: the Canadian Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution (Immigration and Refugee Board of Canada 2003), the Latin American Cartagena Declaration on Refugees (Regional Refugee Instruments & Related: Colloquium on the International Protection of Refugees in Central America 1984), and the African Refugee Convention (Organisation of African Unity [OAU] 1969), as well as associated organisational bodies and scholarly articles (Marshall 2011a; Sharpe 2012; Turner 1994; Wallace 1996)

18 Non-refoulement (Article 32, Refugee Convention, United Nations General Assembly 1951) refers to a right of an asylum seeker not to be returned to his/her home country or another country if his/her safety would be in danger there.
provide asylum seekers with *civil* rights, just as it is not obligated to other non-citizens such as tourists. However, asylum seekers’ human rights, especially their economic and social human rights, should be fulfilled.

The Refugee Convention outlines specific economic, social, and cultural rights that apply to asylum seekers. These human rights are relevant to the conditions in which asylum seekers live, and thus relevant to their everyday experiences. They include rights to movable and immovable property (Article 13), wage-earning employment (Article 17), self-employment (Article 18), professional recognition (Article 19), housing (Article 21), education (Article 22), public relief and assistance (Article 23), social security (Article 24), and freedom of movement (Article 26).

The ICCPR and the ICESCR are also legally binding agreements to which Australia is a signatory. These documents are intended to apply to all people equally, which means they apply to asylum seekers, refugees, and citizens without discrimination.

The political rights stated by the ICCPR relevant to the conditions in which asylum seekers live are set out in Article 7 which specifies freedom from inhuman, cruel, or degrading treatment; Article 9.1 which specifies a freedom from arbitrary detention; and Article 12.1 which specifies freedom of movement and choice of residence. Articles relevant to civil rights such as political participation, however, are not relevant to asylum seekers because they are not citizens (see Chapter Three).

The ICESCR outlines rights to resources and conditions that realise a dignified day-to-day existence, and are thus especially relevant to the conditions for asylum seekers waiting for refugee status determination in a host country. Articles 6, 7, 9, 11, 12, 13, and 15, describe rights to work, rest and leisure, welfare support, an adequate standard of living, physical and mental health, education, and engagement in cultural and scientific activities, respectively. Many countries, including Australia, have used restrictions on the human rights of asylum seekers with respect to employment, welfare support, legal support, housing, and access to healthcare, to deter asylum seekers and curb refugee flows (Hartley and Fleay 2012; Morris 2009 2010c; Silove, Steel and Watters 2000; Steel, Bateman Steel and Silove 2009).

According to these conventions, asylum seekers, like any other people, not only bear human rights as human beings, but also are legally entitled to these human rights. As a signatory of the Refugee Convention, ICCPR, and ICESCR, Australia has a moral and legal responsibility to ensure the human rights of asylum seekers are fulfilled regardless of their citizenship status.

The AHRC (2013a: 21) provides a succinct outline of Australia’s key human rights obligations to asylum seekers, drawing on the Refugee Convention, ICCPR, CRC, CAT, and
ICESCR:

- People should not be returned to a country where their life or freedom would be threatened (referred to as ‘refoulement’)
- Everyone has the right not to be subjected to arbitrary detention
- Children should only be detained as a measure of last resort, and for the shortest appropriate period of time
- In all actions concerning children, the best interests of the child should be a primary consideration (and in the case of their legal guardian, the primary consideration)
- Anyone who is detained has the right to challenge the legality of their detention in court
- All persons who are detained should be treated with humanity and respect for their inherent dignity
- No one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- Everyone is entitled to respect for their human rights without discrimination
- Asylum seekers should not be penalised for arriving in a country without authorisation
- Everyone has the right to work, and to an adequate standard of living, including food, clothing and housing
- Everyone is entitled to enjoy the highest attainable standard of mental and physical health
- Everyone has the right to have their family protected from arbitrary or unlawful interference
- Children who are unaccompanied and/or seeking asylum have a right to special protection and assistance

This thesis takes these human rights obligations, drawn from legally binding international law documents and summarised by the AHRC, as the basis for the rights owed to asylum seekers to ensure that their human rights are fulfilled, regardless of their citizenship status. This research particularly focuses on the political human rights to freedom of movement and not to be detained or subjected to inhuman, cruel, or degrading treatment. It also focuses on the economic, social, and cultural human rights of asylum seekers, as human rights that affect their everyday experiences. The rights to

- work (Article 17, Refugee Convention; Article 6, ICESCR),
housing (Article 21, Refugee Convention),
- privacy (Article 21, Refugee Convention),
- education (Article 22, Refugee Convention; Article 13, ICESCR),
- welfare (Article 24, Refugee Convention; Article 9, ICESCR),
- freedom of movement including choice of residence (Article 26, Refugee Convention; Articles 9 and 12, ),
- adequate standard of living (Article 11, ICESCR),
- physical and mental health (Article 12, ICESCR),
- dignity and freedom from cruel treatment (Articles 7 and 10, ),
- and security of person (Article 9, )

are of particular relevance to the everyday experiences of asylum seekers, the focus of this thesis.

Asylum seekers’ latent human rights

Asylum seekers possess human rights because of the simple fact that they are human. However, these often remain latent, unrealised, because of a lack of protection in their home countries and often a lack of respect for their human rights in host countries also. Latency of human rights is central to asylum seekers’ experiences. They survive inhuman treatment, or a risk thereof, in their original home countries and endure exclusion in host countries where they wait for refugee status determination.

Full recognition of asylum seekers as humans and therefore bearers of universal, inalienable human rights, along with Australia’s obligations regarding these rights under international law, are overshadowed by portrayals of asylum seekers as “illegal” and “threats to national identity and security” (Vas Dev 2009). The Australian government emphasises asylum seekers’ non-citizen status in Australia with respect to their treatment and their rights (Department of Immigration and Border Protection 2013c; Department of Immigration and Citizenship 2011 2013b 2013d 2013g).

Arendt (Arendt 1967) described the dilemma of non-citizens and the denial of their rights. She was concerned that if no state provided for or protected human rights, a person’s human rights could not be guaranteed.

Reflecting upon refugee movements between 1914 and 1948, Arendt (1967) explained that refugees are unable to appeal to their citizenship status in order to invoke their rights, because they have lost protection from their governments.19 In fact, not having their rights protected by their

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19 Arendt’s use of the term refugees includes those labelled as asylum seekers in this thesis. She was referring to people who had fled their countries due to a fear of persecution and were seeking protection. This is different from the use of
governments is what makes people asylum seekers and eventually recognised as refugees according to the Refugee Convention.

Arendt’s concern was that if rights are not protected through the mechanism of the state-citizen relationship, they are not protected at all. She argued for a new conceptualisation of human rights, in the form a ‘right to have rights’. The ‘right to have rights’, is a pre-condition to the realisation of any other rights. Arendt asserted that this right to have rights must be seen as part of every human’s existence, and that recognition of this right elicits an obligation to respect the human rights of all people, regardless of citizenship. While arguing for this reconceptualisation of human rights as being dependent on recognising the ‘right to have rights’ for every individual, Arendt was acknowledging that states might not always recognise the right to have rights, as she had observed was the case for refugees during the first half of the twentieth century. Through ignorance or neglect of the right to have rights, non-citizens are harmed, excluded and their human rights, as outlined in human rights legal instruments, remain unfulfilled.

As the following chapter discusses in further detail, Australia’s approach to the rights of asylum seekers asserts that they are not entitled to equal rights to citizens (Department of Immigration and Citizenship 2012d).20 This view of human rights assumes that the state-citizen relationship is the mechanism through which human rights are realised.21 This provides an example of Australia’s ignorance, or neglect, of the ‘right to have rights’ that Arendt (1967) argues should belong to every human being regardless of their citizenship.

An alternative perspective, in which individual people are ‘rights-bearing agents’, and thus always entitled to human rights because their humanness, provides more hope for the human rights of asylum seekers in Australia. Some rights, such as the right to vote, are civil rights and are dependent on the state-citizen relationship for their existence. In contrast, human rights are borne by all people and therefore are not dependent on the state-citizen relationship for their existence. Arendt (1967) saw human rights as not possessed by people, but situated within

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20 Refugees are considered permanent residents by the Australian government (Department of Immigration and Border Protection 2014e). They are therefore entitled to similar rights to Australian citizens and are therefore included in the understanding of Australian citizens in this thesis. Asylum seekers are not considered permanent residents and are therefore considered non-citizens.

21 In this thesis the term citizen, when referring to citizens of Australia, encompasses citizens and permanent residents. This is because, in Australia, permanent residents have citizenship-like status whereby they are entitled to live, study and work without restriction. According to the Department of Immigration and Border Protection (2014f), access to social services, healthcare, and education is similar for citizens and permanent residents. Permanent residents have the same rights and entitlements as Australian citizens with the exception of the right to vote, and the automatic right of entry/re-entry. Therefore, for linguistic simplicity, this thesis includes permanent residents when referring to Australian citizens.
international legal instruments and handed down from state governments to their citizens only. She called for a reconceptualization of rights. An understanding that all people bear human rights because of their humanness, rather than being exclusively bestowed by the state through domestic law and policies, provides grounds to maintain that, while not recognised by the Australian government, asylum seekers do have human rights similar to those of Australian citizens. Consequently, the contention in this thesis is that those rights should be recognised and realised, despite the exclusionary structure of citizenship which is often used to justify a lack of recognition of asylum seekers’ human rights (see Chapters 3 and 4).

To consider humans as ‘rights-bearing agents’, human rights must be considered from moral and legal standpoints (Lamey 2012). Lamey explains that, by considering human rights as held by every person, regardless of whether they are recognised or upheld in practice, human rights can be seen as universal. Therefore, every single person, regardless of citizenship, can be considered a ‘rights-bearing agent’.

According to the account of human rights presented in this thesis, human rights are expressed in international law. When there is no state that protects or upholds human rights, they do not cease to exist, as Arendt (1967) was concerned they might. Rather, those rights are latent: despite being unrealised, they continue to exist. States also continue to be obligated with regard to human rights through their commitments to international law. Therefore, human rights should be respected, protected, and upheld for all people regardless of citizenship. This applies to asylum seekers in Australia to whom international refugee law applies, and who are ‘rights-bearing agents’.

Chapter Two in brief

Overall, this chapter has provided an account human rights in which all people are considered ‘rights-bearing agents’ (Lamey 2012). It has described human rights as universal, inherently human, inalienable, and formally expressed in international law. The human rights law that applies to asylum seekers in Australia was outlined. Echoing Arendt’s (1967) call for a reconceptualisation of human rights, this chapter explained latent human rights as rights that continue to be possessed by people, despite not being realised. The chapter explained that asylum seekers human rights are often latent, unrealised, but continuing to exist. Following on from this account of human rights, Chapter Three explains successive Australian governments’ approach to asylum seekers’ human rights
Chapter Three.
“Unauthorised”, “unlawful non-citizens”: do they deserve human rights?

Asylum seekers, by their very circumstances, test our common assumptions and practice in relation to human rights.

(Edwards 2001: 1)

This chapter centres on citizenship as a social structure that differentiates between citizens and asylum seekers as ‘non-citizens’ to investigate how the Australian government approaches asylum seekers’ rights. Stemming from the account of human rights provided in Chapter Two, this chapter delineates between civil rights, which apply only to citizens, and human rights, which are borne by all people. It then proposes that civil rights apply differentially to citizens and non-citizens, while human rights exist (morally) and apply (legally) universally, regardless of citizenship. This implies that, as non-citizens in Australia, asylum seekers remain entitled to human rights even if they are not entitled to civil rights.

With an understanding of the rights to which asylum seekers are entitled and the rights to which they are not, this chapter investigates the Australian governments’ approach to asylum seekers’ rights. When discussing Australian governments, the thesis refers to successive Australian governments, who have portrayed asylum seekers as “illegal”, “unauthorised” and “unlawful non-citizens”. This positioning of asylum seekers in the context of the social structure of citizenship underpins, and is representative of, the exclusionary policies including mandatory detention which have been used by governments on both sides of Australian politics (Phillips and Spinks 2013a; Phillips and Spinks 2013b). This view of asylum seekers is underpinned by the Migration Act 1958 which uses the terms “unauthorized maritime arrival” (Section 5aa), “unlawful non-citizen” (Section 14), and “illegal” (Section 14.2). Specifically, this chapter provides an overview of Australia’s history of exclusionary treatment of non-citizens with respect to human rights, in particular asylum seekers.

Civil rights versus human rights

In contrast to the universality of human rights to which all people are entitled “simply in virtue of being human” (Griffin 2001b), membership of a state through citizenship is a necessary
condition for entitlement to civil rights (Ballin 2014). Civil rights are the rights afforded to citizens by the government. While human rights are universal and, therefore, the same rights apply to all people, civil rights are dependent on a relationship between citizens and the state. For example, the United States of America (U.S.) has a Bill of Rights (Congress of the United States 1789) included in its constitution, which outlines the civil rights to freedom of speech, peaceful assembly, keep and bear arms, freedom from unreasonable searches and seizures, liberty or property without due process of law, elect representatives, and not be deprived of life, amongst others. In the United States of America (U.S.), citizens have a civil right to bear arms, whereas Australian citizens do not have this civil right. This demonstrates how rights are specific to the citizens of a state rather than applying to all people because they are human.

Australia has been labelled “the last country in the Western world not to have a constitutional or statutory Bill of Rights” (Zifcak 2002). While Australia does not have a Bill of Rights, the Commonwealth of Australia Constitution Act 1990, the Australian Constitution, does provide for some protection of the rights of citizens. Australia is obligated to fulfil the human rights for its citizens included in international human rights treaties to which it is party. Beyond these rights, Australia also expresses specific civil rights that it owes its citizens. These include the few express rights stated in the Australian Constitution as follows: the right to

- compensation if the government acquires one’s property (Section s51 xxxi),
- freedom to move and trade between Australian states (Section s92),
- trial by jury for serious criminal offences (Section s80),
- freedom of religion (Section s116), and
- equal treatment in all states within Australia regardless of the state of residence (Section s117).

While these are the only rights specified directly in the Australian Constitution (Australian Government 1900), these are not the only civil rights of Australians. Other civil rights to which Australian citizens are entitled include those that are implied in the Australian Constitution as decided by the High Court of Australia (Zifcak 2002). According to decisions by the High Court, Australian citizens are entitled to civil rights including the right to freedom of political communication (High Court of Australia 1992; Lange v Australian Broadcasting Corporation.
1997), the right to vote (Roach v Electoral Commissioner 2007), and the right not to be arbitrarily detained or imprisoned unless judged guilty of a criminal offence sentenced by a Commonwealth state court (Chu Kheng Lim v Minister for Immigration Local Government and Ethnic Affairs 1992). While these are not express rights, they are implied civil rights, meaning they are not explicitly stated in the Australian Constitution, but they are intended.

**Does Australia owe civil rights to asylum seekers?**

The civil rights to which Australian citizens are entitled are not rights that Australia owes to people who are not its citizens (non-citizens). For example, the High Court ruled that under Section s71 of the Constitution, judicial power to detain a person is held only by the courts and not by the legislature or the executive (Chu Kheng Lim v Minister for Immigration Local Government and Ethnic Affairs 1992). These implied rights to due process and freedom from arbitrary detention mean that neither the Migration Act 1958 nor the Minister for Immigration have the power to detain a person, and detention should be based on criminal offenses as determined by the court. However, this implied constitutional right only applies to Australian citizens and does not extend to non-citizens under Australian law. Therefore, it does not apply to asylum seekers, leaving the Australian government free to continue detaining asylum seekers who arrive in Australia by boat under the Migration Act 1958 because of their ‘unauthorised’ method of entry and their ‘non-citizen’ status. The fact that asylum seekers are not Australian citizens means that they are not protected by civil rights in Australia and they are therefore detained in a way that is legal according to Australian constitutional law (Zifcak 2002), albeit contrary to international law (Australian Human Rights Commission 2013a). Thus, according to the Australian High Court, the Australian government has a responsibility to fulfil the civil rights of Australian citizens, but not to afford these rights to non-citizens including asylum seekers.

The restriction of civil rights to citizens to the exclusion of non-citizens is widely accepted. Hirsch Ballin (2014) explains that it is standard practice for states to restrict civil rights to their citizens, excluding those who are not citizens. The Office of the United Nations High Commissioner for Human Rights’ (2006: 5) report on the Rights of Non-Citizens states that “while all human beings are entitled to equality in dignity and rights, States may narrowly draw distinctions between citizens and non-citizens with respect to political rights explicitly guaranteed to citizens.” Accordingly, asylum seekers in Australia are not citizens and are therefore not entitled to civil rights.
Australia’s approach: asylum seekers’ rights

The previous chapter established that human rights are the rights people have because they are members of the human species (Donnelly 2007a), possessed “not in any special status or relation to others, but simply in virtue of being human” (Griffin 2001b: 2). It explained that asylum seekers are human beings and therefore entitled to human rights because of their humanness, as well as Australia’s legal obligations to their human rights. This chapter explains that civil rights, also known as citizens’ rights, are the rights people have because they are members of a political community: citizens of a state (Ballin 2014). Accordingly, asylum seekers are entitled to human rights but not civil rights as non-citizens in Australia. However, with regard to asylum seekers, the Australian government does not delineate between civil rights and human rights, and excludes them from conditions which are commensurate to human rights on the basis of their non-citizen status.22

Considering the differences between civil rights and human rights, a host country is exempt from providing civil rights to asylum seekers, but morally responsible, and in Australia’s case legally obligated under the Refugee Convention (United Nations General Assembly 1951) and Protocol (United Nations General Assembly 1967), and other international law (Australian Human Rights Commission 2013a 2013c) regarding asylum seekers’ human rights. The report on the Rights of Non-Citizens (Office of the United Nations High Commissioner for Human Rights 2006) explains,

Some national constitutions guarantee rights to “citizens”, whereas international human rights law would— with the exception of the rights of public participation and of movement and economic rights in developing countries— provide rights to all persons.

According to this statement by the Office of the United Nations High Commissioner for Human Rights, international human rights law obligates Australia, an industrialized country, to include asylum seekers in its human rights protection. This means that exclusion of non-citizens such as asylum seekers from measures to fulfil civil rights to public participation, such as the right to vote, is acceptable. However, regardless of citizenship, treatment or exclusion that leaves any person’s human rights latent is contrary to international human rights law.

The Australian government’s approach to the rights of asylum seekers does not involve delineation between civil rights and human rights. It purports that as non-citizens, asylum seekers

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22 Examples of conditions that are not commensurate with asylum seekers human rights include mandatory detention, offshore processing arrangements, and restrictive conditions including prohibiting employment in community detention. Chapter Four provides further details regarding these measures.
are not entitled to equal rights to Australian citizens, and extends this claim to both civil and human rights. The Australian government (Department of Immigration and Citizenship 2012b, Section 1.1) states that “under the Act they [asylum seekers] are still unlawful non-citizens; this means that they do not have the rights or entitlements of a person holding a valid visa.” This claim, that asylum seekers’ rights and entitlements are less than those of citizens, is put into practice when the government excludes asylum seekers from conditions consistent with their human rights. The government garners public support for harsh policies including detention, prohibiting work in community detention, and offshore processing through this discordant amalgamation of civil rights and human rights using the term ‘rights’ and by emphasising the non-citizen status of asylum seekers. Thus, the Australian government has shoehorned civil and human rights together “under cover of the same verbal expression”, to borrow d’Entrèves’ (1970: 61) turn of phrase, as a way of justifying its treatment of asylum seekers.

Vas Dev (2009) describes a process of ‘othering’ and exclusion in which asylum seekers are portrayed as “illegal” and “threats to national identity and security”. Through this process of ‘othering’ in which asylum seekers are seen as problematic ‘unauthorized non-citizens’ (Migration Act 1958; Department of Immigration and Citizenship 2012c) and illegal maritime arrivals (Department of Immigration and Border Protection 2014a), the Australian government justifies the exclusion of asylum seekers from conditions consistent with their human rights, along with civil rights.

An example of the process of ‘othering’ (Vas Dev 2009) in which asylum seekers are represented as non-citizens, and therefore not entitled to similar rights as those of Australian citizens, can be seen in a media release from Scott Morrison, the Minister for Immigration and Border Protection, in 2013. Morrison (Department of Immigration and Border Protection 2013c) described asylum seekers as people “who have arrived illegally by boat from very different backgrounds, language groups and cultures with no prior exposure or connection to Australian society.” He also stated that for these non-citizens, it is a “privilege they've been granted to live in the Australian community” rather than a right to seek asylum. The otherness of asylum seekers, whom he describes as illegal, different, and unconnected to Australian society, was used to justify removing asylum seekers from community detention into detention centres or transfer them offshore without trial if allegations were made that they had breached a behaviour code. The government thus represented asylum seekers as non-citizens in Australia who are unconnected and illegally present on Australian soil. The very right to seek asylum was ignored and the government expressed that asylum seekers are privileged to live in Australia. In this example, a lack of respect
for asylum seekers’ human rights is intertwined with an emphasis on their non-citizen status and confused with Australia’s freedom from responsibility to provide civil rights to asylum seekers.

It is widely accepted by the United Nations, the AHRC, and many non-governmental organisations that Australia is not adhering to its human rights obligations. In the 2013 United Nations Human Rights Report Card, Australia was graded ‘F’ with respect to treatment of asylum seekers and refugees, and noted to have breached international law 150 times for 46 asylum seekers, resulting in “cumulatively inflict[ed] serious psychological harm” (Woolcott et al. 2013).

The AHRC has released a report (Australian Human Rights Commission 2013a) regarding Australia’s immigration detention law, policy, and practice, bridging visas, the enhanced screening process, third country processing, and proposed Government reforms during 2013. This report expressed concerns about Australia’s adherence to its human rights obligations in terms of its use of detention, treatment of children seeking asylum, support for mental health, withholding of work rights for people living in community detention, and third country processes. The Human Right Watch World Report (Human Rights Watch 2014) condemned Australia’s neglect of its human rights obligations with respect to the use of mandatory detention, offshore processing, discriminatory ‘enhanced screening’ processes, and third country resettlement. The report (Human Rights Watch 2014: 292-293) stated that Australia

has damaged its record and its potential to be a regional human rights leader by persistently undercutting refugee protections. In 2013, successive Australian governments continued to engage in scare-mongering politics at the expense of the rights of asylum seekers and refugees…. Successive governments have prioritized domestic politics over Australia’s international legal obligations to protect the rights of asylum seekers and refugees, many of who have escaped from appalling situations in places like Afghanistan and Sri Lanka. Too often, the government has attempted to demonize those trying to reach Australia by boat and has insisted that officials refer to all asylum seekers who do so as illegal maritime arrivals.

Australia continues to disregard this widespread critique of its asylum seeker policy, purporting that asylum seekers are not entitled to the same rights as citizens (Department of Immigration and Border Protection 2013c) and emphasising the non-citizen status of asylum seekers (Department of Immigration and Border Protection 2013c 2014c; Department of Immigration and Citizenship 2012d 2013d 2013g) as a way to ‘escape’ its legal and moral obligations.
Australia’s history regarding non-citizens’ human rights

Since colonisation, Australia has a history of restricting the rights of non-citizens based on a system of exclusive citizenship in which non-citizens are denied both civil and human rights. Starting from the time when non-Indigenous (British) people began to settle in Australia in 1788 until 1967, First Australians were discriminatorily viewed as non-citizens and less-than-human (Galligan and Chesterman 1998), which was used as justification for mass killings, violence and discrimination (Perkins, Langton and Atkinson 2008). Richards (2008: ix) describes immigration to Australia between 1788 and the 1970s as the “British peopling of this continent”. This was the commencement of colonial Australia’s tradition of exclusionary citizenship, in which those who were not considered citizens, both First Australians and non-European immigrants, were seen as threats and therefore not equal to citizens in terms of entitlements to rights, either civil or human.

The Immigration Restriction Act (1901), also known as the White Australia Policy, was Australia’s first formal policy that provided grounds for delineating between citizens and non-citizens. Richards (2008) explains that the Immigration Restriction Act (1901) excluded non-citizens because they were seen as threats. McMaster (2002) attributes the development of this act in 1901 to riots between Chinese and white Europeans in the goldfields. The riots stemmed from economic competition, cultural differences, ethnic prejudices, and the fear of Asian populations overpowering the British, known as the ‘yellow peril’.

This policy required immigrants to write a 50 word passage dictated to them in any European language. ‘Prohibited immigrants’ were identified as people who, unable to pass the dictation test, might place financial burden on the public or on charities, had mental illness or cognitive deficits, had a recent criminal histories, were involved in prostitution, or had contracts with the Commonwealth to perform manual labour. There are many mentions of the application of this act to ‘non-British immigrants’ in the record of the White Australia Policy. This policy, initially intended to target Chinese immigration, was later expanded to include a range of immigrants who were supposed to be a threat to national security based on ethnicity, including those from Japan, India, Melanesia and Hawaii (McMaster 2002). It was developed with the intention of strengthening the nation by preserving social cohesion amongst white British Australians and by excluding anyone who was deemed to present a threat. The White Australia Policy aimed to promote security and maintain homogeneity in the Australian population, to purify the nation through a greater sense of cohesion by excluding those who might be different.

Also writing about the historical roots of Australia’s exclusionary immigration policy in which non-citizens are treated as unequal to citizens in their entitlement to rights, Bashford and
Strange (2002) tell of the use of internment during World Wars I and II (WWI and WWII). Internment, the incarceration of prisoners of war and people of concern, was used in an attempt to protect the security of the state. In this case, ‘alien enemies’ were interned in camps throughout Australia. ‘Alien enemies’ referred to non-citizens including people of German, Italian and Japanese ethnicity who were on Australian territory and therefore considered a threat to the security of the nation. These people were held in detention without trial on the basis that they had “pro-enemy sentiment” and were “likely to be dangerous” (Australian Government 1917: 6 2013a); they were subjected to inhuman living conditions including overcrowding, poor sanitary conditions, and brutal treatment by guards.

While internment is not practised today, exclusionary sentiments are still seen in comments by politicians. For example,

Those seeking to come on boats will not be getting what they have come for. They will be met by a broad chain of measures end to end that are designed to deter, to disrupt, to prevent their entry from Australia and certainly to ensure that they are not settled in Australia (Scott Morrisson, Department of Immigration and Citizenship 2013g).

Successive Australian governments, regardless of the party in power (Grewcock 2013), have used slogans and phrases to present asylum seekers as threatening outsiders, ‘non-citizens’ who should be excluded from Australian territory, community, and government support. Examples include

- “asylum seekers are illegal”, “boat people are queue jumpers”, “people who arrive unauthorized are not ‘genuine refugees’” (Pedersen, Watt and Hanser 2006),
- “stop the boats” (Department of Immigration and Border Protection 2014c; Grewcock 2013),
- “illegal entry”, “a significant affront to our sovereignty” (Department of Immigration and Border Protection 2014c) and
- “irregular maritime arrivals are detained for the purposes of managing health, identity and security risks” (Department of Immigration and Citizenship 2012d).

Phrases such as these have been mantras used by successive Australian governments to depict asylum seekers as people who are non-citizens, “illegal”, “unauthorized”, a potential threat and can, or even should, be “stopped” and excluded from conditions consistent with their human rights. When using these slogans Australian governments have not delineated between the civil rights reserved to citizens and the human rights which asylum seekers, as human beings, possess and to
which they are entitled.

Australia received its first asylum seekers arriving by boat in the 1970s at the ending of the Vietnam War. These asylum seekers were accepted with sympathy by the government and Australian people (Phillips and Spinks 2013a; Richards 2008; Vas Dev 2009). However, Australia’s approach to asylum seekers quickly turned to one of excluding “unauthorised” boat people (Vas Dev 2009) when detention of some asylum seekers commenced in the late 1980s (Phillips and Spinks 2013a). The exclusionary policies were rationalized by representing asylum seekers as threats to Australia because they were ‘invading’ and ‘flooding’ the country (Phillips and Spinks 2013a; Viviani 1984). In 1992, mandatory detention of all asylum seekers was introduced as a response to increasing asylum seeker arrivals in Australia (Phillips and Spinks 2013b). From this point onwards, Australia has maintained a policy of mandatory detention of all asylum seekers while they wait for their claims to be processed.23

Since 1992, Australia’s policy has aimed to deter asylum seekers (Phillips and Spinks 2013a). It has evolved through a number of exclusionary measures, including

- onshore detention using detention centres on Australia’s mainland (Phillips and Spinks 2013a)
- excision of external territories from Australia’s migration zone (Phillips and Spinks 2013a)
- offshore detention using detention facilities away from Australia’s mainland including Christmas Island, Nauru and Manus Island in Papua New Guinea (Phillips and Spinks 2013a)
- temporary protection visas and community detention arrangements with limited financial or social support and no rights to work in the community (Hartley and Fleay 2012; McNevin and Correa-Velez 2006)
- interception of asylum seekers at sea and immediate relocation to offshore detention facilities in a third country for the duration of the refugee status determination process and resettlement in the third country (Australian Human Rights Commission 2014; Department of Immigration and Border Protection 2014a)

All of these policies fail to provide asylum seekers with human rights protections, and have been underpinned by successive Australian governments’ stance that asylum seekers are

23 While Australia has maintained a policy of mandatory detention of all asylum seekers, the types of detention used have included a variety of arrangements including community detention and use of detention facilities. Some asylum seekers have been granted temporary protection visas or bridging visas after a period of time in detention (Phillips and Spinks 2013b). This important point will be discussed in Chapter Four.
“unlawful” (*Migration Act 1958*; Department of Immigration and Citizenship 2013d), “illegal” (Department of Immigration and Border Protection 2013d; Department of Immigration and Citizenship 2013g) and “non-citizens” (*Migration Act 1958*; Department of Immigration and Citizenship 2012d). For example, in response to the AHRC’s critique of the treatment of asylum seekers (Australian Human Rights Commission 2012a), the Australian Government explained that just like asylum seekers in detention, asylum seekers in community detention in 2012 remained unlawful non-citizens. Based on this status, the Department of Immigration and Citizenship (DIAC) stated that, as non-citizens, they did not have the same rights as citizens or those with visas (Department of Immigration and Citizenship 2012d). This claim that, because of their status as non-citizens, asylum seekers in Australia are not entitled to the same rights as citizens or those with permanent residency visas and thus citizen-like status, has not only been applied to civil rights, but also to a wide range of human rights. It has normalized the inhuman treatment of asylum seekers excluding them from conditions consistent with their human rights. In particular, recent policies exclude asylum seekers through detention, offshore processing and temporary community arrangements with limited support.

In order to justify the marginalisation of asylum seekers, politicians have also made statements to describe threats that asylum seekers bring to Australians including Morrison’s claims that they are “costing Australian taxpayers” (Department of Immigration and Citizenship 2013g). Lieutenant General Angus Campbell, Commander of Operation Sovereign Borders, claims that seeking asylum “undermines our immigration process” (Department of Immigration and Border Protection 2013d) and he suggests that asylum seekers pose a security threat, describing Australia’s most recent asylum seeker policy, Operation Sovereign Borders, as “a border security operation” (Department of Immigration and Border Protection 2013d).

Australia has a history of excluding non-citizens from essential conditions for the fulfilment of their human rights. Recent policies marginalise asylum seekers based on the obfuscation of civil and human rights and portrayal of asylum seekers as “illegal” “unauthorised” others. The government’s failure to guarantee asylum seekers’ human rights raises questions regarding their experiences under Australian policies.

**Chapter Three in brief**

Drawing on the understanding of asylum seekers developed in Chapter One and the account

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24 The term visa in this sentence was referring to a permanent residency visa, such as a protection visa that would be granted to a refugee

25 See Chapter Four for further details regarding the treatment of asylum seekers in Australia
of human rights provided in Chapter Two, this chapter differentiated between human rights, which are universal, and civil rights, which are dependent on a state-citizen relationship. It explained that asylum seekers bear human rights, but are not entitled to civil rights. The chapter explained how Australian governments have obfuscated the difference between civil rights and human rights, amalgamating the two types of rights in a semantic twist to extract public support for the exclusion of asylum seekers from conditions consistent with their human rights through the social structure of citizenship. This approach to the human rights of non-citizens, in particular asylum seekers, was explained within the historical context of exclusion of non-citizens in Australia. The following chapter details policy structures through which the Australian government excludes asylum seekers from conditions consistent with their human rights and outlines research regarding asylum seekers’ experiences under these conditions.
Chapter Four. 
Exclusionary policies, human rights, and questions about asylum seekers’ experiences

Policy structures that relate to asylum seekers in Australia are the focus of this chapter. In particular, this chapter discusses policies that exclude asylum seekers from conditions that would fulfil their human rights based on their status as ‘unauthorised non-citizens’. Australia’s policies of offshore processing and resettlement, onshore community detention arrangements, and onshore detention centres are considered in light of human rights. This chapter considers human rights as they are reflected in asylum seekers’ everyday experiences to arrive at the following research questions: What are the experiences of asylum seekers waiting for refugee status determination in Australia? And how do Australian asylum seeker policies affect asylum seekers’ experiences?

The conception of citizenship to which Australia ascribes (Vas Dev 2009) centres on a state-based system of protection in which membership to a state is necessary for the protection of individual rights (Long 2011). It involves membership in a social, economic, and political community in which the needs of that community are prioritized and non-members of that community are excluded (Eggerking 1997; Long 2011). The modern state includes three key features: territory, centralized sovereign government, and political community (Ashworth 2014; Devetak 2007 2012). As non-citizens, the Australian government excludes asylum seekers from its territory by restricting them to specific spaces such as detention centres. It justifies the exclusion of asylum seekers by calling upon the Migration Act 1958 and the Detention Services Contract (Department of Immigration and Citizenship. 2009). It also excludes asylum seekers from government protection of their human rights, through conditions specified by the Community Detention Operational Framework (Department of Immigration and Citizenship 2012b, Section 1.1). Underpinned by the Migration Act 1958, it excludes asylum seekers from the community by creating policies that segregate Australian citizens and ‘unauthorised non-citizens’. Arendt’s (1967) concern that rights only exist when there is a state to provide that protection is manifest in Australia’s exclusion of asylum seekers from conditions consistent with the human rights they bear on the basis that they are non-citizens. This conceptualisation of citizenship leaves asylum seekers without recognition that, as ‘rights-bearing agents’, they are entitled to identical human rights and protections as citizens.

Schick (2006) points to the exclusionary nature of the vision of human rights in which only the state bestows rights upon its citizens. Linklater (1998 2007) explains that citizenship is
inherently exclusionary, conferring exclusive rights to those who belong to political communities while leaving the rest of humanity in privation (Linklater 1998). Linklater draws attention to ongoing contestation regarding the notion of citizenship as one that privileges the human rights of citizens over the rights of others. He identifies a concern with “balancing the rights of citizens and the rights of human beings” (Linklater 1998: 190).

This thesis finds itself within the contested space identified by Linklater. Linklater approaches the matter deductively, providing reasons and ways to transform political community so that it could be more inclusive. In contrast, this thesis takes an inductive approach, collecting and analysing data from asylum seekers who have been excluded. This chapter explores Australia’s exclusion of asylum seekers from conditions that would fulfil their human rights because of their non-citizen status. It gives examples of the Australian government’s exclusion of asylum seekers through preventing entry to the Australian territory, denial of government welfare and support, isolation from the workforce, segregation from the Australian community and prevention from accessing community facilities. These conditions are inconsistent with asylum seekers’ human rights outlined in the list of asylum seekers’ rights that the AHRC (2013b), which draws from international human rights law, as described in Chapter Two. These include human rights to freedom from arbitrary detention, treatment with humanity, respect for their dignity, freedom from torture or cruel treatment, freedom from penalty for arriving in Australia without authorisation, freedom to work, an adequate standard of living including food clothing and housing, and the highest attainable standard of health. Exclusion of asylum seekers from conditions that are consistent with these human rights will be illustrated by reference to Australia’s offshore processing, community detention, and detention centre policies.

A fast changing policy context

The fast rate at which asylum seeker policy in Australia is changing “makes it challenging to stay on top of the facts” (Australian Human Rights Commission 2013a: 2). To understand this research in context, it is important to distinguish between the policies at the time of data collection and after data collection, at the time of writing. Policies at the time of data collection involved community detention, onshore detention, and offshore detention centres with Australian government-contracted management and operation along with Australian processing. Policies at the time of writing involved Australian funded, but locally managed and operated, offshore detention with third-country processing and third-country resettlement. At the time of writing onshore detention and community detention were in place for those already in those systems, however all newly arrived asylum seekers were placed in the offshore processing system.
No asylum seekers have been placed in community detention or onshore Australian detention centres since early 2014 when the government announced that

Anyone seeking to illegally enter Australia by boat will never make Australia home.

It is the policy and practice of the Australian Government to intercept any vessel that is seeking to illegally enter Australia and safely remove it beyond our waters.

People who travelled to Australia by boat without a visa will not end up in Australia; they have been sent for processing in Nauru or Papua New Guinea.

They won't be able to work, and could be waiting a long time for their claim to be processed.

Australia has the toughest border protection measures ever. The Australian Government has announced that no temporary or permanent protection visas will be granted to anyone who arrives in Australia by boat without a visa until further notice.

The rules apply to everyone; families, children, unaccompanied children, educated and skilled. There are no exceptions. (Department of Immigration and Border Protection 2014d)

The remainder of this chapter illustrates the dire implications of Australia’s policies of offshore processing, community detention, and detention centre use with respect to asylum seekers’ experiences. Existing literature and research regarding asylum seekers’ experiences under these policies are examined, with particular attention to community detention and detention centre use because these two aspects of Australian asylum seeker policy are the focus of this research. There is a dearth of research regarding community detention in Australia. Research regarding detention centre use and community detention suggests that asylum seekers are suffering, especially with poor mental health and deprivation of human rights. Understanding how policy contributes to asylum seekers’ experiences is important considering their vulnerability to policy that sets out conditions inconsistent with human rights, as described below.

**Offshore processing and third country arrangement**

Exclusion of asylum seekers from Australian territory has included offshore processing, third country arrangements, and interdiction at sea (Grewcock 2013). Most recently, Australia has implemented a policy in which asylum seekers are intercepted at sea and taken to third countries,
Nauru or Manus Island in Papua New Guinea (PNG), where they are held in detention while their refugee claims are processed. This policy was initiated mid-2013 when the Australian and PNG prime ministers signed a Regional Settlement Agreement stating

4. In the case of Papua New Guinea, unauthorized maritime arrivals would be transferred to Papua New Guinea following a short health, security and identity check in Australia. Transferees would be accommodated in regional processing centres. Papua New Guinea will undertake refugee status determination. The regional processing centre will be managed and administered by Papua New Guinea under Papua New Guinea law, with support from Australia.

5. What is unique about this Arrangement is that persons found to be refugees will be resettled in Papua New Guinea and any other participating regional, including Pacific Island, state. Persons found not to be refugees may be held in detention or returned to their home country or a country where they had right of residence (Department of Foreign Affairs and Trade 2013b).

By August 2013, a similar Memorandum of Understanding had been made with Nauru (Department of Foreign Affairs and Trade 2013a). If accepted as refugees while in an offshore processing centre, all asylum seekers are now to be settled in a third country and not in Australia (Australian Human Rights Commission 2014; Department of Immigration and Border Protection 2014a). This policy excludes asylum seekers from Australia’s territory.

The AHRC (2012b) recognises Australia’s right to sovereignty and its focus on border security. However, the AHRC (2012b) also states that Australia has international legal obligations that it must fulfil in conjunction with its sovereignty and security focus. Asylum seekers detained in offshore centres experience harmful effects including poor mental health such as distress and depression (Fleay and Hoffman 2014; Moylan 2013). The AHRC has expressed concerns regarding Australia’s human rights commitments and its employment of third country processing policies. These concerns include that third country processing may

- undermine the right to non-refoulement stated in the Refugee Convention (United Nations General Assembly 1951) by which asylum seekers are protected from return to a country where they would be in danger;
- breach Australia’s obligations not to penalise asylum seekers for arriving in Australia unauthorised;
- undermine Australia’s obligations under the
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1966a) regarding freedom from arbitrary detention, and treating asylum seekers with humanity and respect for their dignity;

• breach Australia’s obligations under the CRC (United Nations General Assembly 1989) to prioritise interests of children, provide special protection and assistance to unaccompanied children, support re-unification of families, and ensure that detention for children is only used as a last resort.

The United Nations High Commissioner for Refugees (UNHCR)(2013c) conducted an assessment based on visits to PNG and noted an “absence of adequate [human rights] protection standards and safeguards for asylum seekers and refugees in Papua New Guinea (PNG).” The UNHCR stated,

There are currently significant shortcomings in the legal framework for receiving and processing asylum-seekers from Australia. These include a lack of national capacity and expertise in processing, and poor physical conditions within open-ended, mandatory and arbitrary detention settings. This can be harmful to the physical and psychosocial wellbeing of transferees, particularly families and children (United Nations High Commissioner for Refugees 2013c).

The UNHCR condemned the agreement for permanent offshore resettlement and advocated for the resettlement of asylum seekers in Australia following refugee status determination. Regarding the risks associated with permanent resettlement of asylum seekers who have been granted refugee status in PNG, the UNHCR explained

From UNHCR’s first-hand experience in supporting Melanesian and non-Melanesian refugees for nearly 30 years, it is clear that sustainable integration of non-Melanesian refugees in the socio-economic and cultural life of PNG will raise formidable challenges and [human rights] protection questions (United Nations High Commissioner for Refugees 2013c).

Moreover, Grewcock (2014) explains that asylum seekers who are sent to PNG and Nauru will be held in detention indefinitely, and most likely denied resettlement or permanent residence, forcing an uncertain and precarious existence upon them. He asserts that harm will certainly be inflicted upon thousands of people seeking asylum under Australia’s policy of third country processing and re-settlement. Considering these concerns, the exclusion of asylum seekers from Australian territory is not only a matter of differentially providing civil rights to citizens and not to non-citizens, but a matter of denying asylum seekers the human rights that they possess as ‘rights-
bearing agents’, which have been specified in international law.

**Community detention**

While community detention offers freedom to live and move beyond the confines of a detention centre, the human rights of asylum seekers in community detention are also latent. The Australian government excludes them from conditions that would fulfil their human rights to welfare, engage in the workforce, and to social services, (Cate 2014; Hartley and Fleay 2012).

Residence determination, or community detention, commenced in June 2005 (Department of Immigration and Citizenship 2013c) under the Howard government. This program allowed some asylum seekers who were deemed ‘vulnerable’ to live in the community, albeit with little financial or social support and no permission to work (McNevin and Correa-Velez 2006).

In 2011, the Gillard government expanded the community detention program to accommodate increasing numbers of asylum seekers arriving in Australia and in order to fulfil the ‘immigration detention values’ set out by the Australian Labor Party (Phillips and Spinks 2013b). For example, despite stating that mandatory detention is essential to border control, the ‘immigration detention values’ (Department of Immigration and Citizenship. 2013e) also state that “children, including juvenile foreign fishers and, where possible, their families, will not be detained in an immigration detention centre (IDC)” and that “detention in IDCs is only to be used as a last resort and for the shortest practicable time.”

Initially community arrangements involved granting bridging visas to most asylum seekers. Bridging visas allowed asylum seekers to work while living in the community. Later, community arrangements specified that asylum seekers continued to be in detention, and were not granted any visas. Expansion of the community detention program resulted in more asylum seekers moving to community accommodation and receiving residential assistance, health services, case management and welfare benefits (Marshall, Iiai and Stack 2013).

In 2012, the ‘No Advantage Policy’ was introduced under which no bridging visas were granted and all asylum seekers were placed in detention centres or community detention. Under that policy, asylum seekers in community detention received smaller living allowances, had no rights to work, were required to wait up to five years for their claims to be processed and could be removed to an offshore processing centre at any time (Bowen 2012; Marshall, Iiai and Stack 2013). During this time, some asylum seekers were granted bridging visas with the same conditions as community detention. Despite holding bridging visas, those asylum seekers were still considered to

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26 The terms residence determination and community detention are used interchangeably in policy, media and research regarding asylum seekers living in detention in a community setting.
be “illegal maritime arrivals” and “in detention” (Department of Immigration and Border Protection 2014a).

Until 2012, Asylum seekers living in the community on bridging visas were not considered to be in detention and held valid temporary visas. Therefore, they were considered to be residing in Australia legally because they held visas (Migration Act 1958). In contrast, asylum seekers in community detention (without visas), or on bridging visas after July 2012, were considered to be in detention. According to the Migration Act 1958, people residing in Australia without a valid visa are “unauthorised” and “unlawful non-citizens”. Thus, the Australian government continued to claim that asylum seekers were “illegally” on Australian territory, despite the legality of seeking asylum under international law (United Nations General Assembly 1951 1967), based on claims that asylum seekers did not hold valid visas and were therefore ‘unauthorised’ entrants. By not granting bridging visas and by maintaining that all asylum seekers living in the community were in ‘community detention’, the Australian government justified its exclusion of asylum seekers.

Despite being a form of detention, community detention allowed asylum seekers to live without constant monitoring from guards, to move around in the community, to participate in social events and activities, and to function more independently in day-to-day living. For example, asylum seekers were able to engage more independently in grocery shopping, cooking, meal planning, and travelling to appointments (Marshall, Ilai and Stack 2013). However, under community detention policy, especially the ‘No Advantage Policy’, asylum seekers were excluded from adequate government welfare benefits for living costs, and excluded from many government funded social services including English classes and some healthcare services (Hartley and Fleay 2012; Marshall, Ilai and Stack 2013). This exclusionary treatment of asylum seekers was based on the government’s claim that “community detainees do not receive a visa, therefore, they do not have the same rights as a person on a visa living in the community” (Department of Immigration and Border Protection 2014b).

There is little research pertaining specifically to the human rights of asylum seekers living in the community in Australia. In 2005, shortly after community detention policy was first introduced, a Queensland-based community organisation carried out a qualitative interview study involving 21 asylum seekers on bridging visas and 17 representatives of organisations that support asylum seekers (Queensland Multicultural Affairs and Centre for Social Justice Queensland 2005). It aimed to understand the experiences of community-based asylum seekers in Queensland according to asylum seekers and those who worked with them. Their research found that these asylum seekers, who were on bridging visas and living in the community, lacked access to work
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McNevin and Correa-Valez (2006) aimed to identify the health and welfare challenges experienced by asylum seekers living in the community on bridging visas and to understand the support available through community organisations. Their research involved content and thematic analysis of 23 interviews with people who worked with asylum seekers across a range of services in Victoria, case examples and anecdotal descriptions of trends regarding asylum seekers’ health and welfare, as well as published and unpublished quantitative and qualitative data that had been collected by relevant organisations and other researchers. They found that, based on the policy pertaining to bridging visas at the time of their research, the following health and welfare entitlements were not available to asylum seekers living in the community: work rights, welfare benefits, public housing and bond loan schemes, medical services through public health insurance, home and community care, refugee settlement services, some document translation services, higher education loans, and sponsorship of overseas relatives for residence.

In their analysis, McNevin and Correa-Valez (2006) found that telephone interpreting services, TAFE literacy and numeracy education, legal aid with interpreters, and primary or high school education for children were available to asylum seekers in the community. McNevin and Corea-Valez identified challenges for asylum seekers living in the community on bridging visas including a lack of income due denial of work rights and no welfare benefits, homelessness, poor access to health services, exacerbation of existing health conditions, social isolation, family breakdown, financial debts and mental distress.

The findings of the research projects with asylum seekers in Victoria and Queensland described above (McNevin and Correa-Velez 2006; Queensland Multicultural Affairs and Centre for Social Justice Queensland 2005) illustrate asylum seekers’ latent human rights with respect to rights to work, health, an adequate standard of living, and education. However, the findings are limited to asylum seekers on bridging visas, in Queensland and Victoria, prior to the expansion of the community detention program in 2011. Since then, the community detention program has been expanded to include more asylum seekers, and not to provide bridging visas. Asylum seekers living in the community might live in different situations depending on their state of residence since the housing, transport, available services, and community attitudes might differ between states. To develop a more complete understanding of the experiences of asylum seekers in community detention, research regarding the experiences of asylum seekers post 2011, is needed.

More recently, Katz, Doney, and Mitchell (2013) have conducted an evaluation of the community detention program between August 2011 and March 2013. They interviewed 105
people living in community detention, 82 service providers, and seven other stakeholders. The benefits of community detention compared to detention centre use included more natural and less crowded living environments where asylum seekers could find space away from others who were distressed and angry. Other benefits for asylum seekers in community detention included increased privacy, greater access to community facilities, greater access to interactions with community members, and opportunities to become familiar with Australian life. Challenges for asylum seekers in community detention included limited resources for additional needs including disability, age and illness; travel within the community; finding accommodation in a timely manner; and access to English classes. Katz and colleagues’ evaluation illustrates the exclusion of asylum seekers from conditions that are consistent with human rights to work, to an adequate standard of living including food clothing and housing, and to the highest attainable standard of health. The findings of their research suggest that community detention might offer some reparation for asylum seekers in terms of living conditions and treatment with humanity and respect for dignity. Their research illustrates both positive and negative aspects of community detention policy, but does not specifically consider how policies per se affected the conditions of asylum seekers. Katz and colleagues considered community detention in isolation, not considering other aspects of the Australian detention network, such as detention centres which make up over half the detention network (Department of Immigration and Border Protection 2013a; Department of Immigration and Citizenship 2012a 2013a). Comparison between detention centres and community detention would provide a more comprehensive understanding of the ways in which different Australian policies are related to experience.

The only other published research project to study the community detention since its expansion in 2011 involved in-depth semi-structured interviews with eleven asylum seeker men between June and September 2012 (Fleay, Hartley and Kenny 2013). Their research findings prompt concern regarding asylum seekers’ human rights with respect to access to work and meaningful activities:

The denial of the right to work contravenes a number of international human rights instruments including Article 23 of the Universal Declaration of Human Rights and Articles 17, 18 and 19 of the United Nations Convention Relating to the Status of Refugees (Refugee Convention). Through the denial of such a right, Article 6 of the International Covenant on Economic, Social and Cultural Rights is also disregarded. In addition, the denial of work rights and the provision of limited financial support do not comply with the UNHCR’s recommended basic
reception standards for asylum seekers. These standards include the right to an adequate standard of living, and the right to assistance to access what is necessary not only for survival but also for a life of dignity, such as appropriate accommodation, health care, education, and employment or financial support. (Hartley and Fleay 2012: 32)

The existing research also identifies the advantages and challenges related to community detention. Advantages include less crowded living conditions and more privacy. Challenges involve a lack of access to services, limited welfare support, and denial of work rights. Overall, community detention in Australia provides asylum seekers with rights to treatment with humanity, respect for their dignity, and freedom from torture or cruel treatment. However, community detention continues to penalize asylum seekers who arrive in Australia without authorisation and excludes asylum seekers from conditions that are consistent with their human rights to work, to an adequate standard of living including food clothing and housing, and to the highest attainable standard of health. Community detention is a form of detention and therefore breaches legal obligations regarding the universal human right to freedom from arbitrary detention. Katz and colleagues (2013) emphasise the challenges that have arisen for asylum seekers in community detention in the context of the Migration Act 1958 which states that asylum seekers, even those in the community, are not entitled to the same rights or entitlements as people with protection visas and Australian citizens because of their ‘unauthorised’ entry into Australia.

There is little research regarding community detention in Australia. The research that does exist suggests that community detention provides some advantages but also many challenges to asylum seekers in terms of their human rights. Questions remain regarding how Australia’s community detention policies contribute to the experiences of asylum seekers.

**Detention centres**

The Australian government excludes asylum seekers from the Australian community by placing them in detention centres from which they cannot leave. Australia has implemented a policy of mandatory detention since 1992 (Phillips and Spinks 2013b). By isolating asylum seekers in detention centres, the Australian government prevents them from interacting with Australian citizens. Detention also prevents asylum seekers from accessing the same freedoms afforded to citizens, from visiting the same locations, and from accessing the same services as citizens. Use of detention centres is noted here as a point of difference from other countries, such as Norway, where asylum seekers are allowed to leave non-secure asylum reception centres, which are also referred to as detention centres (Field 2006).
detention segregates asylum seekers from the Australian community.

At the time of data collection, the Australian government’s immigration detention network included ten onshore detention centres located across six Australian states and territories, and three offshore detention centres at Christmas Island (Department of Immigration and Citizenship 2013a, Phillips and Spinks 2013), Manus Island, and Nauru (The Salvation Army 2013). Other detention facilities include immigration transit accommodation, which is hostel-style detention with fewer support services than detention centres (Department of Immigration and Citizenship 2013a); immigration residential housing, where asylum seekers live in houses under restricted detention conditions and are unable to leave the location (Department of Immigration and Citizenship 2013a). 28

DIAC reported that 14 438 asylum seekers were detained in Australia in the year 2011-2012 (Department of Immigration and Citizenship 2012a). Of those people, 53.8 percent were in detention centres or immigration transit accommodation. Detention exceeded three months for 43.28 percent, and over a third of this group had been detained for over 12 months.

Despite signing and ratifying multilateral human rights agreements (Australian Human Rights Commission 2013a) which provide legal protection for asylum seekers’ dignity and wellbeing, the Australian government and its policies have been criticised internationally and domestically for poor treatment of asylum seekers (Gelber and McDonald 2006; Billings 2011; Office of the United Nations High Commissioner for Refugees 2011; Australian Human Rights Commission 2013b; Branson 2011). Much of this critique has scrutinised Australia’s detention policy in terms of the right to seek asylum (Davies 2013; Hannan 2002), to freedom from arbitrary detention (Head 2005; Penovic 2004; Saul 2012), and a fair process of refugee status determination (Foster and Pobjoy 2011; McKeirnan 2000; Odhiambo-abuya 2004; Vrachnas 2012). Research in this domain has identified that asylum seekers’ experience poor mental wellbeing in Australia (Hartley and Fleay 2012; Green and Eagar 2010; Coffey et al. 2010; Zion et al. 2012; Australian Human Rights Commission 2011c 2011b 2011d; Philips 2000; Procter 2011).

The AHRC has consistently voiced concerns about the mental health of asylum seekers, especially those in detention centres (Australian Human Rights Commission 2008 2010 2011a 2011b 2011c 2011d 2012 2013b). Research also points to negative impacts of detention on the

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28 In terms of detention facilities this research includes only detention centres and immigration transit accommodation because, within Australia’s detention network, they present the most restrictive reception conditions for asylum seekers, removing them from community and house environments. Further, while Australian policy regarding asylum seekers’ accommodation has changed many times over the past ten years, mandatory detention in centres and immigration transit accommodation has continued since their initiation in 1992 and 2007 respectively (Phillips and Spinks 2013). Most asylum seekers held in detention facilities in Australia are held in these two types of accommodation (Department of Immigration and Citizenship 2012a 2013a)
mental health of asylum seekers in Australia (Sultan and O'Sullivan 2001; Keller et al. 2003; Steel et al. 2004; Coffey et al. 2010; Green and Eagar 2010; Bull et al. 2012). This literature is outlined below.

According to Johnston (2009), Australian detention policy denies asylum seekers the human right to health. A systematic review by Robjant, Hassan and Katona (2009) supports these concerns, identifying ten studies using a range of methods including qualitative clinical judgement; medical assessment according to ICD-10; and formal standardized measurement scales for trauma, depression and anxiety. All studies identified in their systematic review found high levels of emotional distress and frequently reported anxiety, depression and post-traumatic stress disorder amongst asylum seekers who were in detention or who had previously been detained. Suicidal ideation and self-harm were also commonly reported according to the systematic review. While their review identifies a relationship between detention and asylum seekers’ poor mental health, it is unable to identify whether it is detention or being an asylum seeker with a traumatic past that causes poor mental health.

A study involving psychometric evaluation of 241 refugees in New South Wales found that detention experiences contributed to ongoing depression, mental health-related disability, and post-traumatic stress disorder (Steel et al. 2006). Multivariate analysis also demonstrated a negative effect of detention on the mental health of asylum seekers, independent of past trauma. Similarly, an evaluation of health records of 720 detained people found that being in detention as an asylum seeker and being in detention for longer amounts of time were significantly related to development of additional mental health problems (Green and Eagar 2010).

Considering the studies by Robjant and colleagues (2009), Steel and colleagues (2006), and Green and Eagar (2010) it is clear that asylum seekers in detention experience mental health challenges, independent of their past traumatic experiences. While these studies quantitatively indicate a link between poor mental health and detention of asylum seekers, it is also important to consider the qualitative aspects of asylum seekers’ experiences of poor mental health in detention and ask, what are the day-to-day experiences of asylum seekers in detention centres in Australia?

Aiming to understand experiences of previously detained asylum seekers and the consequences of prolonged detention after release, Coffey and colleagues (2010) carried out qualitative semi-structured interviews to explore experiences, meanings, and consequences of detention. They also carried out quantitative methods involving administration of the Hopkins Symptoms Checklist-25, the PTSD scale from the Harvard Trauma Questionnaire and the World Health Organisation’s Quality of Life assessment short version. Coffey et al. identified ongoing
psychological harm experienced by previously detained asylum seekers and the mechanisms through which this harm occurs. They noted an absence of meaningful activities; restrictive routines; changes in asylum seekers’ view of self, often related to family roles; and asylum seekers having difficulty taking initiative and in goal directed activities, especially in daily activities. Their findings also described environments that were confining, inhuman, and stark. They also supported contentions that detention is contrary to the human right to health. Coffey and colleagues did not describe member checking and thus the closeness of the findings to the participants’ views is unknown. Data analysis began with a-priori coding using the interview topics. Drawing the initial codes from the data rather than identifying codes in advance of data analysis, would have reflected participants’ perspectives more closely. Despite these limitations, Coffey and colleagues’ research suggests that detention centres are harsh, and asylum seekers living in detention centres experience a lack of meaningful activities, routines, and roles. Coffey and colleagues’ findings suggest that these environments contribute to ongoing psychological harm for asylum. Further research that involves member checking and coding which is drawn from the data, such as the methods used in this thesis, is needed.

High rates of suicide and self-harm in detention centres are reflective of the poor mental health of asylum seekers in detention. Between 2010 and 2013, six of the twelve deaths in detention centres were suicides (Australian Human Rights Commission 2013a). Within the period from 2011 to 2013, 4313 asylum seekers in detention centres attempted or threatened serious self harm (Commonwealth Ombudsman 2013)

All of the research described above indicates that the environments in detention centres are associated with asylum seekers’ experiences of poor mental health. None of the existing research investigated the mechanisms through which Australian detention policy contributes to asylum seekers’ experiences. This raises questions about the aspects of detention policies that influence asylum seekers’ mental health and the process through which Australia’s detention policies contribute to asylum seekers’ poor mental health.

While evidence indicates that Australia’s detention is detrimental to asylum seekers’ mental wellbeing and renders their right to health latent, the government maintains that restricting their living conditions is necessary. It justifies detention as necessary to ensure security and procedural fairness, and to deter asylum seekers from travelling to Australia by boat (O’Connor 2012). Arguments that mandatory detention manages “security, identity and health risks” and ensures “orderly processing of migration” into Australia (Department of Immigration and Citizenship 2012b) appear to reflect domestic priorities of security, procedural control, and exclusive national
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community (Department of Immigration and Citizenship 2013b). These domestic priorities hold the rights of citizens in higher regard than the rights of non-citizens, rather than respecting universal human rights (United Nations General Assembly 1948). This thesis contends that asylum seekers in Australia are morally and legally entitled to human rights (see Chapter Two). Therefore, in conjunction with measures to ensure security, public health, procedural control, and other such matters, Australia should also uphold the human rights of asylum seekers, independently of their non-citizenship in Australia. The research evidence outlined above indicates that the state of affairs does not conform to international expectations regarding the universality of human rights.

Australia has subjected asylum seekers in detention facilities to cruel, inhuman, and degrading conditions, treating them without dignity (Australian Human Rights Commission 2013a). This contravenes Article 7 of the ICCPR that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

The UN Human Rights Committee has heard that inadequate physical and mental health services; exposure to unrest and violence and punitive legal treatment; risk of excessive use of force by the authorities; and witnessing or fearing incidents of suicide or self-harm by others had occurred in immigration detention in a case put forward by nine asylum seekers who had been held in detention (M.M.M. et al. 2012). The UN Human Rights Committee considered concerns expressed by the AHRC regarding the restrictive immigration detention centres at a variety of locations including

‘prison-like’ high fencing, surveillance, excessive use of force, inadequate mental and physical health care, use of restraints on detainees during travel to medical appointments, not removing restraints from asylum seekers when they used the toilet, and high levels of prescription medications including antipsychotics and antidepressants to induce sedative effects.

The outcome of this case was a ruling that the combination of the arbitrary and protracted and/or indefinite nature of the detention to which these nine men were subjected, along with refusal to provide information and procedural rights and the “difficult conditions” in detention inflicted serious psychological harm and constituted “treatment contrary to Article 7 of the Covenant [ICCPR].”

Thus, research, case law, and reports from human rights bodies indicate that the conditions to which asylum seekers in detention are subjected do not fulfil the human rights that asylum
seekers possess by virtue of being human. Asylum seekers live in inhuman conditions and suffer poor mental health in detention. Questions regarding the mechanisms through which Australia’s detention policy contributes to the experiences of asylum seekers remain unanswered.

What does this mean for the everyday lives of asylum seekers?

Australia’s recent asylum seeker policies including offshore detention, third country processing, community detention, and onshore detention centre use have been critiqued in terms of human rights. What does this mean for the everyday lives of asylum seekers?

Human rights are often discussed using political and legal language focusing on their practical expression in international human rights law. However, if this thesis considers all people as ‘rights-bearing agents’, and political and legal discussion of international human rights documents is an expression of the rights born by all people, then the experiences of people are the reason for discussing human rights in the first place. The technicalities of international law and human rights politics are vital for realising those rights. Considering the domestic and international condemnation of Australia’s asylum seeker policies for their contravention of international human rights law discussed above, this research aims to understand asylum seekers’ experiences and the mechanisms through which Australia’s policy contributes to these experiences.

Ferrie (2010) asks whether human rights can extend beyond the legalistic framework to improve choice, autonomy, and dignity for people who access health and social services. She considers people with mental illness, older people, people with disabilities, and vulnerable young people. Her arguments could also extend to asylum seekers. She critiques a purely legalistic approach to human rights by considering that the ability to contribute to society through productivity and political participation is necessary for active citizenship, and therefore a pre-requisite for claiming protection of human rights. Ferrie argues that this marginalises those likely to access health and social care and thus such a legalistic approach to human rights is ineffective in practice. She aligns her argument with Nussbaum’s (2006) development of the capabilities approach, which critiques social contract theory for marginalising those who are not able to actively contribute to society. Ferrie explains that marginalisation through a purely legal approach to human rights can result in degrading and dehumanizing treatment, loss of control, discomfort, fear and loss of dignity because of a lack of ability to be a participating citizen.

Fields and Narr (1992) encourage discussion of human rights at an ideological level, and at the same time call for a more adequate conceptualisation of the intermeshing between the human rights framework and the concrete realities of everyday life. They dismiss contentions between natural rights and relativist perspectives as ideological debates which may perpetuate human rights
abuses because those discussing human rights accept that either ‘domination is natural’ under a natural rights view or, conversely, that ‘anything goes’ depending on where and who you are under a relativist perspective. According to them, these debates present the problem of human rights as “ideology and not practice” (Fields and Narr 1992, 3).

Fields and Narr (1992) prompt their readers to understand the events and historical contexts in which the human rights framework has emerged, including the French and American revolutions and the widespread oppression during World War II. They suggest that the legitimacy of human rights can be judged according to the struggles of real people to overcome oppression. They suggest a conceptualisation of human rights that considers each specific situation and the everyday life implications of rights claims for all people within that specific context as a step towards an applied understanding of human rights. Taking an approach that considers the intermeshing of human rights concepts and the realities of everyday life, this research aims to understand asylum seekers’ experiences and the processes through which Australian policies shape those experiences.

Chapter Four in brief

Overall, this chapter has explored Australia’s exclusion of asylum seekers from conditions which are consistent with their human rights. This exclusion was illustrated through explanations of Australia’s policies of offshore detention, processing, and resettlement; community detention arrangements; and detention centre use. The fast changing policy context of this research was described and critiques of recent Australian asylum seeker policies were outlined. Research regarding the experiences of asylum seekers, especially in community detention and detention centres, was also outlined. The relevance of human rights to asylum seekers’ everyday experiences was discussed and the question of how Australian policy contributes to asylum seekers’ experiences was raised.
Chapter Five.
Methodology

This chapter justifies the use of a constructivist approach rather than a positivist approach to understand how policies contribute to asylum seekers’ everyday experiences. It then outlines the constructivist grounded theory research design, context for data collection, ethical considerations, participant sampling methods, data collection processes, procedures for analysis of the data and methods for ensuring the quality and rigour.

This dissertation uses constructivist grounded theory methods to identify basic social processes (Glaser and Holton 2005). While this inquiry uses grounded theory methods, the scope does not allow for the development of formal theory. A basic social process is different from a formal theory because it has not undergone comparative testing across a range of groups, contexts, and times (Glaser and Holton 2005). Johnson (2008: 98) describes “concepts and variables, classification systems (or taxonomies), and propositions (statements of relations between variables) as the primary components of [formal] theory.” A basic social process is an account of interconnected concepts that captures patterns of human responses to changing conditions over time (Glaser and Holton 2005). Some basic social processes can become theories, while others remain context specific.

Interviews initially used human rights language. Over time, the researcher adapted this using the terms initiated by participants regarding harm, protection, suffering, and wellbeing. This flexible approach aligns with the ‘emergent research design’ promoted by prominent qualitative researchers including Creswell (2007), Patton (2002), and Crabtree and Miller (1999). Further details regarding the emergent design of this research are provided in Chapter Six. Thus, based on existing literature (see Chapters One to Four), and a flexible emergent research design, the research centred on how Australian asylum seeker policies to contribute to people’s experiences of seeking asylum in Australia.

Qualitative methodology
This research aimed to acquire a deep understanding of perspectives and experiences of asylum seekers and those who work with them in an Australian context. This aim centres on ‘understanding’, therefore, a “qualitative dominant” approach (Johnson, Onwuegbuzie, and Turner 2007: 124) was taken, in which the primary type of data collected was qualitative. Qualitative research is appropriate for asking how and why phenomena occur, for developing understanding,
for considering context, and for generating new theoretical understandings (Creswell 2007; Patton 2002). Qualitative research identifies and describes aspects of the environment and explores the ways in which they interact in context (Creswell 2007; Patton 2002). Patton (2002) identifies features of qualitative research as including naturalistic inquiry, flexible emergent design, and purposeful sampling. That is, respectively, in qualitative research: real-world occurrences are studied as they happen without manipulation, the direction of qualitative research can change and adapt in response to information collected, and the sources of information are chosen because they provide relevant and rich material to provide insight rather than being representative of any particular group. Creswell (2007) explains similar features of qualitative research.

This chapter describes how data collection was carried out in the context of services that support asylum seekers. Patton (2002) also explains that when collecting data, a qualitative researcher observes, interviews, and carries out document analysis to establish thick descriptions of perspectives and experiences; to develop understanding through personal experience; to maintain empathic neutrality (stepping aside from judgements and being responsive, aware and respectful); and to be sensitive to the complexity of dynamic systems. This flexible and evolving project has developed thick descriptions of the perspectives and experiences of asylum seekers and those who work with them in health and social services using information collected through:

- participant observation with asylum seekers and those who work with them, which allowed for a development of understanding through eliciting personal experience,
- formal semi-structured interviews and informal key informant interviews with asylum seekers and people working with them, in which responsiveness and respect were paramount due to the particularly vulnerable nature of asylum seekers as research participants,
- two surveys with health and social service professionals who work with asylum seekers across Australia in a range of roles in both detention and community detention settings,
- follow-up emails with survey respondents and interviewees, and
- review of Australian government policy documents including legislation, contracts with service providers, guidelines, and operational frameworks.

A qualitative researcher takes a holistic perspective to identify patterns and look for meaning in the data collected, while acknowledging the uniqueness of each situation and reflecting on his/her own perspective (Patton 2002; Carter and Little 2007). Grounded theory methods have been used to provide a rigorous procedure for qualitative data collection and analysis (Charmaz
Constructivist grounded theory

Before distinguishing between constructivist and other forms of grounded theory, this chapter describes common elements amongst a range of approaches to grounded theory. As an overall methodology, grounded theory aims to inductively develop new theories (or basic social processes). It involves cycles of continuous and simultaneous data collection and analysis, referred to as the constant comparison method, including coding and categorizing data to identify and define concepts within a specific context, generating new theories or understandings regarding how those concepts interact, and collecting more data to further theorization (Charmaz 1990 2006; Clarke 2005; Glaser 1978; Glaser and Strauss 1967; Strauss and Corbin 1998 2008). Charmaz (2006) underlines that grounded theory is not a prescriptive set of procedures, but rather guidelines for data analysis and theory generation. Common elements to all grounded theory data analysis include coding; identifying categories, relationships and generating theories; memo-writing; theoretical sampling; and writing and dissemination of the theories.

This project aligns with Charmaz’s (1990 2000 2006) constructivist approach to grounded theory. A description of grounded theory’s historical context provides justification for the use of a constructivist grounded theory approach in this research.

Early grounded theorists Glaser and Strauss (Glaser 1978; Glaser and Strauss 1967; Strauss and Corbin 1998) took positivist perspectives in data analysis. Positivism in social research assumes that there is a single existing concrete reality in which objective, measurable, quantifiable social phenomena exist and are able to be known (della Porta and Keating 2008). Positivist perspectives in grounded theory see the data as a single reality and understand data analysis as a process through which the researcher is a neutral observer who discovers concrete objective social phenomena in the data (Charmaz 2000; Glaser 1978). This positivist approach to grounded theory grew out of the modernist push for scientific reductionism at the time of the development of grounded theory. The developers of grounded theory aimed to give voice to the research participants without researcher input, bias, or subjectivity. They aimed to present this data in its most pure form (Clarke 2005; Glaser 1978; Strauss and Corbin 2008).

The positivist perspective in grounded theory brings benefits including the systematic and replicable nature of the method and the emphasis on giving voice to those who are the focus of the study. A drawback of taking a positivist perspective is the tendency for over simplification of complex social phenomena and relationships (Charmaz 2000). Positivist approaches also neglect the possibility of multiple perspectives. Diversity of perspectives might arise through the different
lenses used for inquiry and interpretations made by different people, as they observe, listen, perceive, understand and remember information about the social phenomenon they are studying (Charmaz 1990 2000; Clarke 2005; Strauss and Corbin 2008). This is not considered in positivist grounded theory.

Thirty-three years after the initial development of grounded theory by Glaser and Strauss (1967), Charmaz (2000) proposed a post-modernist understanding of grounded theory, ‘constructivist grounded theory’. Constructivist grounded theory takes into account the different ways in which each participant, researcher and reader might understand the same experiences, contexts, concepts and relationships (Charmaz 2000). Charmaz rejects the notion that theories objectively report and describe what has been discovered from within the data. She presents an alternative view that theories are constructed through researcher-participant interactions and through the research process. Clarke (2005) and Strauss and Corbin (2008) endorse this perspective. Strauss and Corbin (2008:13) explain that

There are external events, such as a full moon, a war, and an airplane crashing into a building…. However, it is not the event itself that is the issue in our studies, because each person experiences and gives meaning to events in light of his or her own biography or experiences, according to gender, time and place, cultural, political, religious, and professional backgrounds.

Strauss and Corbin (2008) explain that participants try to make sense out of their experiences as they tell the researcher their stories. Thus, meanings and understandings are constructed by individuals and between researchers and participants. Readers then add another layer to the construction of meaning from these stories in that they also interpret what they are reading.

Along with debates between positivist and constructivist grounded theorists, challenges to grounded theory are advanced from proponents of other research methods. For example, some criticise grounded theory as coloured by the researcher’s interpretation and as failing to provide measurable and objective facts about relationships between variables (Skoldberg and Alvesson 2009; Thomas and James 2006). These critiques are based on assumptions that the aims of grounded theory and quantitative research are similar, in that they both aim to measure or identify verifiable facts (Cutcliffe 2000). However, qualitative and quantitative researchers have different aims. Unlike quantitative methods, grounded theory aims to generate, rather than test, possible relationships between variables that have not been previously considered in theory (Charmaz 2006; Strauss and Corbin 2008). These proposed relationships might later be tested using quantitative
methods. Also, constructivist grounded theory approaches do not claim to provide measurable facts, rather they present interpretations of real events that are constructed by participants, researchers and readers to understand the phenomena studied (Charmaz 1990 2000; Cutcliffe 2000). Interpretations are integral in constructivist grounded theory, rather than undesirable as quantitative critiques may suggest.

Research design

This research adopts a constructivist approach, acknowledging the meaning asylum seekers and professionals are making of their own experiences when they respond in interviews. It acknowledges the researcher’s interpretation of stories of real experiences of asylum seekers. This research also recognises that the meaning given to the constructs studied will be different for each person who encounters the project.

Charmaz’s (1990 2000 2006) constructivist grounded theory methods consider a variety of possible interpretations of the studied world. She offers a flexible set of practices for carrying out grounded theory methods and encourages researchers to use methods that are best suited to their research context (Charmaz 2006). This research aims to understand asylum seekers’ and health and social service professionals’ perspectives on the human rights and experiences of asylum seekers and takes a constructivist position in data collection and analysis.

This research aimed to understand the relationship between policy structures and asylum seekers’ experiences by using data collected through observation, informal key informant interview, and formal interview and document selection. Coding, categorisation, memo-writing, and theoretical sampling occurred concurrently with data collection to guide the development of new understandings (Charmaz 2006). Ethnography informed data collection through exposure to many dimensions of participants’ lives and immersion in the context of the people and concepts studied (Charmaz 2006). The context for data collection and ethical considerations are outlined and the research methods are detailed below.

Context for data collection

This research was carried out in the following places: a detention centre, at a community centre where asylum seekers in community detention attend a group program, at a community support organisation’s offices, in the homes of asylum seekers and in other community locations where asylum seekers spend their time, including a park and a shopping centre. Chapters Three and Four provided additional descriptions of the Australian context of asylum seekers.

Asylum seekers have fled their home countries because of a well-founded fear of
persecution (United Nations General Assembly 1951), and they have serious concerns about their safety and anonymity. For this reason the confidentiality of asylum seeker participants was considered with utmost seriousness in this research. Due to the low numbers of asylum seekers in Australia and their increased vulnerability, additional steps were carried out to protect confidentiality. This includes withholding details regarding the specific locations of the research. Ethical considerations are detailed later in this chapter.

Observational data were collected though two organisations that provide health and social services to asylum seekers. Data were collected in a multitude of settings including in staff meetings, case management home visits, detention centre music workshops, community centre music workshops, and asylum seeker outings in the community. These two organisations were selected because their employees work closely with asylum seekers and provide psychological, social, and practical support services through case management, counselling, life skills training, social work, and group activity programs. Thus, inclusion of these two organisations in data collection enabled access to asylum seekers and professionals across a range of contexts and activities, to ensure intensity of information-rich participants; a combination of asylum seekers and professionals to allow for triangulation; convenience because these organisations provided access to the asylum seeker participants who were otherwise difficult to contact; and psychological safety of asylum seeker participants because case managers were able to provide follow-up support (Crabtree and Miller 1999). The pseudonyms Music for Humanity (M4H) and Support Services for Asylum Seeker (SSAS) will be used to identify the organisations.

The organisations involved: M4H and SSAS

M4H is a non-government organisation which hosts music workshops weekly to provide community support for asylum seekers. Each week a daytime music workshop occurred at a community centre that was conveniently located for asylum seekers living in the community. These sessions acted as a hub where asylum seekers, volunteers, musicians, and community development workers met. At each session newcomers were introduced and regular attendees were welcomed back. Coming events and news including performances, picnics, and achievements were discussed. Then music was played and the group sang songs written about or by asylum seekers. After the music session, volunteers provided a shared lunch and engaged in conversation. This was an opportunity for asylum seekers to make friends, practice English, and ask questions about living in Australia. Some volunteers invited asylum seekers to their homes or met with asylum seekers during the week for a coffee or to provide some assistance.

Music workshops at a detention centre were also carried out weekly by M4H. These
sessions took place between 8:30pm and 10:30pm. Two musicians who had been working with asylum seekers for up to fifteen years led the workshops. Occasionally one or two volunteers also attended. These sessions involved singing songs that were about asylum seekers, written by them, or requested by the asylum seekers in the detention centre. Up to 20 asylum seekers joined in with singing each week during the data collection period. Others watched the music sessions and yet others chose to remain in their bedrooms or in the computer room.

SSAS is a non-government organisation which contracts to the government to deliver social support and mental health services for asylum seekers who live in the community. This includes case management, emotional support, advocacy, and support to access community resources such as banks, transport, schools, health services, and recreational activities. SSAS carries out assessments, planning, evaluation, and reporting in accordance with government requirements. Additionally it provides support and care for asylum seekers living in the community. Staff visit asylum seekers at home, meet with asylum seekers at SSAS’s offices, attend appointments with asylum seekers, and organise group recreational activities (such as fishing) and educational activities (such as life skills or learning to use public transport) with them.

M4H and SSAS work with asylum seekers in different capacities. M4H provides support through an independently funded community music program, while SSAS contracts to the DIAC and provides a range of individualized support services.

During interviews and observation it became apparent that the perspectives identified might have been specific to the context of the local area in which the research was taking place and that while the data delved into the experiences of asylum seekers, a wide variety of perspectives might not be present in the data. Consequently, additional survey data that aimed to elicit responses from a broader area were collected.

A survey was administered across Australia, sent to a wider range of organisations. This allowed for variation amongst survey respondents. The online survey was disseminated through refugee and asylum seeker community groups, peak bodies, and NGOs. The survey was emailed to peak bodies in each state, was distributed via their email lists using a snowballing strategy in which recipients forwarded the survey to other relevant people. Survey participants self-identified and came from a wide range of locations around Australia, including Queensland, Western Australia, Victoria and Tasmania. Of the 34 survey self-selected respondents, 17 had experience in roles working with asylum seekers in detention centres and 32 had experience in roles with asylum seekers in the community. Involvement of the two organisations, the range of detention and community settings, and the variety survey respondents’ roles across several Australian states
allowed for a breadth of perspectives and for comparisons between service delivery contexts.

**Policy context**

This research was carried out in the context of changing asylum seeker policies. The research focused on asylum seekers to whom centre-based detention or community detention policies applied. Asylum seekers who were on bridging visas were not included in this research. From 2012 asylum seekers in community detention were not given permission to work, according to the Detention Services Manual – Chapter 2 – Community Detention (Department of Immigration and Citizenship 2013c), and the Community Detention Program Operational Framework (Department of Immigration and Citizenship 2012b). These are the conditions that applied to the asylum seekers considered in this research. In late 2013 neither the status ‘person in detention’ nor ‘client in community detention’ was assigned to any newly arrived asylum seekers because all asylum seekers were sent to detention centres outside Australia and processed for refugee status determination by the country where they were sent.\(^{29}\) However, asylum seekers who were held in detention or in community detention prior to this change maintained their status throughout the project.

**Ethical considerations**

Ethical considerations, selection of participants within these organisations, and data collection carried out with these two organisations and analysis of the data collected with these organisations are detailed in this section.

**Ethics approval**

Prior to commencement of this study, approval to conduct this research was obtained from the School of Political Science and International Studies Research Committee (University of Queensland) (see Appendix One). Initially ethics approval was sought for a research project that aimed to understand asylum seeker experiences with a focus on ethical decision making processes used by health and social services workers. The research had initially intended to evaluate an ethical decision making tool, called PEMO, with asylum seekers. However, during the first three interviews with professionals, it became apparent that the experiences of asylum seekers in Australia with regard to human rights needed to be explored first. Reorienting the research questions allowed for development of in-depth understanding of key issues including human rights and asylum seekers’ experiences in Australia that were identified by participants early in the study. Subsequently, additional ethics approval was sought, in order to collect data from a wider range of

\(^{29}\) See Chapter 4 for an explanation of the policy changes over the period of this research project.
participants. Appendix One also includes confirmation of the amended ethics application.

Gatekeepers’ letters were obtained from the two organisations involved in the study. Special ethical measures were taken with respect to informed consent, audio recording, and minimizing any possible psychological impacts of the study as outlined below. Participant Information Sheets and Participant Consent Forms are provided in Appendix Two.

*Informed consent*

Informed consent was sought before interviews and observations were carried out. The researcher explained the study to the participants and gave them an information sheet to keep. This information sheet was also translated into Farsi because this was the first language of many of the participants who were involved in observations and some of the interview participants. An example of a translated information sheet in Farsi is included in Appendix Two.

The reflexive and emergent nature of this research allowed for the participants, especially asylum seekers, to shape the direction of the research over time (see Chapter Six for details). When the survey was drafted for further sampling, the research aims, pursuant survey questions, and potential survey respondents were substantially different from the aims, questions and participants proposed in the original ethics proposal. In response, consent forms for potential survey respondents (in English) were updated (see Appendix Two) and approval of an amendment to the ethics application was obtained (see Appendix One). All survey respondents completed consent forms online.

All professionals involved in interviews also provided written consent. In the initial interviews with asylum seekers, written consent was requested where appropriate using consent forms. An iterative consent process was used with asylum seekers, in which they were provided with the option of verbal or written consent. This was done because they often have had negative experiences associated with paperwork, which might involve oppressive power relationships, uncertainty regarding life situations or determination of legal status, and thus completing consent paperwork with a stranger could be an unpleasant experience. Field notes and transcripts documented the iterative consent process. This was similar to the consent process followed by Cowley and colleagues (2000) to overcome “difficulties which mainly seemed to be created by the formality inherent in obtaining written consent” (p223).

Mackenzie, McDowell, and Pittaway (2007) assert that when working with asylum seekers, informed consent through a one-off provision of written or verbal information and the signing of a form may be inappropriate. Considering the emotional vulnerability, changing situations, and institutionalized dependency associated with being an asylum seeker, this research included in the
iterative consent process ongoing opportunities for participants to remain involved, withdraw, or negotiate participation with the researcher. Two examples of how iterative consent was used throughout interviews in this research follows:

Example 1

Interviewee: Sometimes they put two or three with you to go out.

Interviewer: Hmmm… please tell me if you want to stop talking about this.

Interviewee: (pause and thinking). No, I told you I want to tell you about it.

Interviewer: Thanks. Could you tell me a bit about the day to day life at the detention centre?

Interviewee: For me every day was equal to one year. You feel like you are lost, you have lost your life.

Another example of iterative consent follows: Example 2

Interviewee: A long time. I met this interpreter there.

Interviewer: You know each other from there, wow. Do you mind if I ask you about it? I don’t have to.

Interviewee: Two years.

Interviewer: Two years, that’s a long time. Is it okay to talk about it in this interview?

Interviewee: (Seeming tense but open and wanting to talk) yeah.

Interviewer: What was it like being in detention?

Asylum seekers are often dependent on service providers and might feel compelled to participate if asked. The iterative consent process is a strategy to address this concern. It was always made clear that participation was optional. This iterative process of consent was valuable for establishing a trusting research relationship and doing research that respects the concerns of asylum seekers, which fulfilled the principle of respect for persons.

Audio recording

Audio-recordings were transcribed within three weeks of the interviews after which the audio-recordings were deleted. Four of the participants checked at least twice that their voice would
not be shared with anyone and that the recordings would be deleted. This highlights the emphasis the asylums seekers placed on confidentiality.

Participants were provided with a choice between having interviews audio-recorded and having notes taken regarding what was said in the interviews. One participant chose not to be recorded to preserve his anonymity.

Minimizing possible psychological risk

Asylum seekers have often had experiences of torture and trauma and in Australia they live in situations of uncertainty, which might heighten their levels of anxiety. Psychological distress associated with interview settings or topics could arise during interviews. Strategies to moderate psychological risk for asylum seeker participants included

- options for written or verbal consent
- offering to have a support person present
- obtaining advice from professionals who work with asylum seekers prior to conducting interviews
- offering opportunities for debriefing
- communication with asylum seekers’ case managers
- use of a strengths approach to structure interview questions.

Participants were asked if they would like to have a support person (e.g. family member/friend/staff member) present in the interview, to reduce the risk of stress, anxiety, or re-traumatisation. One person asked to have his case manager present at the interview and another asked to have his friend present.

Prior to the researcher conducting interviews, staff at SSAS received a copy of the interview guide and provided guidance on ways to conduct the interviews so as to best support the psychological wellbeing of participants. This was to ensure sensitivity of the questions and appropriateness of topics discussed. The staff emphasised

- building rapport with interviewees before addressing sensitive topics,
- being sensitive to topics participants might not want to talk about including experiences in detention centres,
- explaining to participants how their anonymity would be protected in the research, in order to minimize anxiety regarding this,
- explaining that the researcher is affiliated with the university and that she is not writing a government report,
- explaining that the information shared in the interview is not related to the processing of
their visas. This was suggested to alleviate any concerns or hopes by participants that information might contribute to visa applications,

- providing options regarding interpreters (to be provided through SSAS/M4H or through an external organisation) because some participants might prefer to use an interpreter with whom they are familiar while others might prefer to use an interpreter whom they do not know, depending on their situation and the stories they intended on sharing,
- organising interviews close to participants’ homes to reduce any worry about travel costs, because of their very limited finances.

All of these suggestions were implemented when the researcher conducted interviews and observations.

Following the interviews, participants were offered an opportunity to debrief with their case manager or another relevant staff member if they wished. No participants sought a debriefing session. One participant became upset during an interview, but wanted to continue. The researcher asked if the interview could be stopped at that time and suggested that she could come back another time, to which he agreed. The researcher emailed feedback to his case manager to inform him of the emotional state of this participant and the case manager followed up the matter. In the second session, the participant was not as emotionally distressed. Feedback regarding this was also provided to his case manager.

Following this experience, the interview structure was revised. Originally, questions followed the interview guide set out later in this chapter, which involved a set of prompts about human rights, experiences as an asylum seeker, and perspectives on the role of professionals with asylum seekers. After that interview, the researcher used a strengths approach framework for asking questions, because it has an evidence-base for supporting psychological wellbeing (McCashen 2005; Saleebey 1992; Saleebey 1996; Saleebey 2013). While the strengths approach is predominantly used in counselling and therapy interventions (Marshall 2011b; McCashen 2005; Myers 2003; Saleebey 1996; Sharry 2004), it can also be applied to research interviewing.

A strengths approach views the ‘client’ as capable of drawing on their own strengths and resources in order to cope with adverse situations. The focus is on strengths rather than problems, pathologies or deficits (Brun and Rapp 2001). It views helpers, in this case the researcher, as people who can listen to the person’s stories, tap into their capabilities, and support the person to identify their own strengths and draw on these (Saleebey 1992; Saleebey 1996; Saleebey 2013). While it was not the researcher’s intention to help individual participants directly, using interview questions

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30 In a clinical setting the ‘client’ would be considered as the patient, or the person who has come to see the health professional. When using the strengths approach in a research setting ‘client’ refers to the participant.
that were guided by a strengths approach ensured that the researcher asked questions in the most beneficial way for the participant. The interview guide was used in combination with the strengths approach focus for questions suggested by De Jong and Miller (1995). Examples of De Jong and Miller’s suggestions for question focus and their integration with the interview guide are described below.

Participants were asked about their ideas regarding what could be better in the future. For example, interviews included the question “if things could be different here in Australia for asylum seekers, what would you like to see?”

When describing problems, asylum seekers were asked about when things were not so bad, rather than focusing on the problems themselves. For example, interviews included questions such as, “like you’ve said, being in detention is really distressing, and the mental health team has played a big role in helping you through that. What they did was helpful to you. What were the good things they did?” Another example of the researcher asking about a time when things weren’t so bad inquired as follows: “you mentioned that things are better in community detention than in the detention centre, tell me more about that”.

The researcher asked questions that helped to make ideas concrete and to identify and affirm the person’s strengths. For example,

Have there been people along the way that you’ve found have been helpful and supportive of you, despite the terrible situation you’re in? [The participant responded with information about seeking assistance from his case manager and lawyer, he used the words ‘taking things to my case manager or lawyer’] …What sort of things were you taking to your case manager or the lawyer?

Another example of the researcher asking concretizing questions follows:

Interviewee: My case manager, she was not only like a case manager, she was like a relative to me, she was so helpful, I can’t forget it in my life.

Interviewer: Wow, that’s really saying something. What sorts of things made you feel so cared for by her?

Questions focused on strengths and resources the person possessed that could help them with problems. For example, the survey asked respondents for “asylum seeker strengths that support positive mental health.”

The researcher explored strengths and resources in the environment that could help a person
cope with problems. For example, the an interview question asked about “people who have been helpful” and “things that have happened that you’ve enjoyed or that have made life better.”

During interviews, feedback was provided to interviewees by repeating back their own ideas about how things might improve in the future, as well as the strengths and resources they had identified. For example,

It sounds like you had lots of stresses from leaving home, about your family at home, and lots of things that were stressful while you were in the detention centre itself.

Questions based on a strengths approach provided a method for minimising any psychological risks and promoting wellbeing while following the interview guide.

Participants

**Purposeful Sampling**

Purposeful sampling aims to ensure inclusion of participants who will provide the fullest and richest descriptions and understandings of the topic based on their experiences and insights (Charmaz 2006; Strauss and Corbin 2008) and seeks a diverse range of perspectives to maximize information richness and the range of interpretations (Fossey et al. 2002). Purposeful sampling was used to ensure that participants provided a range of perspectives, depth of information and were interested in and comfortable to volunteer to participate. As data collection and data analysis occur together in grounded theory (Glaser 1978), further participant sampling occurred in response to data that had been collected and analysed. Subsequent sampling was undertaken to collect new data that could challenge and refine ideas generated through data analysis undertaken at that time, fill gaps in data previously collected or allow for other comparisons to provide a more complete picture (Charmaz 1990). In this research using constructivist grounded theory methods, participant sampling occurred at two times. Participants were selected for initial data collection in observation and interviews and then further participant selection occurred for further development of understanding in subsequent interviews and through the use of a survey, follow-up emails and a follow-up member checking survey.

**Selecting participants**

Initially participants, both asylum seekers and workers, were selected from both M4H and SSAS to provide relevant material regarding asylum seekers’ experiences and perspectives on human rights. These initial participants included asylum seekers with a desire to share their stories and perspectives, with a range of ethnic backgrounds, a range of experiences on arrival to Australia,
a mix of genders and experiences in either (or both) detention centres or living in the community as asylum seekers. Asylum seekers who would be at increased risk through participation in the research with respect to mental health impacts or legal implications of information sharing were not included in data collection. Initial data collection also included health and social service professionals (referred to as professionals) from M4H and SSAS who worked with asylum seekers.

Analysis of ongoing observations and the initial interviews identified a need for more diverse perspectives from multiple locations across Australia. For example when codes including ‘nothing to do,’ ‘struggling with day-to-day activities’ and ‘life on hold’ were identified, further questions such as “how do asylum seekers occupy their time each day?” and “do these codes apply to the experiences of asylum seekers across Australia?” arose. In order to address these questions, an online survey was distributed to a range of peak bodies, advocacy groups, community groups and non-government organizations (NGOs) that provide refugee services. Respondents self-identified and volunteered to participate. A detailed description of participants of this research are provided as data collection is described, because data collection and participant sampling were intertwined.

Data collection process

Data were collected using observation, informal key informant interviews, individual formal semi-structured interviews, survey, and document selection in this study. Figure 5.1 illustrates the data collection methods used in this research. The data collection process occurred between May 2012 until January 2014.

Observations

Observational data refers to information that is collected when the researcher enters the environments in which the phenomena usually occur and observes them (Patton 2002). The level of researcher involvement with participants in the observational setting varies amongst research projects. A researcher might be a completely uninvolved observer or, at the other end of the spectrum, the researcher might be an observer who is involved as a participant in the activities that occur in the context (Creswell 2009). This research involved ethnographic observation, in which the researcher participated in activities with asylum seekers in a detention centre and in the community. This approach is referred to as participant observation. These ethnographic observations aim to develop deep understandings by exposure to many dimensions of participants’ lives through immersion in the context of the people and concepts studied (Charmaz 2006). Observations allow the researcher to reflect on complexities in culture, context, and meanings associated with the phenomena studied (Crabtree and Miller 1999). They provide additional
information that can be studied and can be combined with interviews and other information sources to provide a more complete picture (Crabtree and Miller 1999; Creswell 2007).

With consideration of early literature on participant observation between 1957 and 1973, Bogdan (1973: 303) described participant observation as “a prolonged period of contact with subjects in the place in which they normally spend their time. During the encounters, data, in the form of field notes, are unobtrusively and systematically collected.” Crabtree and Miller (1999) add that the goal of participation in observation is to establish rapport, prevent disruption in the research setting by the presence of an observer, and allow for opportunities to collect data.

It could be argued that observing as an uninvolved outsider minimises the researcher’s influence on the situations observed. However, Crabtree and Miller (1999) contend that if the researcher participates in the setting being observed then naturalistic observations of the phenomena studied are enriched. This is because as the researcher is accepted in the environment, over time he/she will be less likely to be seen as an obtrusive and unfamiliar observer and less likely to influence behaviours through participants responding to being observed. Participant observation allows the researcher to develop rapport with those involved, acquire a deeper understanding through personal experience, and ask questions along the way (Crabtree and Miller 1999). This was the case in the participant observations at a detention centre, at staff meetings, on community home visits with asylum seekers, and at community workshops.

Observation sessions were arranged through gatekeepers at M4H and SSAS. Participants were informed at each observation session of the researcher’s role and were asked for their consent.
for her to be present to make notes after the session to be used for research.

In the initial data collection phase, ethnographic observations occurred twice weekly with M4H in a detention centre and at music workshops at a community centre. Observations occurred on average once monthly with SSAS in staff meetings, home visits with asylum seekers, and visits to other community services. In total 350 hours of observation were completed over a twelve month period between May 2012 and April 2013. Creswell (2009 2014) recommends writing both descriptive and reflective field notes regarding observations. Field notes including descriptions and reflections were written within 24 hours of observations.

Interviews

According to Charmaz (2006: 25), intensive in-depth interviews can be highly effective in eliciting stories of experiences as well as insights and interpretations of those experiences. As such, in-depth interviews are useful for grounded theory research and were used in this project. This project used informal key informant interviews and formal semi-structured interviews.

Informal key informant interviews

Key informants are people who provide the researcher with ongoing information about the meaning of observations and answer questions that emerge as the researcher becomes more familiar with the research context (Dicicco-Bloom and Crabtree 2006; Crabtree and Miller 1999). These interviews occurred opportunistically with people who offered rich insights regarding participant responses in interviews, and regarding observations. In this research, key informants contributed in an ongoing way to initial data collection between May 2012 and January 2014.

Initially key professionals and managers were identified as key informants for these informal interviews and were invited to provide any information they felt was relevant over the duration of the study, as well as to answer any additional questions throughout the research. Key informants included two case managers working with asylum seekers in community detention, one case manager who working in a detention centre, one security staff member at the detention centre who was involved with the M4H program, one volunteer, one manager and four asylum seekers. They were identified as persons who could make ongoing contributions to the data collection and were invited to participate. Three of the key informants were also involved in formal semi-structured interviews. All those invited to participate through key informant interviews accepted.

These key informants were involved in unstructured interviews during and after observations. For example, they answered questions to provide meaning to observations or to clarify understanding of what was happening. From these conversations, short notes were written and included observation field notes. This is in line with the methods for using key informant
Formal semi-structured interviews

In M4H and SSAS, managers were provided with a description of the selection criteria for participants. Professionals were selected on the basis of availability, desire to participate, and representation of a range of roles and extent of experience across different organisations. Managers identified appropriate professionals and invited them to participate by email. They were provided with the researcher’s contact details and confirmed their desire to participate in the study by email.

After participating interviews, the professionals identified appropriate asylum seekers in their services according to the selection criteria. Asylum seekers were selected on the basis of their desire to share their stories and perspectives, to represent a range of ethnicities, a range of views, as well as a range of experiences living in detention centres and in the community. Their case managers invited them to participate. If the asylum seekers indicated that they might be interested, case managers provided contact details to the researcher who called each asylum seeker to explain the study, outline the information on the participant information sheet, and invite them to participate in the study. An interpreter assisted with these phone calls. If a person expressed interest in participating he/she was asked where and when they would like to arrange the interview, if they would like to have a friend/family member/staff member attend the interview with them, their preference for an interpreter, and if he/she had any questions about the study. Two of the identified potential participants had high-level English skills and were invited to participate by email.

One asylum seeker heard about his friend’s participation in the research project, and approached the researcher to request an interview. He did not speak English and asked his friend interpret for him. He explained that he wanted his voice to be heard. The researcher explained the purpose of the study and outlined the information in the participant information sheet. She offered to conduct the interview at another time when an interpreter would be available, however the man explained that he was more comfortable with his friend interpreting and that it was more convenient for him to share his story while we were at the community centre that day. The interview was carried out at that time. All those who expressed an interest in taking part in the study did participate.

Ten semi-structured interviews were conducted in total. Four of the interviewees were recruited through M4H and six were recruited through SSAS. Seven of the participants in formal interviews were asylum seekers and three were people who work with asylum seekers.

Ages ranged between 19 and 45 for the seven asylum seekers (one female and six males). They had originally lived in Sri Lanka, Iran, Iraq, Afghanistan, and Pakistan. These asylum seekers
had lived in a range of conditions since arriving in Australia including community detention, Christmas Island Reception and Processing Centre, Inverbrackie Alternative Place of Detention, Curtin Immigration Reception and Processing Centre, Brisbane Immigration Transit Accommodation and Darwin Alternative Places of Detention. Experience working with asylum seekers ranged between two to 15 years for the professionals who participated in the initial interviews.

A smart phone recorded all but one of the interviews. One participant requested not to be recorded to protect his anonymity. The researcher wrote notes during this interview. Transcripts were written within three weeks of interviews and audio-recordings were deleted. All participants were identified by numbers to maintain their anonymity. Transcripts were stored in a password-protected computer.

These interviews took place between May 2012 and December 2012. All of these interviews were conducted in face-to-face format in a variety of locations. The length of each interview ranged from 30 to 180 minutes. An interview guide was used as a prompt to ask key questions in the initial interviews. For professionals, initial interview questions asked about

- ethical issues that arise when working with asylum seekers, and decisions are made,
- including or not including asylum seekers in decision making,
- models or frameworks used to make ethical decisions,
- how human rights are or are not considered in their work,
- training and resources about making ethical decisions.

Participants also spoke about policies that shaped the experiences of asylum seekers. Follow-up questions regarding these policies were asked, and these policies were identified and obtained for data analysis. From these interviews, it became apparent that the key concerns when working with asylum seekers related to the participants’ understandings of both human rights as and of the experiences of asylum seekers in Australia. Therefore, these issues became the focus of interviews with asylum seekers. The interview guide used in interviews with asylum seeker prompted the researcher to ask questions about

- understandings of the meaning of human rights,
- expectations when coming to Australia,
- experiences after arriving in Australia in detention centres and in community detention,
- the role of professionals in these experiences.
Surveys

To develop a greater depth of understanding regarding these categories identified during the initial stages of data analysis, further sampling was carried out, collecting survey data (Currie 2009). Sampling criteria for the survey specified a sample group that could provide increased depth of understandings regarding the developing grounded theory analysis and included a broad range of perspectives across Australia. An online survey using SurveyMonkey® was distributed by an email link sent to peak bodies, advocacy groups, community groups, and NGOs including:

- Refugee advocacy network (Victoria)
- Refugee action collective (Victoria)
- Refugee action collective (Queensland)
- Refugee Rights Action Network (Western Australia)
- Red cross (Australia wide)
- MDA (Queensland)
- Refugee Council of Australia (Australia Wide)

These organisations shared the link amongst their networks. The online survey was available for completion for two months and there were 41 responses during that time. Seven respondents to the survey were excluded because they did not answer any questions apart from the participant demographics questions, or they did not have experience working directly with asylum seekers. In total 34 survey responses were included in data analysis. Towards the end of the data analysis process, a follow-up survey was forwarded to survey respondents and interviewees who indicated they were happy to be contacted for further data collection for member checking purposes.

Along with gathering demographic information, length, and type of experience with asylum seekers, the survey asked the following questions.

- Describe the mental and emotional status(es) of asylum seekers that you have met. Provide examples of feelings asylum seekers expressed and actions/behaviours.
- Describe the environment(s) in which asylum seekers live in Australia
  - physical
  - social
  - government policy
  - other policies
  - economic
  - financial
  - political
  - resource
  - temporal/time
organisational
• public opinions

• Describe any involvement you have had with Serco’s detention contract with DIAC or with the Operational Framework for Community Detention.
  o How has this shaped what you have done?
  o How has this shaped asylum seekers' experiences?
• Have you seen any positive government initiatives or policies? If so, what are they?
• Describe asylum seeker strengths that support positive mental health
• What is preferable - community detention or detention centres
  o Why?
• What are the pros of detention centres?
• What are the cons of detention centres?
• What are the pros of community detention?
• What are the cons of community detention?
• How do asylum seekers occupy their time each day in detention?
• How do asylum seekers occupy their time each day in community detention?
• Provide three (3) recommendations to improve living conditions/experiences of asylum seekers while they wait for visa outcomes in Australia.
  o Reason for first recommendation
  o Reason for second recommendation
  o Reason for third recommendation

Survey responses were collated in an Excel table after the online survey was closed.

Respondents included three psychologists, three social workers, eight occupational therapists, two lawyers, four teachers, one public administrator, two volunteer support workers (architect/musician and arts administrator), two migration researchers, one community development student, one student occupational therapist, one administration professional, one manager, one political scientist, one team leader for asylum seeker program, one pastoral care worker, one mental health worker, and one art therapist. Respondents worked in a range of paid and voluntary positions. Two of the participants were full time employees at two different detention centres.

Document analysis

Four primary documents were selected for analysis following interviews, observations, and surveys. These documents were selected either because they outlined Australia’s policy regarding asylum seekers or had been described by participants in interviews. These documents included:

• Migration Act 1958. This document outlines Australian legislation regarding asylum

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31 Serco was an organisation managing Australian immigration detention centres at the time of data collection
seekers (amongst other immigrants).

- Detention Services Contract: Immigration Detention Services (Public Release Version) (Department of Immigration and Citizenship 2009). This contract will be referred to as the ‘detention contract’ in this thesis. The detention contract is between DIAC and Serco, an organisation managing Australian immigration detention centres at the time of data collection. This document outlines Australian policy regarding treatment of asylum seekers under the *Migration Act 1958* in detention and specifies how this policy should be implemented.

- Detention Services Manual – Chapter 2 – Community Detention (Department of Immigration and Citizenship 2013c). This document will be referred to as the ‘Community Detention Chapter. It “relates to the Minister’s power under Subdivision B of Division 7 of Part 2 of the [Migration] Act to make a residence determination. A residence determination may also be known as community detention.” The Community Detention Chapter outlines policy and procedures for the treatment of asylum seekers in the community including living conditions, services and reporting.

- Community Detention Program Operational Framework (Department of Immigration and Citizenship 2012b) which will be referred to as the ‘Community Detention Operational Framework.’ This document specifies how services should fulfil policy requirements regarding the treatment of and services provided to asylum seekers living in the community.

The *Migration Act 1958* was found online. The Detention Contract had been previously released under the *Freedom of Information Act 1982* and obtained by contacting the Department of Immigration and Citizenship. The Community Detention Chapter was freely available online and the Operational Framework was obtained through a freedom of information request to the Department of Immigration and Citizenship. The freedom of information request was submitted 24 April 2013 and granted 13 September 2013.

**Data analysis**

Constructivist grounded theory methods (Charmaz 2006) were applied to combine, code and compare data from observations, key informant interviews, formal interviews, survey data, and document analysis. Initial codes were formed by reading each transcript, field-note, or document, and labelling small sections of text. For example, when an interview transcript read, “we have no hope” it was given the code “feeling hopeless”. Initial codes with similar properties were grouped
into categories through focused coding. For example, codes of “feeling hopeless”, “feeling depressed”, “feeling frustrated” and other similar codes were grouped to form the category “mental distress”.

Researcher memos described each category’s properties. Additional data gathered through further sampling throughout the project were coded using the same codes, and new codes were identified and integrated in the findings when they arose. Continuous comparison between different data sources (including participants’ responses) and memo-writing (including diagrams and written reflections) assisted in the development of the categories, the relationships between categories, and the overall social processes identified. Through ongoing memo-writing and interpretation of the data, a basic social structural process and a basic social psychological process were identified according to the methods described by Charmaz (2006) as well as Glaser and Holton (2005).

Grounded theory methods aim to account for patterns, rather than to be descriptive or to verify existing hypotheses. According to Glaser and Holton (2005), basic social processes are ways of identifying patterns of change over time. Social processes describe the different conditions, contexts, properties and consequences (actions and/or interactions) (Charmaz 2006) across different phases, degrees, stages, sequences of actions, progress towards goals or levels (Strauss and Corbin 2008). In grounded theory, two types of social processes are described. First, basic social structural processes identify and explain patterns related to social structures such as procedures, policies, organisations, bureaucracies/governments, and routines (Glaser and Holton 2005). Second, basic social psychological processes describe behaviours that occur within basic social structural processes (Glaser and Holton 2005). This research aimed to identify basic social processes in the data through grounded theory analysis. Details are provided below.

**Initial coding**

As Charmaz (2006) describes it, coding involves “categorizing segments of data with a short name that simultaneously summarises and accounts for each piece of the data” (Charmaz 2006: 43). Codes are the building blocks of the processes identified using grounded theory methods. These codes are later integrated to form categories which are the basis of the theoretical understandings derived from the data.

While all grounded theory methods involve being close to the data, asking questions of the data, and developing codes and categories, the processes for coding and terminology used to describe coding vary according to the grounded theory approach (Cutcliffe 2000). Open, selective and theoretical coding are described by Glaser (1978); Strauss and Corbin (1998) use open, axial and selective coding, as well as analysing data using a conditional/consequential matrix; and
Charmaz (2006) describes two stages of coding, initial and focused. This research followed Charmaz’s (2006) constructivist grounded theory approach and therefore used initial and focused coding.

Charmaz (1990 2000 2006) describes the researcher as the interpreter of the data, unlike Glasser (1978) who sees the researcher as an independent observer. Charmaz (2006) explains that, in initial coding, the researcher reads through the data and assigns codes to each small section by comparing the data with other data. When assigning codes, Charmaz (2006) recommends using labels that describe actions because this would best reflect processes, perspectives, and meanings in the data. Where possible in this research, codes were created to label actions described in the data. For example, in the research findings, instead of using the word ‘protective’ which is an adjective that would describe an object, the word ‘protecting’ is used to describe an active component of a process.

In this project interviewees’ responses to each question and each idea expressed in observation field notes were considered as sections of the data. Data were recorded in an Excel spreadsheet (see Figure 5.2) where each small section was contained in a separate cell. Beside the column containing data, codes were recorded in cells in another column. Memos and definitions for each code were recorded in separate worksheets in the Excel file for easy reference. Codes, for example, “being surrounded by uncertainty”, were assigned to sections. Many sections were assigned more than one code if they contained more than one idea.

Throughout the initial coding process, the names and definitions of the codes were refined as the data led to new insights. Charmaz (Charmaz 1990 2006) suggests re-naming codes as the coding process occurs to keep codes as simple and precise in description as possible, keeping the researcher as close to the data and as open to what the data suggest as possible.

Reflections were recorded in memos (see below) about the codes when looking for patterns, repetition, overlapping codes, and comparisons between the codes: a process that led to focused coding.

Focused coding  
After coding all sections of the initial data, codes that frequently occurred, codes that seemed to be related and those that seemed to be most significant were grouped together to begin to form categories. According to Charmaz (2006), this is the process of focused coding and it allows for synthesis and integration of large amounts of data into categories that are then used to form a cohesive grounded theory analysis.

During focused coding, memos documented the reasoning underpinning the creation of
categories out of codes. These memos took the form of paragraphs describing the formation of categories as well as diagrams and charts illustrating the researcher's thoughts and understandings of relationships between codes and categories.

Charmaz (2006) explained that initial coding and focused coding are not two discrete processes, and that the researcher moves between the two types of coding fluidly with ongoing data collection and as further insights arise. As more data collection was carried out, through distribution of the online surveys, follow-up emails, and document selection, the new data were also coded using initial coding and focused coding methods. The same codes that arose initially were applied to the new data, and if new concepts arose, new codes and categories were added to the analysis. For example, survey respondents often described 'isolation' and 'feeling safe', which

**Figure 5.2 Excel spreadsheet for initial coding.**
had not been identified as codes in initial data analysis, and these codes were incorporated into the analysis.

**Theoretical sampling**

Theoretical sampling is an important grounded theory method. Draucker and colleagues (2007) distinguished between selective sampling, in which participant selection is determined before data collection, and theoretical sampling, in which participant selection is determined by questions that arise from the addition of new information. These authors explain that the researcher must decide when to shift from selective to theoretical sampling. In this project, participants in initial data collection were selectively sampled with the aim of developing a rich understanding of what was happening. Theoretical sampling occurred following initial coding and focused coding of the initial data. Theoretical sampling served the purpose of developing a deeper understanding regarding properties of, and relationships between, categories that arose in the initial stages of analysis such as ‘having little to do’, ‘environments of constraint’, ‘environments of support’, and ‘restrictive policies’.

Theoretical sampling was used to fill in gaps in the emerging grounded theory analysis, which aligns with reasons described by Charmaz for conducting theoretical sampling (1990). The analysis, that is, the identification of social processes developed through the synthesis of codes, categories and memos; writing; and re-writing. Congruent with grounded theory methods described by Charmaz (1990 2000 2006), theoretical sampling occurred in parallel with this process of data analysis, and new information was incorporated into the analysis to provide a more complete understanding of the basic social processes.

**Constant comparison**

The method of constant comparison was used throughout data analysis. This is vital strategy for developing a theoretical understanding of the data (Charmaz 2006). Charmaz described constant comparison as checking data, codes, and categories against each other. This might be a comparison of data with data to develop codes; codes with codes to develop categories; codes with categories; or categories with categories to establish relationships between different contexts. This research compared

- data to data, to develop codes,
- codes to data, to ensure that the codes were consistent with the data. This was done by searching the spreadsheet for a particular code and reading through the data that the code described to ensure that the code captured the idea expressed in the text,
- codes to codes, to develop categories. For example, ‘nothing to do’ and ‘life on
hold’ were compared and found to be similar in that they described asylum seekers having little to do while they wait for visa determination. As such, the codes were integrated to create the category ‘little to do’,

• codes to categories, to understand why certain codes formed a particular category and others did not form part of that category.

• categories to categories, to establish relationships between categories. For example, the category ‘little to do’ was compared to ‘environments that constrain’ to lead to an understanding that environments that constrain prevent asylum seekers from engaging in meaningful activities, leaving them with little to do,

Constant comparison also included consideration of data across organisations, across community and detention centre settings, across asylum seekers and those who work with them to develop a deeper understanding of the data and to develop codes, categories, and relationships within context. Notes of comparisons were included in memos and these were integral to theory development.

Memo-writing

Memo-writing, a key method in grounded theory, involves the researcher writing notes throughout the data analysis to reflect on codes and their interconnectedness (Glaser 1998). In a review of abstracts from qualitative research found in the CINAHL database between 2000 and 2005, Rodgers and Cowles (1993) found that memos are commonly used for recording conceptual insights. Memo-writing describes how the researcher interprets the data. Examples might include recording reasons for attributing codes to particular parts of the data, recording how a category was developed out of codes, or recording questions that may be relevant to better understand the topic being researched based on what the researcher sees in the data.

A description of the researcher’s thought process is found in memos (Montgomery and Bailey 2007). This is different from field notes, which report on observations in the field, including contextual information. As the researcher develops his/her understanding of the concepts studied and their interrelationships, theoretical understandings are developed out of memos (Glaser 1998; Montgomery and Bailey 2007).

Charmaz (2006) recommends including notes on processes described in the data, conditions in which processes occur, conditions under which processes change and consequences of those processes. This research used memos in this way. During initial coding, memos recorded the names of codes, the properties of codes, and how they might relate to each other to form categories. Examples include, “maybe rename 'building relationships' - building positive relationships? And
link to hope/positives/benefits?” and

codes including 'being surrounded by uncertainty', 'fear of being known by the
government,' 'shifting between cultures', 'imposed living arrangements', 'waiting
for a long time', 'carrying burdens from the past', and 'not having anything to do'
etc seem to all be contributing to poor wellbeing (depression, anxiety, suicide
attempts etc) for asylum seekers - that might be a category to consider.

These examples illustrate how memos were useful in identifying possible relationships between
codes to create categories and ultimately to begin to articulate basic social processes.

During focused coding, memos recorded why and how each category was formed and how
those categories might relate to each other. Once categories were identified, memos were written
under the headings of each category. Memo-writing also involved drawing, annotating, and
describing diagrams related to the researcher’s interpretation of the relationships between the
categories. These memos became the basis of development of theoretical understanding. Memos
were recorded electronically as well as in a notebook. Electronic memos were kept within the files
where data were analysed.

**Saturation of categories**

In grounded theory and qualitative research, the term ‘saturation’ is understood differently.
In qualitative research, saturation is a way to determine when to stop collecting data (Creswell
2007). Generally, in qualitative research, saturation describes the point at which no new
information is provided by participants (Patton 2002).

In grounded theory, saturation relates to theoretical development. Charmaz (2006) explains
that theoretical saturation can be determined in grounded theory research when no new theoretical
insights or new properties of categories can be identified with the collection of new data. When
theoretical saturation occurs, data collection is complete (Charmaz 2006; Patton 2002). In this
project data collection ceased when theoretical saturation was determined, that is, when

- no new codes or categories were emerging with the analysis of new data (e.g. in
  survey responses and document analysis)
- new and important information collected could be accounted for by existing codes
  and categories
- no new insights were described in memo-writing as new data were analysed

When these three criteria were fulfilled, data collection ceased.
Constructing basic social processes

Codes were grouped together to form categories. This integration process was recorded in memos, which described the properties of categories. Through constant comparison, interrelationships between categories were identified, to develop a conceptualization of the basic social processes. Memos were read and sorted into groups according their descriptions of categories or relationships between categories. This process was used to refine the links between categories and strengthen the basic social processes in terms of logic and coherence (Charmaz 2006).

To sort and integrate memos, diagrams were drawn to illustrate the processes identified in the data. These diagrams were expanded upon in a written description of the theoretical understanding in addition to the diagrammatic representation. Figures 5.3 and 5.4 provide examples of diagrammatic memos.

Figure 5.3 Example of a diagrammatic memo generated using Microsoft PowerPoint.
Throughout the entire data analysis process, many versions of the processes were conceptualised and reconstructed over time to result in the final basic social processes proposed in this thesis (see Figure 5.4 for some of the versions conceptualised). Reconceptualization of the processes over time was dependent on new data obtained through theoretical sampling, constant comparisons, reflection on the data, and developing deeper insights through conversations with supervisors and peers. When identifying relationships between categories, one can look beyond what might be considered immediate or obvious by considering the complexity inherent in social processes (Strauss and Corbin 2008). Strauss and Corbin (1990; 2008) present the conditional matrix as a way of considering a spiral of interlinked conditions and consequences ranging from individual responses to socio/political/historical conditions. The conditional matrix provides a prompt during data analysis to consider an individual’s interactions with his or her environments, groups, organisations, communities, national structures, and international structures. The conditional matrix was used in this data analysis as a tool to identify links between social structures and asylum seekers’ experiences.

**Finalizing the basic social processes**

When theoretical saturation had been achieved and a conceptualization of the basic social processes described in data analysis was no longer developing, the findings were presented to
participants by email (a form of member checking). This included 11 survey respondents who consented to follow-up surveys, two professionals who had been interviewed (the third changed work places and was no longer contactable) and two asylum seekers who had provided their email addresses. The survey asked participants to provide their agreement or disagreement with statements describing the basic social processes identified in the data analysis; for example one of the follow-up survey questions asked:

Which of the following statements do you agree with? (select one, some or all of the below statements)

- Being assigned the status ‘client in community detention’ or ‘person in detention’ has a large impact on the environments that asylum seekers encounter
- When a person moves from being a ‘person in detention’ to a ‘client in the community’ their environment changes because different policy applies to them
- Asylum seekers’ experiences are a result of the environments they encounter plus their own abilities to cope plus their personal histories
- If there is a continuum that extends from suffering to wellbeing, asylum seekers’ experiences tend to lie at the suffering end
- Asylum seekers' encounter a combination of environments of constraint, isolation, uncertainty, freedom and/or support.
- Being a ‘person in detention’ or a ‘client in the community’ indicates which policies apply to any asylum seeker. Those policies contribute to the environments that he/she encounters, which interact with the person’s personal attributes to produce their experiences.
- For asylum seekers, suffering involves mental distress and having little to do.
- For asylum seekers, wellbeing involves feeling safe, feeling hopeful and having something meaningful to do.
- I do not agree with any of the above

According to Charmaz (2006), it is important to find a balance between experiences,
theoretical categories, and descriptions of the theoretical understandings. Checking these understanding against the feedback of the participants involved in this project and with other experts allowed the researcher to determine the fit between the experiences and understandings of those involved with asylum seekers and the conceptualization of the basic social processes.

Four participants replied to the follow-up survey. Respondents indicated agreement with the research findings and provided further examples, which contributed to refining the description of the basic social processes identified in the data analysis.

Many iterations of written descriptions of the research findings occurred. These iterations involved the researcher reading the descriptions multiple times and re-shaping the theoretical understanding and write-up. Supervisors also read the written descriptions of findings and engaged with the researcher in discussions to refine the interpretation of the data in the research findings. Through these iterations, clarity in explaining the basic social processes improved, data were mined, and theoretical sampling occurred to achieve fullness in concepts and overall theoretical saturation, and “rendering in writing” (Charmaz 2006: 172) occurred. Rendering in writing is a process to increase the emphasis on the human voice in reporting the findings of grounded theory research. Rendered writing provides stories and quotes from participants, while maintaining standards of academic writing.

Can I trust what I am reading?

In evaluating the quality of research, the key question is ‘can I trust what this research is telling me?’ Rigour in applying research methodology is a way to ensure that the research is trustworthy. In reviewing the literature, Cooney (2011) concluded that there are two aspects of rigour that should be considered when evaluating research that uses grounded theory: methodological rigour, which questions the practical application of the chosen methodological approach; and interpretive rigour which questions the trustworthiness of interpretations made and ultimately the theoretical understanding generated. In this section, the application of Charmaz’s constructivist grounded theory methods is discussed with reference to the quality of this research (Charmaz 1990 2000 2006) and the trustworthiness of interpretations made in data analysis.

With respect to methodological rigour, Beck (1993) and Cooney (2011) suggest that research can be judged according to criteria of credibility, auditability, and fit to contexts beyond the study. According to these authors, credibility describes the accuracy of the reported data in reflecting the experiences of participants. Member checking, through a follow-up survey, and use of participants’ language in the basic social processes identified in this research (for instance, see Chapter Seven regarding the use of the word “suffering”) indicate the closeness of the findings to
participants’ experiences.

Auditability refers to the ability of others to follow the processes used by following an audit trail. Interview transcripts, memos, and records of definitions of codes and categories are stored on a password-protected computer and on the University of Queensland network. While audio-recordings were not able to be stored for ethical reasons described earlier, direct transcripts of the recorded interviews have been written and stored. A detailed description of research methods is recorded in this chapter, contributing to the audit trail.

Fit to contexts beyond the study describes the ability to apply the theoretical understandings generated to contexts that differ from the context in which they were developed. The basic social processes identified in the findings of this research are described as one over-arching process which is comprised of two mechanisms (which are a basic social structural process and a basic social psychological process). The findings are not described as a theory, to emphasise that the generalisability of the processes is yet unknown. Further research might build upon the basic social processes identified and develop them into a formal theory (Johnson 2008). Consequently, the processes identified in this research cannot be considered generalisable, well-tested theory. More exactly, it identifies basic social processes that explain how Australian policies that applied between 2012 and 2014 contributed to asylum seekers’ experiences. The generalisability of the findings is discussed in Chapter Ten.

Pertaining to interpretive rigour, Charmaz (2006) explained that theoretical understandings generated from grounded theory methods can be judged according to credibility, originality, resonance, and usefulness. An overview of interpretive rigour is provided in this chapter, and further details regarding the credibility, originality and usefulness of the research findings are discussed in the final chapter of this thesis.

For Charmaz (2006), credibility is about the merit of research findings based on the amount, depth, and range of data; comparisons made between data and categories; and links between the data and the interpretations presented in the findings. The methods described in this chapter indicate that a range of in-depth data were collected across Australia using observations, interviews, surveys, follow-up emails, and analysis of four policy documents. An iterative process of constant comparison, returning to the data throughout data analysis, evidences interpretative rigour. Links between the data and the analysis are presented in the findings where the identified basic social processes are presented in the context of references to the interviews, survey responses, observations, and document analysis.

Questions of originality ask whether the interpretation of the data provides challenges to,
extensions of, or refinements of current ideas and practices (Charmaz 2006). The research findings outlined and discussed in the remainder of this dissertation provide fresh insights regarding concepts of harm, suffering, wellbeing, and human rights. Practice implications discussed in Chapter Ten apply to fields relating to policy, advocacy, and health and social services.

Charmaz (2006) asks if research findings have applications to every-day-life and whether the research findings are useful for making a better world. The research findings presented in the following chapters could be applied to improve the every-day lives of asylum seekers, prevent harm, and support fulfilment of human rights. These implications are detailed in Chapter Ten.

Resonance (Charmaz 2006) with participants’ perspectives and with context is evident in this grounded theory analysis. Chapter Six provides details explaining how the flexible emergent research design was adapted throughout the research process to resonate best with participants’ perspectives. Member checking also indicated that the research findings make sense to the research participants. Institutions and individual lives were linked in the findings so that the findings resonate with the context in which the research was conducted. The findings presented in Chapters Seven, Eight, and Nine, provide an explanation of how policies contribute to asylum seekers’ experiences. The findings detail structures and individual traits that interact to result in the human experiences of asylum seekers in an Australian context.

Chapter Five in brief

While not aiming to develop a formal theory, but to identify social processes, the research followed a constructivist approach to grounded theory. This chapter has explained and justified the qualitative constructivist grounded theory methods used in this research. The context for data collection was explained, ethical considerations were detailed, and the overall research design was outlined. Methods for selecting participants as well as for data collection and methods for inviting participants were explained. This chapter described the grounded theory data analysis process used in this research and discussed rigour. The following chapters present the research findings.
Chapter Six.
Findings: what happened to human rights?

As a prelude to the main findings, this chapter explains why human rights language has not been used in reporting the findings when human rights are relevant to the experiences of asylum seekers from a scholarly perspective. Human rights have formed a theoretical framework for the research as discussed in the first four chapters. While taking a human rights perspective raises concerns and questions regarding the everyday experiences of asylum seekers awaiting refugee status determination in Australia, and is useful to consider from a theoretical perspective, the use of human rights language lacked consistency and relevance amongst the research participants. This research used a flexible emergent design and used language that was accessible and relevant to the participants.

Flexible emergent design

Flexible emergent research design is integral to qualitative research (Crabtree and Miller 1999; Creswell 2007; Patton 2002). Patton (2002) explains that emergent design flexibility requires the researcher to be open to adapting inquiry in response to deepening understandings of the phenomena studied and/or changes in the research context. In flexible emergent research design, the researcher “pursues new paths of discovery as they emerge” (Patton 2002b: 40). In comparing quantitative research methods with qualitative research methods, Lincoln and Guba (1985) noted that a quantitative project predetermines the research design prior to collecting data and adheres to the planned design. They explain that an inflexible, definite, detailed design of qualitative research “cannot be given in advance; it must emerge, develop, unfold.” (Lincoln and Guba 1985: 225). Patton (2002) explains qualitative researchers can determine an initial focus, plans for observations, and initial interview guides; however, the design emerges and changes as the research unfolds. Qualitative research continues to emerge throughout data collection based on developing understandings of the phenomena studied.

In this research, the phenomena studied were initially ‘ethical dilemmas faced by health and social service professionals when working with asylum seekers’ as well as ‘asylum seekers’ human rights’. However, initial interviews indicated that understandings of human rights and experiences of asylum seekers in Australia needed to be explored in depth before the process for making ethical decisions by professionals was addressed. Thus, the aim of this study became to develop an in-depth understanding of asylum seekers’ experiences and the contribution of policy to those
experiences, according to asylum seekers and those who work with them.

Interviews then used a human rights framework to understand the experiences of asylum seekers and how Australian policy influenced their experiences. However, two issues emerged as important to understanding these experiences. First, there were inconsistent understandings of the term ‘human rights’ amongst participants that made it difficult to develop a consistent focus in the research. Second, the term ‘human rights’ lacked relevance to some asylum seekers and to health and social service professionals when discussing the experiences of asylum seekers. Consequently, the interviews predominantly used language initiated by the participants regarding harm, protection, suffering, and wellbeing. Both issues are now discussed in more detail.

**Unclear and inconsistent understandings of human rights**

Overall, participants expressed a lack of clarity regarding their understandings of human rights. For example, an asylum seeker interviewee stated that “human rights is not a clear picture for me in Australia.” Similarly, a health and social services professional explained that the term human rights is “very ambiguous at times, it could mean anything.”

In particular, some participants held views of human rights as culturally relative, while others understood human rights as universal. They expressed a range of definitions of human rights including entitlements, respect for human dignity and freedoms. However, each definition explained a different aspect of human rights and there was no consistent understanding. Additional inconsistency was evident in the range of perspectives expressed regarding the inalienable nature of human rights. Some participants saw human rights as inalienable, continuing to be possessed by people even when they are unfulfilled; while others explained that a human rights cease to exist if they are not fulfilled, stating that they do not possess human rights themselves. A variety of perspectives of human rights were also present in the data with respect to state-centric perspectives, in which the government was seen to be responsible for human rights, and cosmopolitan perspectives, in which human rights are considered the responsibilities of all people towards others.

While some participants expressed a view that human rights are universal and possessed by all people, others ascribed to a cultural relativism perspective that sees human rights as dependent on the cultural context. One health and social services professional explained that she believed different standards of treatment are acceptable in different cultures and that it was important for her to be aware of that in order to work within a human rights framework:

> I guess just like knowing the culture that people come from, um, and just knowing what is acceptable and what’s not. Um, you know, and from a human rights perspective for example, what we may view here as, um, you know, acceptable,
could be not acceptable in someone else’s culture, so we always need that education around where people come from, how do people like to be respected, or feel respected, and um, and what, in human rights terms, is acceptable and what isn’t.

Exemplifying the inconsistency in understanding the nature of human rights, the same participant asserted a universal perspective on human rights later in the interview. She commented as follows:

so finding that, um, I guess [it is] that one thing that unites all of us. So not necessarily because we have different cultures or a different way of thinking, there is, I guess, a law which we all need to follow, regardless of where people come from

Participants expressed a range of understandings of human rights involving entitlements, respect for human dignity and freedoms. However, no participant provided an overarching understanding of human rights that encompassed all of these things. One participant explained that human rights are about “entitlements, yeah, and the other part that you are respecting people’s [human] rights by respecting their dignity and sharing that information.” Others explained human rights as “personal freedom: to be able to work, to be able to, um, make a family, to get married and make a family. But unfortunately all these things are missing.” Another participant explained his perspective regarding human rights as freedom:

Interviewer: I guess when you were coming to Australia you were expecting to have particular human rights

Interviewee: Yes

Interviewer: What were those you were thinking of when you came here?

Interviewee: I think Australia can support me for have a freedom and have a life because in my country … I haven’t any freedom and for, if you don’t like some of this government this side, you can’t say, and this is a very big problem.

A range of inconsistent understandings amongst participants was also noted when some understood human rights as inalienable, continuing to be possessed by people, even if unfulfilled, and other participants understood that human rights cease to exist if they are not fulfilled. For example expressing the idea that human rights no longer exist if they are unfulfilled, an asylum
seeker stated, “I don’t have any rights. All I have, I have a piece of paper and there is a photo of me on it.”

Similarly, another asylum seeker stated, “there is not any human rights. As I’m thinking, there are no human rights here. But people are trying to have human rights, but they do not exist.” Another asylum seeker explained that human rights might exist but might not be ‘implemented’ or fulfilled, “I know there are human rights, but the point is that it’s not implemented fully on us. But for themselves [Australians], yeah, there are human rights, and all being implemented fully.”

Inconsistent understandings of human rights were also evident in that some asylum seekers saw human rights as the responsibility of the government, a state-centric perspective; whereas, others viewed them as owned by all people, a cosmopolitan perspective. Taking a state-centric perspective one participant discussed that

I can also see lots of partitions, which, um, as I can see here, the government is doing… the rule is the politics, not as the human rights things. They [the government] rule everything as politics, not thinking about human rights. They have their own rules.

In contrast, another asylum seeker took a cosmopolitan perspective, recognising the kindness of another individual supporting his health as a reflection of human rights. He explained human rights, for example, when I was in the detention centre, because of hopeless situation and sadness and stress and depression, I get a headache and all of my teeth get infection. And when I went to the doctor, the doctor would tell me just to drink cold water, it’s going to be better. Because I have lots of pain I couldn’t sleep and I just walk around. There were security there and they saw me every night walking around because of the pain in my teeth, and the security they help me, they bring, they bring me a Panadol [paracetamol] and cold ice to put on my teeth and they help me to take out this teeth and then to get better. That’s an example of human rights, the security he’s a really good, good heart, and helped me to feel better.

Lack of relevance

Human rights language lacked relevance to many participants when discussing asylum seekers’ everyday experiences. One participant even stated that she had not thought about human rights as a distinct concept previously. Some participants had difficulty conceptualising human rights because those rights were not fulfilled. These participants preferred to discuss “the opposite
of human rights”. A human rights framework was relevant to some health and social service professionals, but not to all. Many participants viewed human rights as more relevant to asylum seekers’ experiences prior to coming to Australia, rather than their experiences while waiting for refugee status determination in Australia.

Illustrating the lack of relevance that human rights language held for participants, when discussing everyday experiences, one participant stated, “I haven’t thought about this [human rights] as such distinct term before.”

For some participants, human rights were not relevant to them because they are unfulfilled and therefore difficult to conceptualize. These participants found it easier to talk about the ‘opposite of human rights’ rather than human rights. A health and social services professional expressed that “dealing with its opposite [of human rights] is always challenging: the lack of access to human rights, and the complete and utter incapacity of people to treat people, each individual, as having value.”

An asylum seeker explained, “I believe in human rights because I’ve seen, some of the people they are very, very, have a good heart and they are helping and they are working for the human rights, but others terrible, they are the opposite of human rights.”

One participant saw human rights as a matter for the AHRC, he stated, according to my knowledge, I know it has Human Rights Commission investigates refugees and they do good for them...After coming to Australia I have heard about Human Rights Commission. So the general knowledge I have about them is that they do good for the refugees.

This participant found it difficult to talk about human rights, as he had little knowledge of the concept beyond his knowledge of the AHRC. This participant was, however, able to discuss his experiences in more concrete terms including seeking safety in Australia, restrictions on his movement as a result of being held in detention, and accessing medical services. He did not use human rights terminology, which indicates that human rights language lacked relevance to this participant.

One health and social services professional indicated that she saw a human rights framework as irrelevant to her day-to-day work, and more relevant to her reflections when she was not engaged directly in her job. When asked about the level of difficulty she experienced when thinking about human rights she responded that it is easy if you think about it [human rights] generally, but challenging if you’re in the midst of the day and doing all of your jobs. Does that make sense? So if I said ‘oh
so this is what I’m doing’ then it’s easier to think about it in those terms, but, if you’re caught up in your day and you have a million things to do, you don’t have time for reflection [on human rights] so much.

She later explained that rather than thinking in terms of human rights, she thinks in terms of the practical things, I mean just oh, I guess it’s all related trying to build their [asylum seekers’] independence and trying to get them back on their feet as well. But I find that sometimes they’ll call me and say ‘oh can you book a doctor’s appointment for me?’ if they’re not confident in the language to do it yet, I’ll just follow it up, or they want to talk to their DIAC case manager. So I just send a quick email and ask the DIAC case manager to call them – so I’m the go-between person until they have their language skills up enough until they are confident to call the people. They know if they call me and they can’t get their point across, I can always call them back with an interpreter

Another health and social services professional did see human rights as relevant to her work with asylum seekers awaiting refugee status determination in Australia. She stated that she “absolutely” thinks about human rights in her work with asylum seekers. She provided examples of supporting asylum seekers to access their entitlements and to make decisions:

if there is something that they are entitled for, then we would advocate on their behalf for that. Their rights to make decisions about the things that they can make decisions… So really around, sort of, access and entitlements.

Many participants saw human rights in relation to asylum seekers’ experiences prior to coming to Australia, rather than a relevant concept to their everyday experiences here. For example, a health and social services professional stated that when you think about human rights you think about they’ve had a really tough time the past years in Iraq or wherever they came from, and then they’re coming to Australia as well and if you can just keep their whole life experience in your mind, I guess that relates to human rights.

When explaining what he understood as human rights, an asylum seeker stated, “[In my home country] they hurt me because I am from an ethnic minority. There is nothing little with human rights.” This illustrates a view that human rights are most relevant to his experiences in his home country, rather than to his experiences in Australia.
Chapter Six in brief

This chapter has explained why the remainder of the thesis does not use human rights language. The first four chapters of this thesis present concerns for asylum seekers in the context of a human rights framework, because this is the framework that has traditionally been used when considering asylum seekers and thus the most relevant framework to discuss. Investigation regarding asylum seekers’ human rights in the first four chapters has led to research questions about asylum seekers’ experiences. This chapter explains that use of human rights language lacked consistency and relevance amongst the research participants. The following three chapters describe the research findings using the language of the research participants rather than using human rights language. As Charmaz (2006) explains, research using constructivist grounded theory methods should employ the language used by participants when describing concepts drawn from the data. Therefore, the remainder of the findings reported in this thesis does not use human rights language because this was not the language used by participants. Chapter Ten returns to human rights language.
Chapter Seven.
Findings: The Structural-Personal Interaction Process

The social processes that were abstracted from the data in this grounded theory analysis are outlined in this chapter. After providing an overview of the social processes, this chapter outlines the concepts of which they are comprised. The concepts outlined in this chapter include status-assignment, policies, situations, personal characteristics, and asylum seekers’ human experiences along a continuum between suffering and wellbeing (the ‘suffering-wellbeing continuum’). This chapter also imparts the story of an asylum seeker, Riti, to illustrate the processes identified. Chapters Eight and Nine elaborate on the mechanisms identified, providing detailed information regarding the relationships between concepts and the patterns noted in the data. The following three chapters simply present the outcomes from data analysis, without any discussion or engagement with broader theory and research. Please refer to Chapter Ten for further discussion of the findings with reference to other theory and research.

Overview of the social processes

The overarching social process identified is the Structural-Personal Interaction Process. It is comprised of two smaller processes: the status-assignment mechanism and the translation to human experiences mechanism. They have been labelled as mechanisms to emphasise that they represent parts of the overarching interactive process which brings about asylum seekers’ experiences.32

The Structural-Personal Interaction Process explains status and policy as structures that contribute to asylum seekers’ situations, which interact with their personal characteristics to create their human experiences. The Structural-Personal Interaction Process explains how the consequences of the government’s status-assignment for asylum seekers manifest in their everyday experiences.

The first mechanism in the Structural-Personal Interaction Process, status-assignment, is the structural aspect of the process. In this mechanism, the government designates a status (either ‘person in detention’ or ‘client in community detention’) to asylum seekers. This determines the policies that apply to each person and shapes the situations that they encounter. Chapter Eight provides further details.

The second mechanism is translation to human experiences. This is the personal or

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32 The two mechanisms that comprise this overarching process, status-assignment, and translation to human experiences, are also basic social processes according to work by Glasser and Holton (2005) and Charmaz (2006). See Chapter Five for further details regarding basic social processes.
individual aspect of the process in which asylum seekers’ personal characteristics interact with their situations (which arise in the status-assignment mechanism), resulting in translation to their human experiences. This mechanism occurs when situations interact with personal characteristics to create human experiences. The interaction of situations and personal characteristics to create human experiences can be seen in the centre circle in Figure 7.1. Each asylum seeker has unique human experiences, which result from this interaction. In this mechanism, human experiences lie along a continuum between suffering and wellbeing (illustrated in Figure 7.1). The translation to human experiences mechanism is a pivotal point on which asylum seekers’ human experiences hinge.

Figure 7.1 Translation to human experiences mechanism: example of an asylum seeker’s human experiences moving in the wellbeing direction, from point A to point B, while still remaining in the suffering zone of the continuum.

Concepts

Status
Status is a label applied to a person that differentiates them from other people. Asylum seekers might be assigned different statuses over time. These include ‘person in detention’ and ‘client in community detention’, both of which are non-citizen statuses. The data indicated that all asylum seekers are initially assigned the status of ‘person in detention’, and this involves “being held by, or on behalf of, an officer in a detention centre established under this Act” (Migration Act 1958, Section 5, “immigration detention” b(i)). Then their status-assignment often changed to
‘client in community’, living in a house which is “another place approved by the Minister in writing” (Migration Act 1958, Section 5, “immigration detention” b(v)).

**Status-assignment: ‘person in detention’**

Status-assignment as ‘person in detention’ involves asylum seekers “being in Immigration Detention is the restriction of freedom of movement” (Detention Contract, Section 2, Part 2.2.1). On arrival in Australian territory, asylum seekers are immediately assigned the status ‘person in detention’. The *Migration Act 1958*, Section 189, Detention of Unlawful Non-Citizens, specifies

> If an officer knows or reasonably suspects that a person in the migration zone (other than an excised offshore place) is an unlawful non-citizen, the officer must detain the person.

> If an officer reasonably suspects that a person in Australia but outside the migration zone: a) is seeking to enter the migration zone (other than an excised offshore place); and b) would, if in the migration zone, be an unlawful non-citizen the officer may detain the person.

Therefore, when an asylum seeker is found arriving in Australian territory by boat, they must be detained. If they are found outside Australia’s migration zone and then brought into Australian territory by the authorities, they must also be detained. Automatically, all asylum seekers arriving by boat are initially assigned the status of ‘person in detention’.

The term ‘person in detention’ is used in policy documents, for example, Schedule 2 in the Detention Contract uses the term ‘person in detention’ 169 times and the term ‘people in detention’ 215 times when referring to asylum seekers who have been assigned this status. While this status is assigned to asylum seekers by the government and used in government policies, asylum seekers did not use the term ‘person in detention’ to describe themselves in interviews, nor did those who work with asylum seekers.

The status ‘person in detention’ is a non-citizen status, differentiating the conditions for asylum seekers from those of citizens. For example, Page One of the Detention Contract states “non-citizens who are unlawfully in Australia may be detained under the Migration Act 1958.”

The most relevant policies that apply when an asylum seeker is assigned the status of ‘person in detention’ include the *Migration Act 1958* and the Detention Contract (Department of Immigration and Citizenship 2009). The *Migration Act 1958* is Australian legislation regarding migration, including asylum seeker matters. The Detention Contract, Section 2, is the agreement between the contracted business that operates immigration detention centres and the Australian government (DIAC). It specifies how detention centres are to be operated, with objectives to...
enhance wellbeing of people in detention; improve quality, effectiveness and efficiency of detention centres; enhance management and operation through cooperation between DIAC and the contracted business; and ensure “best value for money for the provision of the services”.

Being assigned the status of ‘person in detention’ is largely characterized by policies that restrict movement, restrict and control engagement in meaningful activities, and limit access to services. These policies then lead to situations of constraint, isolation and uncertainty and disempowerment. A few policies pertaining to asylum seekers with this status promoted access to services designed to fulfil basic needs, such as the need for food. For example, the Detention Contract, Section 2, Part 3, describes catering for people in detention. However, these policies are not typical of this status and restrictive policies are far more prevalent.

**Status-assignment: ‘client in community detention’**

Status-assignment as a ‘client in community detention’ involves asylum seekers living in “alternative accommodation arrangements for a person’s detention placement” (Community Detention Operational Framework, Section 1.1). More specifically,

People placed in CD [community detention] may move about freely in the community without needing to be accompanied or restrained by an immigration officer or designated person. However, under the Act, they are still unlawful non-citizens; this means that they do not have the rights or entitlements of a person holding a valid visa. CD [community detention] placements generally have specific conditions attached to them, which include requiring the person to report regularly to the Department of Immigration and Citizenship (DIAC) and reside at the address specified by the Minister (Community Detention Operational Framework, Section 1.1).

Status-assignment of ‘client in community detention’ involves a determination by the Immigration Minister regarding the residence of the asylum seeker in the community. “The power to make, vary or revoke a residence determination may only be exercised by the Minister personally” according to the *Migration Act 1958*, Section 197 AF. The power of the Minister to make this status-assignment is “non-compellable” (Community Detention Chapter, Section 1.1), meaning that the Minister is not required to make this status-assignment for all asylum seekers.

The Community Detention Operational Framework, Section 1.1, Policy Background, explains that after October 2010 the Immigration Minister aimed to place all “children and vulnerable family groups out of held immigration detention facilities and into community-based accommodation” and thus status-assignment of “client in community detention” was usually
determined by the age and family situation of asylum seekers.

This determination must involve the specific name of the person and the conditions of their community detention. The *Migration Act 1958*, Section 197AB, outlines these requirements:

Minister may determine that person is to reside at a specified place rather than being held in detention centre etc.

1) If the Minister thinks that it is in the public interest to do so, the Minister may make a determination (a residence determination) to the effect that one or more specified persons to whom this Subdivision applies are to reside at a specified place, instead of being detained at a place covered by the definition of immigration detention in subsection 5(1).

A residence determination must: a) specify the person or persons covered by the determination by name, not by description of a class of persons; and b) specify the conditions to be complied with by the person or persons covered by the determination.

A residence determination must be made by notice in writing to the person or persons covered by the determination. [sic]

When a person is assigned the status of ‘client in community detention’ he/she is released from the detention centre. The *Migration Act 1958*, Section 197 AC, states that if “a residence determination is in force in relation to a person” then this constitutes “release from immigration”.

The term ‘client in community detention’ is used in policy documents, for example, the Community Detention Chapter uses the term ‘client’ 176 times, 16 of which used the term ‘client(s) in community detention’ when referring to asylum seekers who have been assigned this status.

Health and social services workers used the term ‘client’ 47 times during interviews, while asylum seekers did not use the term ‘client’ or ‘client in community detention’ to describe themselves. This highlights the assignment of this status to asylum seekers by the government, the understanding and use of this status by service providers, and the conditions in terms of policies, environments, and situations associated with this status.33

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33 The use of the term ‘client’ is representative of the contracting-out of detention services and community-based asylum seeker case management. This sets asylum seekers in a neoliberal context. The management of Australian detention centre and community detention ‘services’ is contracted to ‘service providers’ including for-profit corporations and not-for-profit organisations. The delegation of service management and delivery, and therefore responsibility for asylum seekers’ rights and wellbeing, to non-government view asylum seekers as ‘clients’, interrupts the democratic accountability of the government for asylum seekers’ human rights. Within this neoliberal context, asylum seekers are subject to market rules as customers/clients, rather than protected by government services which are
Like ‘person in detention’, the status of ‘client in community detention’ is a non-citizen status, differentiating asylum seekers from Australian citizens. For example, Section 1.1 of the Community Detention Chapter states,

people placed in CD may move about freely in the community without needing to be accompanied or restrained by an immigration officer or designated person. However, under the Act, they are still unlawful non-citizens; this means that they do not have the rights or entitlements of a person holding a valid visa. CD placements have specific conditions attached to them, which include requiring the person to report regularly to DIAC and reside at the address specified by the Minister.

This statement differentiates asylum seekers, as non-citizens, from people holding ‘valid visas’ and citizens. People holding visas and living in Australia are also non-citizens, however they are considered to have citizenship-like status (see Chapter Three). The Community Detention Operational Framework, Section 1.1, also states that “under the Act they are still unlawful non-citizens; this means that they do not have the rights or entitlements of a person holding a valid visa.”

The most relevant policies when an asylum seeker is assigned the status of ‘client in community detention’ include the Migration Act 1958 which documents Australian legislation regarding migration including asylum seeker matters; Community Detention Chapter of the Detention Services Manual; and the Community Detention Operational Framework. The Community Detention Chapter (Introduction, Page 1) provides instruction regarding how community detention is to be carried out:

this policy instruction relates to the Minister’s power under Subdivision B of Division 7 of Part 2 of the Act to make a residence determination. A residence determination may also be known as community detention, and is an accommodation placement for immigration detained people who are yet to have their immigration status resolved.

According to the Community Detention Chapter, Section 1.3.2, a key objective of status-assignment as ‘client in community detention’ is to “enhance wellbeing, resilience and self agency of clients awaiting resolution of their immigration status. Section 1.3.2 of the Community accountable for their human rights. See Moore (2013), Prokkola (2013), Stevens (2002), and Welch (2014) for further discussion regarding the neoliberal context in which asylum seekers are situated internationally.

34 See Chapter Three for an explanation of the implications of Australia’s stance regarding asylum seekers’ rights and in particular this policy statement in the Community Detention Operational Framework.
Detention Chapter document specifies that the objectives of community detention be to

- Enhance wellbeing, resilience, and self-agency of clients awaiting resolution of their immigration status.
- Provide suitable and stable accommodation and support to clients living in the community.
- Enable greater individual independence, empowerment, and social community participation.
- Enhance settlement outcomes for those clients granted protection.
- Support the status resolution process of clients on a return pathway.

The Community Detention Operational Framework also outlines these objectives. This framework specifies how community detention is to be carried out by organisations that are contracted to manage services for clients in community detention. In Section 1, it states that “this document provides a framework for delivering services by the contracted agencies to clients living in community detention.”

Being a ‘client in community detention’ is characterized by a combination of policies including those that restrict movement, restrict and control engagement in meaningful activities, limit access to services, promote volitional engagement in meaningful activities and promote access to services designed to fulfil basic needs. A combination of harming and protecting situations result from these policies, including constraint, isolation, uncertainty and disempowerment, increased freedom.

*Policies*

Policies are written statements in government documents, according to the Structural-Personal Interaction Process. Different policies apply to asylum seekers depending on status-assignment. When three types of policies – those that restrict movement, restrict and control engagement in meaningful activities, and limit access to services - are implemented, their consequences tend to be situations of constraint and isolation, and ultimately human experiences of suffering. This analysis considers these three types of policies to be likely to have harmful consequences, and they are therefore referred to as ‘harming policies’. Implementation of policies that promote volitional engagement in meaningful activities, and promote access to services designed to fulfil basic needs tends to have more positive consequences including situations of support and increased freedom, as well as movement towards human experiences of wellbeing. Therefore, these policies are referred to as protecting policies.
According to the Structural-Personal Interaction Process, policies are determined by the designation of status, as ‘person in detention’ or ‘client in community detention’, to an asylum seeker. They then shape the situations that asylum seekers encounter.

**Harming policies**

*Policies that restrict movement*

Policies that restrict movement are statements in government documentation that asylum seekers cannot move outside certain spaces. For example, asylum seekers in detention must remain within the detention facility (Detention Contract, Section 2, Part 2.2.1) and asylum seekers in community detention must always sleep at their place of residence and thus cannot travel away from their local area or stay with friends/family (Community Detention Chapter, Section 5.8; Community Detention Operational Framework, Section 9.13).

*Policies that restrict and control engagement in meaningful activities*

Policies that restrict and control engagement in meaningful activities are statements in government documentation that limit opportunities for engagement in meaningful self-chosen, self-organised activities that hold significance to an individual. These policies specify dependence on an external person or organisation (e.g. detention centre, support service, case manager) to engage in those activities. For example, policies that do not allow asylum seekers to work in the community (Community Detention Chapter, Section 5.6); those requiring ongoing, regular, intensive monitoring of the movements, actions, responses, and wishes of asylum seekers (Detention Contract, Section 2, Parts 2.1, 1.10, 3.6 3.7, 3.8, 3.10, 3.13, 3.14, 1.2.7, 1.7 and 1.9); and those that specify that services for health, food, and communications are to be determined by and arranged by the detention facility and not asylum seekers themselves (Detention Contract, Section 2, Parts 1, 2, 3, and 4).

*Policies that limit access to services*

Policies that limit access to services are requirements stated in government documents that restrict services available to asylum seekers. While there is mention of mental health awareness (Detention Contract, Section 2, Part 3.9), and supervision of those at risk of emotional distress, suicidal behaviours and self harm (Detention Contract, Section 2, Part 3.14) there was no specific policy regarding access to specialist mental health services for asylum seekers in detention centres.

The Community Detention Chapter, Section 5.2.2, states that asylum seekers’ care plans are to specify the services to be provided for schooling, English lessons, and health. However, access to services is also restricted through this policy because service providers cannot be freely chosen by asylum seekers and they are required to use the allocated services.
Protecting policies

Policies that promote volitional engagement in meaningful activities

Policies that promote volitional engagement in meaningful activities are statements in government documentation that free asylum seekers from restraint, support independence, and allow them to make decisions to engage in personally significant activities. This was especially evident in community detention policies. For example, in the Community Detention Operational Framework, Sections 1.1, 1.2, 4.1.2, 4.2.1, and 5, include policies that allow asylum seekers who are ‘clients in the community’ to choose where they go within the community; whether they live in a detention centre or in the community; whether or not they comply with their commitments to pay utility bills; and if, how, and when they wish to engage with social networks, cultural activities and daily life activities.

Policies that promote access to services designed to fulfil basic needs

Policies that promote access to services designed to fulfil basic needs are written in government documentation that provide asylum seekers with support to achieve an adequate standard of living including access to food, accommodation, health and safety, clothing, basic material goods, communication with family and friends, and hygiene. Examples include the Community Detention Operational Framework, Section 5.5, outlining an assessment of asylum seekers’ needs in order to determine the support required; Section 10.5, specifying access to free emergency health care at public hospitals; and Section 12.3, appropriate support for accommodation, schooling, English lessons, health, independent living, religious needs, financial management skills, and understanding rules and laws. The Detention Contract, Section 2, also outlines policies that promote access to services designed to fulfil basic needs. Services designed to fulfil basic needs that are promoted by the Detention Contract, Section 2, include policies regarding visits from family and friends (Part 1.1); access to fax, photocopy and telephone services (Part 1.2); the shop at the detention centre selling a range of basic goods including items for personal care (Part 1.11.1 c); provision of a basic haircut service (Part 1.11.2 that); access to internet (Part 1.2.3); provision of clothing appropriate to the journey and destination climate (Part 2.6 a (ix)); emergency systems for fires, power outages and first aid (Part 2.11 ); provision of breakfast, lunch and dinner (Part 3.1 c); and emergency medical and physical health services (Part 3.6).

Situations

Situations are the conditions within the surrounding environment and can be considered as harming or protecting. They are consequences of policy implementation and, therefore, also the consequences of status-assignment. Situations form the link between the status-assignment
mechanism and translation to human experiences mechanism. In the status-assignment mechanism, status determines the policies that apply to an asylum seeker. Policies then determine the situations encountered within his/her environment environments. Subsequently, these situations interact with personal characteristics (discussed in Chapter Nine) giving rise to human experiences in the translation to human experiences mechanism.

This grounded theory analysis identifies that asylum seekers might encounter any combination of the following situations depending on the policies that apply under the status to which they have been assigned:

- situations of constraint, in which asylum seekers are restricted from activity
- situations of isolation, in which asylum seekers are alienated from society
- situations of uncertainty and disempowerment, in which asylum seekers do not know what will happen to them in the future
- situations of freedom, in which asylum seekers are able make individual decisions and choose their own engagement in their day-to-day activities
- situations of support, in which support is provided to asylum seekers through services and from informal networks such as family and friends

The first three situations are harming situations because they tend to be linked to human experiences of suffering. The latter three are protecting situations because they tend to be linked to movement of human experiences towards wellbeing. Each is discussed.

**Harming situations**

**Situations of constraint**

Situations of constraint are conditions in which engagement in activity is restricted. Situations of constraint in detention centres include imposed living arrangements, including being unable to leave, and dependence on the centre’s routine. In community detention, situations of constraint include prohibition to work, which limits finances. For asylum seekers with either status, situations of constraint also include being unable to access education or training, being dependent on services to meet personal needs; living under high levels of monitoring; being restricted by rules and regulations; limited access to resources; dependence on money distributed by government or government contractors; and limited opportunities for engagement in meaningful activities.

One health and social services worker who was interviewed described the restrictions placed on asylum seekers in the community in terms of movement, work, education, and living arrangements:
One of the main complexities that I find is having to negotiate the system because these clients are still asylum seekers, so they have all these restrictions placed on them… they have to put in an application to DIAC if they want to stay at a friend’s house for the night, or if they want to go visit their brother in another area of the state, they have to put in a request through me and then through DIAC just to do that, and they can’t work, they can’t study, yeah, if they want to move house they have to put in a request. You know it’s very monitored, …I feel that that’s why; their freedom is quite limited.

Another interviewee explained the situation of constraint for asylum seekers in detention. They are restricted in their opportunities to make decisions about their own daily activities, such as meal preparation and eating:

if they’ve been in detention for two years they can’t even choose what they eat at night, they just get whatever is given to them. So [when asylum seekers move to community detention] it’s important to try and get them to feel in control again, and able to make decisions and able to make choices for themselves.

Similarly, survey respondents described situations of constraint including “limited resources”, a “lack of real freedom” in community detention, “total confinement” in detention centres, “monitoring”, “rules”, and “lack of [opportunities for] activity” especially in detention centres. Situations of constraint are common for asylum seekers. All participants in the research described situations of constraint when describing the situations that asylum seekers encounter, especially in detention centres.

Situations of isolation

Situations of isolation involve asylum seekers being separated from society physically and socially. This includes being limited in opportunities to engage with people outside detention centres. It also includes challenges to engaging with people who are not asylum seekers in the community because of language barriers, prejudice, and cultural differences. Like situations of constraint, situations of isolation were described by all participants.

Illustrating situations of isolation for asylum seekers with the status ‘person in detention’, one survey respondent explained that asylum seekers in detention are “isolated. For some people, the only interactions they have with Australians are [with the detention centre] guards.” Another survey respondent explained that asylum seekers in detention centres have “limited contact with [the] wider Australian community.” Explaining the mental distress he experienced in association with living in a situation of isolation, one asylum seeker explained that in detention “I can’t see the
outside world, couldn’t see people, couldn’t go shopping, missed everything, and missed the family, the siblings, my grandmother back home. The two years I was crying in the detention centre.”

Survey respondents provide examples of asylum seekers living in situations of isolation in community detention. For example, asylum seekers are “isolated in CD [community detention]” according to a pastoral care worker involved with parish programs for asylum seekers in the community. Another survey respondent explained that “language barriers limit the ability of asylum seekers to form relationships with Australians so their social circles can be very small”, demonstrating how situations of isolation arise when asylum seekers have limited English. Similarly, another respondent stated “efforts should be made to enable asylum seekers to attend English classes so they can communicate with Australians and people around them.”

Feeling alienated from Australian culture is another aspect of situations of isolation. For example, a survey respondent with fifteen years experience working with asylum seekers in the community explained that

some asylum seekers I have met have felt alienated by what they see as Australian culture - fear about the way women dress, language, and the lack of perceived respect Australians seem to have for family. They have expressed that they feel pressure to Westernise and feel disconnected from who they feel are ‘Australians’.

Illustrating a situation of isolation through feeling alienated from Australian culture an asylum seeker expressed,

I have lots of problems… in my culture, in my community, people are different to here [in Australian culture]. In here when the child is getting over 18 or 19, they’re living separately from their parents. For us it’s not like this, even if our child, we love each other, we’re very close to each other families. Even if the child is getting 30 or 35, they are still living with their parents because we are close and we love each other.

A survey respondent who explained, “asylum seekers often come from cultures that are event based, rather than time based, so can miss crucial appointments or appear lazy or disorganised” provided another example. This example shows how, through cultural differences, asylum seekers might be perceived as lazy or disorganized and thus be alienated. It also illustrates how asylum seekers might miss appointments, which would further contribute to situations of isolation, as they
are not meeting with people who might be able to provide them with support.

An interviewed case manager described situations of isolation involving difficulties engaging with other people because of prejudice. She explained that it is very harming for someone to know that they’re not wanted or needed in this country…[if you are an asylum seeker] you can’t really make very deep relationships with people from the community because you’re feeling unwanted, so you can’t establish that with people, and that’s hard.

Exemplifying these feelings of prejudice and being unwanted, an asylum seeker explained, “they [people in the Australian community] don't want boat people to come, but they cannot obviously say it. … Australian people, citizens, they think asylum seekers are angry, they are like savages.” A survey respondent further explained that asylum seekers “would like to connect more with mainstream society.”

Situations of uncertainty and disempowerment

Situations of uncertainty and disempowerment occur when asylum seekers do not know what will happen in the future and lose agency to determine their own futures by being deprived of power. Such situations are found in both community detention and detention centres. Situations of uncertainty and disempowerment are linked to human experiences of mental distress. An asylum seeker explained that “you don’t know what’s going to happen to you in the future.” His words illustrate the uncertainty he experienced. He described what would happen to him in the future, rather than what he would do, which suggests a sense of powerlessness.

All interviewed asylum seekers, health, and social services workers and survey respondents discussed uncertainty in terms of asylum seekers not knowing when their visa status might be determined and for how long they would be assigned their current status, that is, ‘person in detention’ or ‘client in community detention’. A case manager explained, “it’s hard [for asylum seekers] and not knowing how long they’ll be in CD for and how long it takes to get their visa.”

Re-iterating this point, an asylum seeker expressed that he lives in an environment in which his future is uncertain, “this is the most thing I can say about. Uncertain. I don’t know when they’re going to give me the visa.” Another asylum seeker described his ongoing exposure to situations of uncertainty and disempowerment since arriving in Australia. He recounted, “I suffered in my home country and I came here. Nearly I’ve been here two years: one and half years in detention centre and I’ve been in community [detention] for three months. And until now I don’t know what the future is for me.”

Survey respondents provided insights regarding the ways in which harming situations of
uncertainty and disempowerment contribute to the suffering experienced by asylum seekers. For example, a survey respondent commented that “uncertainty over a long period of time can lead to depression and mental health problems.”

Regarding the disempowerment that asylum seekers encounter, the associated mental distress, and experiences of having ‘nothing to do’, a survey respondent explained that there are few decisions they can make, how restricted is their freedom. They are forced into roles of "takers" rather than "givers" and are powerless. [The resulting] mental health issues are extreme and long lasting. If they obey the system there is little they can do [in their day-to-day lives], so they sleep all day and phone family at night or walk a lot. They are often highly medicated with a variety of anti-anxiety/depressives.

Another survey respondent explained the link between harming situations of uncertainty and disempowerment and the mental distress seen in self-harm behaviours, “they have no control over most aspects of their lives. The only things they have control over are their bodies, so they use these sometimes in a self-harming way to protest at their conditions.”

Situations of uncertainty and disempowerment were consistent for both ‘people in detention’ and ‘clients in community detention’. This was confirmed in the follow-up survey, in which all respondents agreed that uncertainty did not change with status change from ‘person in detention’ to ‘client in community detention’. Situations of uncertainty and disempowerment are common for asylum seekers, regardless of status-assignment.

**Protecting situations**

**Situations of increased freedom**

In situations of increased freedom, asylum seekers are able to make individual choices and engage in personally significant day-to-day activities. Situations of increased freedom were evident when participants described community detention in comparison to detention centres. For example, survey respondents stated that the pros of community detention in contrast to detention centres included “relative freedom”, “a degree of freedom”, “some freedom”, and “more freedom”. All descriptions of situations of increased freedom include qualifiers (e.g. some, relative) indicating that, in comparison with detention centres, conditions of freedom are greater; however, overall there is a “lack of real freedom” for asylum seekers in community detention.

These are predominantly situations that asylum seekers desire, rather than situations that they encounter. Asylum seekers spoke about their unfulfilled expectations of freedom and their desires for freedom. For example, “the things I was expecting from here: that here in Australia
there is more freedom than in my country, that’s it. But I'm not fully free.” Another asylum seeker described what he imagined as a situation of increased freedom, “I would like to have the freedom to at least choose where to live and where to work.”

Situations of increased freedom were linked to experiences moving in the direction of wellbeing. For example, having increased choice “is a much better situation. The person can be occupied and has things to do. While still concerned about the uncertainty of their future, they can be relatively happy on a day-to-day level.” This response illustrates that asylum seekers’ experiences move towards wellbeing, having something to do, and reduced mental distress, feeling ‘relatively happy on a day-to-day level’. When compared with situations of constraint, isolation, and uncertainty, reports of situations of increased freedom were not as common.

Situations of support

Situations of support were described in interviews and survey responses and observed by the researcher. These situations include support from health and social services as well as from family and friends. Participants specifically noted legal services, health services, torture and trauma counselling services, case management services and English lesson services.

Situations of support include

• health and social services providing emotional and psychological support,
• links with other services,
• stable ongoing relationships with staff,
• medical services,
• attendance at English classes,
• activities such as sports and music,
• case management,
• support to engage in volunteer work when in community detention,
• support through advocacy to DIAC,
• orientation to living in a new country,
• linking children with schools,
• fulfilling basic needs including clothing and accommodation in the community,
• providing interpreting services,
• distributing allocated finances and emergency financial relief for those in community detention, and
• the care and positive attitudes of many support service staff and volunteers.

Services that provide support include organisations contracted by the government,
organisations sub-contracting to other organisations and charities with no government affiliations that employed both paid staff and volunteers. While these services were described as part of the situations of support that asylum seekers might experience, participants saw these supports as insufficient and difficult for asylum seekers to navigate. Survey respondents noted that resources are “inadequate”, there is “limited funding” for organisations to provide support, and services exist within a “complex maze of contracting and sub-contracting” organisations. Health and social service workers who were interviewed provided similar information regarding the limitations on situations of support.

While limitations to services existed, which downgraded situations of support overall, asylum seekers described the support provided by health and social services in situations of support as an influence that helped them move in the wellbeing direction. For example, an asylum seeker explained that, in terms of supports that have helped him feel hopeful, “the most things were about the volunteers.” One asylum seeker explained how being in a situation of support resulted in movement of his experiences in the wellbeing direction, “I’m happy because of the nurses, doctors, and they were all supporting me, they were very good. And they helped me a lot, to get better.”

Another asylum seeker described a situation of support involving his case manager helping his experiences to move towards wellbeing:

My case manager, she was not only like a case manager, she was like a relative to me, she was so helpful, I can’t forget it in my life…. my mind was so upset and I didn’t have proper memory to remember things so in that sense she always reminds me of my appointments. Every day she calls and says you have appointments, and one hour before she calls me and says you have an appointment. This was really helpful for me, and so much caring giving calls and checking and asking about my health. Like a mum she used to care when I was sick, referring to doctors, taking to doctors, that sort of thing

Situations of support also include relationships with family and friends. For example, one asylum seeker stated “my husband is very helpful for me” and another explained that friends he had made in Australia provided support and helped him to move towards wellbeing, “the people I’m seeing are giving me hope and helping me see something for the future…. They were nice. They were Australian, nice people. And that’s why they made me to become hopeful.”

Survey respondents described strengths that support asylum seekers’ positive mental health as including “support from their own community”, “support networks”, “camaraderie”, “sense of community (within cultural group)”, and “community network”. This suggests that situations of
support in which relationships with friends and family are supportive move asylum seekers’ experiences towards wellbeing.

**Personal characteristics**

In the translation to human experiences mechanism, personal characteristics interact with asylum seekers situations to shape their human experiences. Personal characteristics include people’s abilities to cope with adversity and personal histories. ‘Abilities to cope with adversity’ refer to resilience in the face of difficulties. ‘Personal histories’ can include family situations; past traumas; and life events locally in Australia, during journeys to Australia and in original home countries.

The human experiences asylum seekers have when they encounter their surrounding situations are, to use the words of a case manager participant, “all depending on the person and their own journey.”

While patterns are noted in the data, each person’s human experiences are unique. Each person encounters situations involved with seeking asylum in Australia in conjunction with their own individual abilities to cope with adversity and their own personal histories. Thus, their human experiences within those situations are individualized and unique.

Personal characteristics combine with situations, and this translates to asylum seekers experience. Personal characteristics include, but might not be limited to, abilities to cope with adversity and personal histories. Both are discussed.

**Abilities to cope with adversity**

Individual abilities to cope with adversity can be understood as resilience when faced with difficulties. One health and social services worker described the different abilities amongst asylum seekers in terms of understanding and coping with information that she provided to them about living in Australia:

Different people react to things differently. So there would be a group that just go with the flow and understand it. See with people that are well educated and can understand where you’re coming from, whereas with people, for example, who have some serious mental health problems, or they’ve got a lot of issues at home, understanding that or comprehending the information that you provide them would be very difficult for them. So even though you’re providing the information it still doesn’t really get through and that’s because of a lot of factors which I’ve just mentioned: mental health, issues at home, just not understanding the general system all together, um yeah, so you know, you do get the group that
would go with the flow and just struggle with it but live, and then others who just
wouldn’t cope with it, or just would not comprehend information to start with, so
that’s obviously a lot more challenging to deal with.

In terms of the contribution of personal characteristics, some asylum seekers seek
engagement in activities as a way of coping while others experience a loss of motivation to engage
in activities because of their living situations and their ongoing uncertainty. For example, one
asylum seeker explained, “I need to go to the next step and have a bit of life. It’s not good to sit
down and wait for a visa, it’s not life. I need to work, I need to study, I need to start a family, but I
can’t do it right now.” Whereas, a survey respondent explained “most asylum seekers I have met
have been depressed and reported limited motivation to engage in activities, some find it hard to
socialise or engage with others.” One survey respondent explained that “some people are less
vulnerable.” These different abilities to cope with adversity interact with the situations that asylum
seekers encounter to result in their human experiences.

**Personal histories**

Personal histories include family situations, past traumas, and life events during journeys to
Australia and in original home countries. Asylum seekers’ responses to situations were influenced
by their personal histories. Personal histories that were shared by participants include such drastic
experiences as fear for personal and family safety, stories of persecution, torture and trauma,
human rights violations, and dangerous journeys to Australia. For example,

I didn’t want to take a boat here or pay $6000 to come here. The boat might sink
in ocean, I took a 50/50 chance, I took a risk because if I stay at home my
government will kill me. I didn’t have any choice. I am from [a particular ethnic
minority] which is persecuted in my home country.

The following quote from an asylum seeker elucidates the interactions between personal
histories and situations in detention centres in Australia:

Ten years in my childhood, I was in [one country], after that I moved to [another
country] and the people there were so bad, especially because they always fight
[were always violent]. And we have to go to the outside [outside our hiding
place] to work to bring some money for our children and wives, and when we
come back from outside to my home, the police were catching me and forced me
to give them my money, and then [if I give them my money] they do nothing
with [don’t harm] me.
Whatever I earn during the day, then I give to the police to free me to go home. That’s, I had a bad life for 30 years in my home country. Every time, the police arrive and force me to give them money.

I didn’t live free because I didn’t have an identity card for my home country because I was [from an ethnic minority]. When I came, I lived for 30 years in my home country in this very bad situation, and when I came here I had very bad luck as well…Whatever my family and I had we sold it [for me] to come to Australia, and the person told me in my home country, ‘you’re going to stay for four months in the detention centre, and after that you can be free, you can work and send back money to your family.’

I have five children, one wife, and my old mother. They don’t have anything to eat because I’m in the detention centre and I don’t have a job and any money to send back for my family. For my oldest son the police at home took him for two months... he is not alive anymore.

At this point in the interview, the participant was upset, shaking, and crying and the interview was ceased to support his psychological safety. The participant wanted to continue the interview later, which occurred after one week, following communication with his case manager.

The same asylum seeker ended his interview sharing a picture (see Figure 7.2). He explained

This picture is, one day I was so upset and one of the guys he drew this picture for me. This is me in here [a bird in a cage]. And this is my children [small birds in a nest far away]. They open their mouths and they need food. They are waiting for their father to bring food for them to eat. But because he’s in here [pointing at the cage], he can’t go to help to the children and so there is no water or food. He can’t feed them or give them a drink. There is also a snake over there trying to eat the children. This is the illustration of my life in this picture.
Figure 7.2 The illustration in question as drawn by an asylum seeker.

In the description of this image, the participant illustrated how his personal history, including his family situation (represented by the small birds in the nest) and experiences of persecution in his home country (represented by the snake), interacted with his current situation of constraint (represented by the cage) to result in his current feelings of mental distress. He also described having ‘nothing to do’ to support his family, not being able to engage in work.

Another asylum seeker explained the interaction between his personal history and his situation. Recounting his personal history, he described his family situation and trauma in his home country interacting with the situation of uncertainty and disempowerment in which he was living. In relation to his personal history and living in situations of constraint, uncertainty and disempowerment, he described experiencing suffering in that he no longer has an interest in life and he has lost his health. He explained,
there was a lot of pressure on me. When I left my country I was under pressure…I have been through a lot, one of my brothers was killed, and one of them is missing. Until now, we don’t know what happened to him. My family have left for another country and now immigration, they’re not looking at me at all…. I don’t feel the life.

This demonstrates the way in which his personal history interacted with his situation while seeking asylum in Australia to contribute to his human experiences of suffering.

A continuum of human experiences

Based on the data collected, human experiences are responses to the situations that asylum seekers encounter. Human experiences are found in responses related to asylum seekers’ emotional reactions and their engagement in activities (what they do or do not do), both of which were explained in terms of suffering and wellbeing. The data obtained in this research indicated that human experiences for asylum seekers lie along a continuum, in which one side is the suffering zone, and the other side is the wellbeing zone.

Human experiences that lie in the suffering zone of the continuum involve mental distress and having ‘nothing to do’. Conversely, human experiences that lie in the wellbeing zone of the continuum involve feeling hopeful, feeling safe and having something to do. Asylum seekers’ human experiences may lie along the suffering-wellbeing continuum at different points between the two extremities of suffering and wellbeing.

The term human is important in the description of asylum seeker’s experiences because it highlights the uniquely human trait of being cognitively aware of one’s physical and mental state.\textsuperscript{35} Thus, human experiences involve asylum seekers being consciously aware, as only humans can be, of their responses to their situations, and not experiencing them simply as subconscious physical or mental reactions.

All survey respondents and health and social service workers who were interviewed used words including ‘some’ and ‘many’ to describe the human experiences of asylum seekers, indicating that while they were describing patterns they had noticed, their recounts and descriptions do not apply to all asylum seekers, because each person’s human experiences are unique. This suggests that asylum seekers’ human experiences along the suffering-wellbeing continuum are moulded by an interaction between the situations in which they find themselves and their personal characteristics. In this chapter, the concept of the suffering-wellbeing continuum is explained, then

\textsuperscript{35} See Chapter Two for a description of the uniquely human ability for cognitive awareness of physical and mental states.
Chapter Nine provides details of patterns of asylum seekers’ human experiences, with a focus on the translation to human experiences mechanism.

**The suffering-wellbeing continuum: the suffering zone**

On one side of the continuum lies the suffering zone. This describes experiences that are negative, distressing, and aversive. Mental distress, suicidal and self-harm behaviours, as well as having ‘nothing to do’ characterize the suffering asylum seekers experience in the suffering zone. The use of the term suffering has been drawn from the data, for example, an asylum seeker asserted “you imagine yourself, you live in detention centre for only two days – you will see how much you will suffer.” A pattern was noticed in the data which indicated that asylum seekers in Australia predominantly have experiences that lie in the suffering zone of the continuum.

With respect to mental distress, asylum seekers’ experiences of suffering involved a loss of interest in life, indignity and shame, as well as suicidal and self-harm behaviour. Experiences of suffering in terms mental distress were expressed by interviewees and survey respondents as “fear”, “anxiety”, “worry”, “craziness”, “distress”, “frustration”, “hopelessness”, “depression”, “stress”, and “confusion”. Another survey respondent who is a psychologist with three years experience working with asylum seekers explained that people in detention experience “depression, feeling totally hopeless, suicidal ideation and paranoia often to full-blown cases of PTSD.”

Asylum seeker interviewees, professional interviewees, and survey respondents commonly described suicidal and self-harming behaviours by asylum seekers when they described the mental distress experienced. Suicidal and self-harming behaviours were more commonly described regarding asylum seekers in detention centres, than regarding those with the status ‘client in community detention’.

One case manager explained that in community detention asylum seekers’ “mental health would be very severe that they’re actually not leaving their house, that they’re, for example, threatening suicide”. Many survey respondents also commented on suicidal and self-harm behaviours carried out by asylum seekers as a mental distress response to their situations. A case manager who worked in a detention centre reported that “many asylum seekers speak of self-harm and suicidal ideation and a number of asylum seekers I work with regularly self harm, while others have attempted suicide on numerous occasions.”

Four of the seven asylum seeker participants provided personal stories about attempts at suicide or self-harm in detention centres. Asylum seekers and those who worked with them saw conditions in the detention centre as the main causes of distress leading to suicidal ideation, attempts at suicide, and self-harm. One man showed his scar and asked “can you see this line on my
neck? That was a suicide attempt. They put me for five days in hospital because they thought my neck was broken… it was a really serious one, but I survived.” Another man told his story of overdosing on Paracetamol with the intention of ending his life in a detention centre.

I get tablets from all of the people who were in the detention centre, and just take, give them, ask that ‘do you have a [tablet]? Because I can’t go to sleep.’ ‘Do you have a Panadol [paracetamol] to help me sleep?’ And they give it to me, and I get them from everyone and I had too many tablets and I wanted to kill myself so I ate that, and then the security knew me, and he’s working at night, and I was falling down with this dizziness and the security take me to the hospital.

Explaining the experiences of people he knew in the detention centre, as well as his own story, another asylum seeker explained,

in detention centre, there was one guy, I know him, who was a [name of country] national and he was in the detention centre and he ended his life, and the government said he ended his life because he was rejected and he was upset. But they don’t say he was under a lot of pressure and a lot of stress because he was long in the detention centre… I know about seven or eight of them they were like, finished, they ended their lives, from these refugee detention centre surrounds…

The same thing happened, I’ve been through it too. I’ve been through a point where I have to end up my life, because every time I was explaining to them I just need to get out of detention. You don’t have to grant me a visa now, just take me out of detention, but nobody listened. So until I attempt to suicide, and I failed, then they delayed me another eight months, so they put me in five months in psychiatric hospital.

Participants described their experiences of seeing others self harm or attempt suicide and the negative effects that had on them. An asylum seeker explained,

they tried to kill themselves and try to hurt themselves. And getting, hitting his head on the floor. And blood’s coming from their faces and their hands. When I see those people I felt very sadness and very depressed and anxiety. And I am in the same situation.

Many participants in the interviews and surveys indicated that having ‘nothing to do’ was also an aspect of suffering and all respondents to the follow-up survey agreed that having ‘nothing to do’ was an aspect of suffering. For example, a survey respondent stated that “many [asylum
seekers] are chronically under-occupied.” In terms of having ‘nothing to do’ asylum seekers experience limited opportunities for engaging in meaningful activities including work, study, and family roles.

*The suffering-wellbeing continuum: the wellbeing zone*

On the other side of the continuum, in the wellbeing zone, wellbeing is characterized by having something to do, feeling hopeful about the future, and feeling safe. The phrases having something to do, having hope and feeling safe were drawn from the language used by interview and survey participants. Wellbeing is a term used by survey respondents to describe these experiences. For example, one respondent explained that certain environments are “better for wellbeing.” Descriptions of asylum seekers’ experiences of wellbeing were few in comparison to experiences of suffering.

Asylum seekers experience wellbeing as having something to do. For example, a survey respondent who worked at a detention centre explained that more resources are needed at detention centres “because to maximize health and wellbeing we promote engaging in activities, yet activities are limited when you have no resources.”

Most asylum seekers and all professionals who were interviewed, as well as many survey respondents, spoke of feeling hopeful as an aspect of wellbeing. This is often related to asylum seekers’ relationships with people around them, “the people I’m seeing are giving me hope and helping me see something for the future… [They] give me good hope for the future.”

All asylum seekers noted feeling safe when they discussed the differences in their wellbeing between their home countries and Australia. Experiencing a sense of security of person, or feeling safe, was the primary reason for coming to Australia noted by all asylum seeker participants. For example,

if I didn’t have issues in my country, I would not leave my country, I would have stayed in my country. A lot of things, I keep it inside, I don’t want to talk about it, but here is a story, see this scar here it’s from an explosion, I was about 20 meters away from it in my home country, and I was injured here.

Another asylum seeker explained that he left his home country to seek safety, and not because he did not have shelter or enough food, “She [a nurse] said ‘what is your problem? You have somewhere to sleep and something to eat’. I said ‘I had both of them in my home country but this isn’t the reason I came. I came here to escape from danger’.”

Experiencing feeling safe in Australia was an aspect of wellbeing for asylum seekers. A range of comments made by asylum seekers highlight that they perceive that their lives are no
longer at risk of persecution now that they are in Australia, “I can feel it is safe,” “I feel safe here,” and “the differences between my life in my home country and here, here only I feel safe.”

Overall, the suffering-wellbeing continuum ranges from experiencing suffering, where asylum seekers have ‘nothing to do’ and feel mental distress to experiencing wellbeing where asylum seekers have something to do, have hope and feel safe. Asylum seekers’ experiences lie along this continuum between suffering and wellbeing, and experiences change over time.

The suffering-wellbeing continuum: between the extremes

Asylum seekers’ human experiences often fall somewhere between the extremities of the suffering and wellbeing zones on the continuum. For example, when asked about “asylum seekers living under policy that promotes access to services designed to fulfil basic needs”, survey respondents explained that asylum seekers experience “improved mental health” as well as continuing to experience “confusion”, “anxiety”, “depression”, “boredom” “despair” “anger” and “mental illness”. This suggests movement in the wellbeing direction along the continuum, but remaining in the suffering zone. One survey respondent who worked in a community detention service explained that asylum seekers’ human experiences vary, ranging from the two extremities of the suffering-wellbeing continuum. She explained asylum seekers’ responses to their situations, “at worst, helplessness, hopelessness, anxiety, depression and suicidal thoughts. At best, joy, empathy, love, ambition and elation.”

This participant explained that “there certainly are in-between times” when he was asked if there is anything between the best and worst experiences of asylum seekers. He provided the following example:

I knew a young man, let's call him Ali, who had waited over 9 months in community detention for a protection assessment. During this time he shrunk from intelligent, confident, affable young man who attempted school regularly and did extra study at a local university, to a quiet, cynical person who often missed school. He often speculated about a negative outcome. … It was a slow decline in temperament for this young man. Over time, his anxiety grew and grew.

This example illustrates how Ali moved along the suffering-wellbeing continuum in the suffering direction with increased time as an asylum seeker. He experienced a gradual intensification of mental distress as indicated by growing anxiety and deterioration of his temperament. He also experienced movement away from the wellbeing end of the continuum as indicated by reduced hope about the future when he speculated about a negative visa outcome. In
terms of having ‘nothing to do’, Ali began to miss classes. While he had something to do by going to school, his engagement in this activity reduced over time. Initially Ali’s experiences might have been in the wellbeing zone. Over time, they slid further along the continuum in the suffering direction, into the suffering zone.

Asylum seekers described their human experiences as “varying”, getting “better” or “worse” depending on their situations. These descriptions demonstrate how asylum seekers’ human experiences do not simply lie at the suffering or wellbeing ends of the continuum, but that their experiences are dynamic and changing. In the Structural-Personal Interaction Process, experiences are conceptualised as moving along a continuum, rather than being two discrete, static categories of suffering and wellbeing. Chapter Nine provides more details regarding patterns of movement of asylum seekers’ experiences along the suffering-wellbeing continuum.

Illustration of the Structural-Personal Interaction: Riti’s story

Harming situations of constraint and isolation, as specified by harming policies that restrict movement in the Detention Contract, interact with asylum seekers’ personal characteristics to result in their human experiences. Asylum seekers’ human experiences generally lie in in the suffering zone of the suffering-wellbeing continuum.

Riti (alias), an asylum seeker, described encountering harming situations of constraint involving restricted movement at the detention centre and his human experiences of mental distress including feeling frustration, indignity, and anxiety. He explained that these were feelings he and other asylum seekers experienced in association with the behaviour management measures that were taken in line with the Detention Contract.

Interviewee: What the police did is they close off the door, [for] every people. They just, that’s not right! That [other] people made the trouble [and we were punished]. Whatever they does, we didn’t do anything. Why they doing for everyone, not for the people who made the trouble? That isn’t right for us!

Interviewer: So you were shut in your room?

Interviewee: Yes. Yeah, they locked me for twelve days … The two people made fight and made terrible [problems] in the detention centre, and the police were, for all of the detention centre, put us in the locking [locked room] and we weren’t allowed to come out.
So they take them, about nine people, they take out from them from detention centre, taken to the other place where it’s worser than the detention centre. They lock them in the room for one night. When we, the other refugees [asylum seekers], heard that the nine people were locked in that room and the about 200 people protest, and we broke that door and windows and we let the nine people out.

And when they [the authorities] took the other people from that room, they were giving them some medicine to make them feel sleepy, dizzy, and I don’t know what the police [were] giving [to] that people, what kind of medicine they giving to them.

Because they’re [detention security] doing very bad behaviour with us [treating us poorly], I had to sit and do nothing. The people who were in the camp for two or three or four years, and because they are tired from there and they keep screaming and saying ‘we want freedom’ and the police comes out and the shock us with a tazer, and one of us they broke [his bones]. And one of the detention centre people they broke someone’s leg, and one of them they broke his knees, and they broke everywhere, the police people had bad behaviour with the refugees [asylum seekers].

We just said the words, not to broken something [we weren’t physically breaking anything]. But we first were put in the prison for a one night for nothing and then we got upset and we keep screaming ‘we want freedom’. Just because of the two people who made the fire, from that time the police were, we got the detention. Everyone, and not just the two people who made trouble. After that the people, the refugees [asylum seekers] get tired and we were screaming ‘we want freedom’ and the police took action.

They didn’t talk to the refugees [asylum seekers] like ‘calm down and we will help you, it’s getting step by step, we have to process it, we have to do this, that’ they didn’t talk like that to the refugees [asylum seekers]. The police just come and gas and eye tears come
out, and they come and do whatever they can and they didn’t talk verbally. They didn’t treat us like human beings.

This story illustrates the implementation of harming policies that apply to asylum seekers who have been assigned the status of ‘person in detention’. In particular, it explains an instance in which the “interventionist or restrictive measures” stated in the Detention Contract, Section 2, Part 3.10 were implemented to restrict the movement of asylum seekers, creating situations in which they were constrained and isolated in the environment of detention centres. This illustrates the status-assignment mechanism in that Riti was assigned the status of ‘person in detention’ and placed in a detention centre, the Detention Contract was applied when there was ‘trouble’ caused by others and it’s application created a harming situation for Riti.

Riti also explained his personal history, which involved dangerous interactions in his home country with police who persecuted the ethnic minority of which he was a part, and how this interacted with the situation in Australia to play into his human experiences of suffering. He explained that

people from this ethnic minority were considered criminals there [in my home country], here, I come here to get a good life, and a quiet life. When I saw the police had a very bad behaviour with the refugees [asylum seekers in the detention centre], at night I wake up and I’m shaking that maybe the police come and hurt me.

This illustrates the translation to human experiences mechanism, his personal history interacted with the harming situations of constraint in the detention centre, which contributed to his human experiences moving further in the suffering direction of the suffering-wellbeing continuum. Overall, Riti’s story shows how harming situations of constraint and isolation were linked to asylum seekers’ human experiences which lay in the suffering zone of the continuum. Asylum seekers had ‘nothing to do’ when they were locked in a room. Riti suffered mental distress, feeling like he wasn’t treated like a human being, and screaming that he wanted freedom.

Reports of discriminatory and brutal treatment of asylum seekers in some detention centres

Riti’s story also indicates that asylum seekers in some detention centres were treated brutally by staff at detention centres including physical violence, tear gas and forced use of medication to sedate asylum seekers. Other asylum seekers also suggested discriminatory treatment
by some staff at some detention centres in Australia, for example, one asylum seeker said “some nurses, they were really racist, and they hate the word asylum seeker or refugee. The way they were treating us was really terrible.” Another asylum seeker recounted detention centres withholding items that asylum seekers wanted and asylum seekers retaliating by lighting fires.

Interviewee: When we were in Christmas Island, they knew that we love salt. It’s very simple, we always put salt in our food, they knew it. Then they stop it, giving us salt. Then every day we ask them for salt, but they say ‘there is no more salt in the Island’ and they always say ‘ships is coming, but just because of the ocean, it’s wavy, the ship cannot off load because you know the ocean is wavy and it cannot come near the shore’. And we could see obviously the ocean was quiet, and when they burned the detention, they found heaps of salt inside the containers.

Interviewer: So why did they stop the salt?

Interviewee: Just to make them burn the detention [centre]. But nobody can see. The people cannot see, they can only see what is on the television.

Interviewer: So there are people retaliating, and some people are retaliating in ways that aren’t appropriate, like burning down the detention centre, but it’s not in isolation, it’s in response to the situation?

Interviewee: The government made us to do it, not the people. They knew how to do it. It was just a very simple example.

Interviewer: Do you have other examples like that?

Interviewee: Yeah, playing X-box is something fun, you like to do it, and you can spend lots of hours, many hours, just by playing X-box. They didn’t give us X-box. Only one, with 300 people. Then I suddenly heard from an unprofessional guy, that there were heaps of Xboxes in a room.

Interviewer: Oh, from another asylum seeker?

Interviewee: No, from a guy that worked there, he was working there and he saw it in a big room, a room full of Xboxes. But they didn’t give them to us, just to make you angry you know.
So when you, as a citizen, see asylum seekers on the television burning [it] down you say “they’re not good people, stop them” so you support the idea of the government, they need your support, but you can’t see what is going on inside the detention centre. And just you know, some, a few of people can see then, and transfer it to other people and say “it was because of salt”. Lots of people don’t think about it.

Interviewer: Mmm, people don’t know. What else should people know about what happens in detention centres?

Interviewee: Several things like this, you know sugar, salt. They just try to find what is your weakness and then just push that area. Then after that, you know, when they burned Sydney detention, they tried to keep everyone away. Said “okay thank you for what we wanted, we wanted you to do. Now here, what you like to do, you can have more salt or X-box.

Similarly, another asylum seeker explained,

because we need everything, shampoo, Gilette [for shaving], other stuff, whenever I ask them, they keep saying no, we don’t have it, you have to keep asking and you have to go two three days and then they give it to you.

It was really difficult to get things from them.

There are bad people of course, but the good people they give us, or they say no we’ll have to come back tomorrow.

When I was in Christmas Island, many people were starting complaining from the pharmacies and other places, and they just want to make a problem for the immigration people. But I hadn’t had [involvement in] anything [troublesome], even if they not giving me [the things I need], I say “okay I just come back tomorrow.”

These examples of staff withholding items from asylum seekers indicate that staff at Christmas Island treated asylum seekers poorly and that this may have provoked retaliation. No corroborating data were able to be collected from detention centre staff, because this was outside the scope of this project. However, two asylum seeker participants independently reported staff
withholding items without being initially prompted to share those stories. Further information is needed to qualify the reasons staff withheld items from asylum seekers, and whether this practice is used in other detention centres.

It was evident that treatment of asylum seekers varied across detention centres, with some detention centres being described as “five star” and some being described as “like a gaol.” Some asylum seeker participants described having both positive and negative interactions with staff at detention centres. For example, “a lot of staff, I’m not saying a lot, but some of them they are really racist towards asylum seekers.”

Regarding the staff in the detention centres in which he’d lived, another asylum seeker explained that “their treatment of us was very good.” Observation field notes also indicate staff treatment of asylum seekers varied, depending on the individual staff member. For example during one of the researcher’s sessions at a detention centre with a volunteer group, observation field notes describe volunteers and staff supporting an asylum seeker. One of the staff appeared pleased that the music activity was helping the man:

He had gone from being a still and quiet man sitting at the edge of the group to taking charge of the music (to the point where when one of the musicians suggested he try something new on the keyboard, the man indicated he liked what he was already doing and so he continued). He was animated and smiling in front of the group. There was clapping, dancing and laughter amongst many people (staff and asylum seekers alike). The staff member commented “I really think that helped him, music can be so therapeutic.”

On the other hand, some staff members were observed to be harsh and authoritative with asylum seekers. Observation field notes included

Some of the staff sit with a stern face and don't interact with the asylum seekers in the centre, unless they're giving directions. When they give directions they're very short and to the point. I've also seen grown men being told what to do and what not to do (e.g. put something over there, don't stand near the door and so on). One of the volunteers at the detention centre put her vest (worn to identify who is an asylum seeker and who is not) on her head. She was playing around with it and laughing with some of the asylum seekers. One of the staff spoke harshly with her telling her not to do that and to wear the vest as it was meant to be worn. When it’s time for singing or dancing, some of the men look towards the staff in the room to see if it’s okay to participate before they engage in the activities, then
they begin engaging tentatively. That gives me the impression that when volunteer programs are being run, the asylum seekers might be treated a little less harshly than usual.

No violent treatment of asylum seekers was observed at the detention centre visited as part of this research project (described by many asylum seekers as “one of the better detention camps”). Observation field notes commented on a range of different ways of treating asylum seekers by staff:

one of the workers came over and said to them to write their names on the activities register in quite an unfriendly way. But then other staff are really friendly and encouraging and warm. You see smiles exchanged and their emotional wellbeing really being cared for. And you can see that some staff there really see these guys as real people, not as entities within the detention centre… but then those staff are required to follow policies and procedures as well.

While there is an indication that treatment of asylum seekers by some staff at some detention centres was exemplary, it is gravely concerning that stories emerged during data collection of brutal physical violence, withholding items from asylum seekers, and use of sedative medication to control behaviour. For ethical reasons the researcher chose not to initiate interview questioning regarding abuse within detention centres, as recalling traumatic experiences for research interviews might have put asylum seeker participants at risk of re-traumatisation. However, some asylum seeker participants raised these issues unprompted. When these issues were raised, they were discussed as part of the research. Due to the limited amount of information collected regarding abuse, this did not form a central part of the data analysis. Rather, the experiences of asylum seekers, both positive and negative, were explained using the Structural-Personal Interaction Process. However, it does illustrate the variation that can occur when policies are implemented, producing different situations that can interact with asylum seekers personal characteristics in creating their human experiences.

Chapter Seven in brief

This chapter has provided an overview of the concepts in the Structural-Personal Interaction which was identified in this grounded theory analysis. Key concepts including status, policies, environments, situations, personal characteristics and human experiences along the suffering-wellbeing continuum were outlined. The two mechanisms that make up the Structural-Personal Interaction, status-assignment and translation to human experiences were described. Riti’s
illustrated the Structural-Personal Interaction Process. This chapter also described asylum seeker reports of brutal and discriminatory treatment which does not form a large part of the data analysis; however, it is important to note. Chapters Eight and Nine provide further detail of each mechanism by integrating data from observations, interviews, surveys, and document analysis. Chapter Eight describes the status-assignment mechanism and Chapter Nine describes the translation to human experiences mechanism. Chapter Ten discusses the findings in the context of existing theory, in terms their implications, limitations, and possibilities for future research.
Chapter Eight.
Findings: The status-assignment mechanism in detail

The status-assignment mechanism, which is part of the Structural-Personal Interaction Process, involves designation of a status, either ‘person in detention’ or ‘client in community detention’ to asylum seekers by the government. This designation of status determines policies that contribute to the situations encountered by asylum seekers. Chapter Seven explained the status-assignment mechanism as one of two mechanisms in the Structural-Personal Interaction Process. The present chapter expands on the status-assignment mechanism, providing examples that illustrate the patterns of consequent policies and situations for asylum seekers assigned the statuses ‘person in detention’ and ‘client in community detention’. Chapter Nine will then expand on the translation to human experiences mechanism and Chapter Ten will discuss the Structural-Personal Interaction Process overall and make concluding comments.

When designated the status of ‘person in detention’, predominantly harming policies apply to asylum seekers and they tend to encounter mostly harming situations of constraint and isolation. This pattern is illustrated through explanations that asylum seekers with the status ‘person in detention’ live in circumstances where they are unable to leave detention centres, sometimes have limited movement inside the detention centres, have limited opportunities to choose and participate in meaningful everyday activities, are bound by rules governing their engagement in group activities, and are continuously monitored.

When designated the status of ‘client in community detention’, combinations of harming and protecting policies apply to asylum seekers and they tend to encounter a mixture of protecting situations and harming situations including situations of constraint, isolation, increased freedom, and support. Regardless of status, all asylum seekers encounter situations of uncertainty and disempowerment. This pattern is illustrated below, through explanations that asylum seekers assigned the status ‘client in community detention’ live in circumstances where they have access to health services, can engage in meaningful everyday activities, engage in volunteering, and can move around the community. Despite these examples of situations of increased freedom and support, there are some restrictions in all of these circumstances. Samir’s story is provided as an illustration of the status-assignment mechanism. Then, for each status, the policies and situations that generally result from them are reviewed in the sections that follow.
Illustration of the Structural-Personal Interaction: Samir’s story

The Structural-Personal Interaction, especially the status-assignment mechanism, can be understood through Samir’s (alias) story. Samir is an asylum seeker who arrived in Australia by boat nearly two years before the research interview. He was assigned the status of ‘person in detention’ under the Migration Act 1958 and therefore the Detention Contract was relevant to him. These policies restricted Samir’s movement by requiring him to live in a detention centre from which he could not exit. The status-assignment mechanism, for Samir, was a process of being designated the status of ‘person in detention’ which determined the policies that shaped his situations in the detention centre environment. With the status of ‘person in detention’ come policies that applied to Samir, including “being in Immigration Detention is the restriction of freedom of movement” (Detention Contract, Section 2, Part 2.2.1) which involves being monitoring by security systems, including those surveillance equipment, alarms, keys, locks, electronic access control devices, and security fencing (Detention Contract, Section 2, Part 2.10b)

Under these harming policies, within the detention centre environment, Samir described encountering situations of constraint and isolation in his everyday life, with high levels of security including ongoing security camera monitoring, security personnel and high fences with barbed wire. He explained,

they put us in detention for one and a half or two years, it’s a terrible situation….The detention centre, you can see the fence, the fence is high and the wiring, there is electrical wiring is around it… So one day, if you tried to escape, you’ll be electrocuted. So what do you think – this is not a prison? It was a prison for us…. You imagine yourself surrounded by all these fences, and all these wires. Every morning you wake up, you face the fence. So it’s the same, same routine life. You wake up every morning, you look up in these fences.

… so we [asylum seekers] all develop psychological issues, and it makes it worse for us if we stay longer in detention. …The most important thing for a human being is health, and the health - I’ve lost my health. In detention centre, a lot of people they develop a lot of problems. Some of them they’ve got stomach ulcers, many of them they have depression and psychological issues.

Encountering harming situations of constraint and isolation Samir’s experiences lay in the suffering zone of the continuum. He had ‘nothing to do’ with his time and experienced mental distress in the form of a loss of dignity, depression and anxiety. Samir’s story demonstrates the status-assignment mechanism and suggests that harming situations of constraint and isolation
contribute to his human experiences that lie in the suffering zone of the suffering-wellbeing continuum. The link between situations and human experiences are explained further in the translation to human experiences mechanism, which is described in more detail in the Chapter Nine.

‘Person in detention’: the policies and consequent situations

People in detention cannot leave detention centres

Detention services, according to the Detention Contract, Section 2, are required to comply with the Migration Act 1958. Part 2 – Control of Arrival and Presence of Non-Citizens, Division 7 – Detention of Unlawful Non-Citizens, Section 189, which stipulates that asylum seekers must be detained, having their movement restricted. Accordingly, the Detention Contract, Section 2, specifies that restrict movement in terms of security measures ensuring security systems are maintained, tested and functional at all times (Part 2.10a) including

(i) control rooms;
(ii) surveillance equipment;
(iii) X-ray and scanning equipment;
(iv) communications equipment;
(v) alarms;
(vi) keys, locks and electronic access control devices;
(vii) security fencing and barriers; and
(viii) intrusion detectors.

The contribution of these policies to the situations of constraint and situations of isolation in which ‘people in detention’ live can be seen in the responses from asylum seekers who were interviewed, health and social services workers who were interviewed, and survey respondents. They described detention centres as prison-like, with little space to move, security measures including fences and security personnel, and often unpleasant in odour and appearance. Security equipment including fences, security cameras and security protected doors contributed to the constraints and isolation:

the detention centre, you can see the fence, the fence is high and the wiring, there is electrical wiring is around it… So one day, if you tried to escape, you’ll be electrocuted. So, what do you think – this is not a prison? It was a prison for us. You imagine yourself surrounded by all these fences, and all these wires. Every morning you wake up, you face the fence. So, it’s the same-same routine life. You wake up every morning, you look up in these fences.
To explain the experience of being surrounded by fences and being confined to a small space, one participant likened his situation in the detention centre to being “in this cage, what I can do if I’m in the cage?” He also provided a picture that represented his situation in the detention centre, in which he was depicted as a bird in a cage (see Figure 7.2).

The following quotes from asylum seekers exemplify the situations of constraint in which people in detention live and this is re-iterated by survey responses and observation field notes. Asylum seekers shared stories regarding the situations of constraint in detention centres:

You have to stay in your room and the room is very small, or you have to go outside and see a lot of people

and

Two and a half years, I spent my life in the detention centre in Australia, and the main concern is no independence within the premises.

These quotes illustrate situations of constraint in detention centres, showing that within the centres, resources for personal care were held and distributed by staff, routines were restricted to pre-existing schedules which were unchanging, independence was limited, and physical surrounds restricted movement.

Explaining time in detention as time in a situation of isolation, survey respondents explained “that detention centres are “so far away from cities, people can’t connect” and people in detention have “limited contact with [the] wider Australian community.” An asylum seeker explained that

[detention is] like a prison, it is like this square (drawing on table with finger), and they put you in one of the rooms and that’s the only area you can move around…. It was depressing, and for me I was depressed, and remember I was there for nearly ten months in isolation.

This example illustrates how, for asylum seekers assigned the status ‘person in detention’, harming policies that restrict movement contribute to harming situations of constraint and isolation.

*People in detention have limitations on their movement within detention centres*

As well as restricting movement beyond the confines of the detention centre for asylum seekers who have been assigned the status ‘person in detention’, the Detention Contract, Section 2, also includes policies that restrict movement within detention centres. Movement within detention centres is restricted by behaviour management plans. This provides another example of the status-assignment mechanism.
The Detention Contract, Section 2, which applies to asylum seekers with the status-assignment of ‘person in detention’, describes “behavioural management” (Part 3.9) with the aim to reduce tension and conflicts. No non-restrictive strategies, such as counselling or accessing an interpreter to allow the person to verbalize their concerns, were listed in the document. The document outlined that with permission from management the following “interventionist or restrictive measures” could be used

3.10 a. ii.

(A) referral to external agencies for assistance or investigation;
(B) formulation of segregation;
(C) behavioural management agreements;
(D) withdrawal of access to amenities;
(E) curfews; and
(F) restriction on the periods of access to specific areas of the Facility.

and

3.10 e.

The Department Regional Management is responsible for approving all Service Provider actions that result in withdrawal of a Person in Detention's privileges or placement in a more restrictive placement of Accommodation.

This shows that policies that restrict movement not only prevent asylum seekers who have been assigned the status ‘person in detention’ from leaving the facilities, but for some people in detention they also restrict movement within the relatively small detention centre spaces. Policies include curfews for returning to bedrooms and restricting access to particular areas and amenities, creating a situation of constraint. Riti’s story in Chapter Seven explained situations of constraint and isolation resulting from such policies.

*People in detention have limited opportunities to choose and participate in meaningful everyday activities*

Independence, choice, and self-organisation for meaningful everyday activities are limited under the Detention Contract, Section 2, for asylum seekers with the status ‘person in detention’. For example, policies that restrict and control engagement in meaningful activities are evident in the Detention Contract, Section 2, where it specifies

- meals are to be decided upon and catered by the detention centre service provider (Part 3);
• cleaning of living areas is to be carried out by cleaning services (Part 4);
• time on computers/internet is to be limited by a booking schedule (Part 1.2.5);
• television material “covering news, current affairs and other content that the Service Provider may recommend to promote the well-being of People in Detention” is to be determined by detention centre staff (Part 1.6(i));
• religious activities are to be coordinated by the Religion Liaison Officer and are to comply with the policy of DIAC (Part 1.8); and
• programs and activities are to be determined by the detention centre activities manager rather than arranged by asylum seekers if and when they wish (Part 1.10).

These are policies that restrict and control engagement in meaningful activities by disrupting, preventing or controlling the ways in which asylum seekers engage in these activities rather than allowing for independence and freedom regarding when, why and how they wish to engage. This illustrates how status-assignment as ‘person in detention’ determines that these harming policies apply results in asylum seekers encountering situations of constraint in which their engagement in meaningful activities is limited.

Other examples of policies that restrict and control engagement in meaningful activities that apply to asylum seekers who have been assigned the status ‘person in detention’ include policies about meal preparation and accessing shops. The Detention Contract, Section 2, (Part 3.1) specifies that most meals and information about meals in the form of menu plans and recipe cards are to be provided by catering services and decided upon in consultation with a dietician. Breakfast is outlined as “self-service” with all food provided (Part 3.13), meaning that asylum seekers can only eat the food that is set out for them each morning for breakfast and can not go to the shops to purchase and prepare breakfast food of their own volition. It is specified that barbeques for self-catering are to be provided (Part 3.15); however, the Detention Contract, Section 2, outlines that people in detention are only allowed to carry out the cooking aspect of the barbequing activity, and that the detention facility will prepare the food for barbequing, organise fuel and cleaning for the barbeques.

(a) The Service Provider must manage all barbecue equipment and areas, which are specialised self catering areas, including:

(i) preparing food for People in Detention to cook on barbecues;

(ii) ensuring that barbeques have fuel and are clean and functional;
(iii) cleaning barbecue equipment and areas after they have been used by a Person in Detention;

These policies restrict and control engagement in meaningful activities because asylum seekers engaging in barbequing activities are limited to placing and turning food that is cooking on the barbeque rather than organising and carrying out all barbeque activities for themselves.

While asylum seekers in detention centres are unable to access shops outside the detention centre, the Detention Contract, Section 2, specifies that a single shop be opened for four hours daily inside the detention centre. The shop carries limited items, and asylum seekers are able to request the shop to stock additional items. The Detention Contract, Section 2, also specifies that asylum seekers are to purchase items in the shop using points that they have earned by participating in activities.

1.11 Facility Shop and Special Buys

1.11.1 Facility Shop

(a) The Service Provider must:

(i) stock and manage a shop in each Facility that trades IAP [Individual Allowance Program] credit points for items such as personal care products, telephone cards, stamps, writing paper, tobacco and snack food;

(ii) consider requests of People in Detention when determining what items will be stocked in the shop;

(iii) prominently display prices and opening times in the shop, with signage in all relevant languages as appropriate to the Facility's population;

(iv) trade items at the IAP credits equivalent purchase cost of the items; and

(v) trade all items at cost of the items to the Service Provider.

(b) The Service Provider must ensure that the Facility Shop is open for a minimum of four hours each day, seven days a week, including a morning and afternoon session, unless different operating hours have been approved by the Department Regional Management.

However, choice regarding which shops to go to and when to access the shop are limited because this is the only shop available within the detention centre, it has limited opening hours, and asylum seekers are unable to leave the detention centre to go to other shops, as specified in the Detention Contract, Section 2, and noted during observations. Furthermore, since the points used to
purchase items in the shop are obtained through a weekly allowance as well as through engaging in activities, if a person does not wish to participate in activities, he/she receives fewer points for purchasing items in the shop. This provides a picture of a situation of constraint in which asylum seekers are not able to freely engage in shopping due to the policy.

**People in detention are bound by rules that restrict their choice within group activities at the detention centres**

For asylum seekers who have been assigned the status ‘person in detention’, the Detention Contract, Section 2, specifies that group activities must be offered in detention centres twice daily (Part 1.10.1). Exemplifying policies that restrict and control engagement in meaningful activities, the Detention Contract, Section 2, Part 1.10 states that it is necessary that any program or activity offered “has regard to outcomes and/or identified needs outlined in Individual Management Plans” and that detention centres must “provide a monthly Program and Activities Schedule for each Facility for the Department Regional Management approval.”

While this policy promotes engagement in activities, the meaningfulness and volitional nature of this engagement is questionable. While asylum seekers can choose to engage or not to engage in them, all activities must be planned and arranged by the detention facility and aimed at fulfilling the detention facility’s goals, rather than being self-chosen and planned at the time the person chooses to engage in the activity. This is indicative of a situation of constraint.

Further illustrating policies that restrict and control engagement in meaningful activities, Part 1.10.3 of the Detention Contract, Section 2, “Recording Participation of People in Detention”, requires asylum seekers to sign off on any activities in which they participate, so as to be awarded points as a cash equivalent for use in the detention centre shop. According to Part 1.10.3 in the Detention Contract, Section 2, non-participation of an asylum seeker should trigger an individual interview to identify reasons for non-participation and escalation of this information to management level. The coercive and degrading nature of the implementation of the processes outlined by the Detention Contract, Section 2, were noted in observation field notes describing the environment of constraint to which this policy contributes:

> They have to sign off on the activities they’ve engaged in on an activities program, which looks, well probably a bit degrading – grown men having to sign off on the activities they do daily. The men just sign the register, and some seem to be there just so that they can sign off - looking disinterested and seeming to be there to please the staff.

Survey respondents also noted the situations of constraint in which asylum seekers had little
choice and were coerced into participating, explaining that asylum seekers “walk around mindlessly; some will do activities to score points or keep busy.” Another respondent commented that the negative aspects of being a ‘person in detention’ include living in situations of “total confinement, [with] removal of [their] most basic choices, [and] high level of directives by staff.”

These examples show that being assigned the status ‘person in detention’ results in being subjected to harming policies, which contribute to situations of constraint with respect to group activities in detention centres.

**People in detention are monitored constantly**

For people who have been assigned the status ‘person in detention’ the policies in the Detention Contract, Section 2, restrict and control engagement in meaningful activities by specifying high levels of monitoring. The policies regarding monitoring asylum seekers limit their autonomy by restricting choice in terms of shaping behaviour by tracking their activities. It impinges upon independence by imposing involvement from those who monitor and act on any information collected. These policies include recording all possessions (Part 2.1), monitoring participation in activities (Part 1.10), writing and following individual management plans for (Part 3.3), recording all medication use (Part 3.6 and 3.7), recording use of drugs and alcohol (Part 3.8), recording any undesirable behaviour (Part 3.10 and 3.13), placing those at risk of emotional distress or self harm under observation (Part 3.14), registering all mail and at times requiring asylum seekers to open their mail in front of staff (Part 1.2.7), monitoring all visitors (Part 1.7), and keeping a record of monthly allowances through a points system (Part 1.9).

Implementation of these policies contributes to situations of constraint. For example, observation field notes described,

> There are always security staff around inside the detention centre, watching them, taking notes, getting them to sign off on different forms or lists, sometimes telling the men how to act, even watching us while we ran the music workshop and telling one of the volunteers to stop putting her vest on her head during a lunch one day. It seems like the people that live in the detention centre are very watched - someone's eyes are on the asylum seekers at every moment of the day and they're often told what to do, where to go and asked to sign forms and records of their attendance at activities.

Observation field notes revealed the high levels of monitoring in a detention centre, exemplifying situations of constraint in that monitoring and instructions restricted the asylum seekers’ activities. For example,
security guards were always present. There wasn't a moment when a security
guard was not monitoring the room. Security personnel were often telling the men
in the detention centre what to do - including signing forms, going to meals,
waiting at the security door.

An asylum seeker explained the situations of constraint in which he was monitored
constantly and that he wanted to be alone.

(looking down at table, serious, holding hands together, body tense) they do
sometimes take you [out of the detention centre], but they take you with a lot of
security personnel, so you don’t feel like you are [free from being watched]. For
example, once they took me to hospital, six of these SERCO people, personnel
were with me…. (eyes wide open, still avoiding eye contact) There was, for me it
was a surprise, even they put a camera in the car…. [In detention] I just wanted to
be on my own.

This example illustrates how status-assignment as a ‘person in detention’ determines the
application of harming policies that restrict and control engagement in meaningful activities are
applied to asylum seekers and this results in situations of constraint.

‘Client in community detention’: policies and consequent situations

Access to health services for clients in the community, and the restrictions placed on this
access

The policies relevant to asylum seekers who have been assigned the status of ‘client in
community detention’ are mixed with respect to access to health services. Asylum seekers with
status-assignment of ‘client in community detention’ are affected by policies that promote access to
services designed to fulfil basic needs, including policy statements that health services are provided
to clients in community detention through the contracted service provider, IHMS. For example,
according to the Community Detention Chapter, Section 2,

IHMS has responsibility for managing and organising the delivery of health care
to people in detention by a multi-disciplinary team of health care providers. IHMS
is responsible for allocating a general practitioner (GP) and pharmacy provider to
clients.

Policy that promotes access to services designed to fulfil basic needs also includes provision of
mental health services to asylum seekers in the community. The Community Detention Chapter
specifies that
The service provider is required to ensure that clients with mental health concerns are referred to an appropriate provider for support or counselling. Clients in detention centres may experience psychological distress, such as concerns about their ongoing visa processing, or loneliness. In these cases general mental health counselling may be the most appropriate course of action. Clients may be referred for counselling or other specialised support by their allocated GP. For clients with a recorded history of torture and trauma, the service provider may refer these clients to a local torture and trauma agency which does not require a GP referral. (Section 5.4.2)

Despite the provision of health services to clients in community detention, there are also policies that restrict the degree of access to these health services. For example, the Community Detention Operational Framework (Section 10.1) explains that IHMS have been contracted to provide health services including General Practitioner (GP) services to asylum seekers in the community. Asylum seekers must attend the GP that has been allocated to them, unless the case manager applies to DIAC for another GP (e.g. geographically closer to the client’s home). Asylum seekers could not access GPs who were not registered as IHMS practitioners. Thus, access to services is limited to those specified by DIAC and not opened to asylum seekers’ choice of GPs.

This indicates that clients in community detention are provided access to some services, but cannot freely access any services. This creates a combination of harming and protecting situations including situations of support in which health services provide support and situations of constraint as asylum seekers are limited to the options outlined in their care plans and situations of isolation in which asylum seekers are cut off from services other than those specified in their care plans.

Engagement in meaningful everyday activities for asylum seekers in community detention; limitations on permission to work, study, or engage in leisure activities

In contrast to the Detention Contract, Section 2, which predominantly restricts engagement in meaningful activities for asylum seekers with the status-assignment of ‘person in detention’, the Community Detention Operational Framework specifically outlines policies that promote volitional engagement in meaningful activities for asylum seekers who have been assigned the status of ‘client in community detention’. For example, Section 9.11, states that

in addition to education and volunteering opportunities, service providers are also required to assist clients to take part in meaningful engagement activities while they are in community detention, to encourage client independence and interaction with the community….Service providers should, wherever possible,
link clients into already existing services which can provide appropriate meaningful engagement opportunities. External service providers may include, but are not limited to:

- Community groups/non-government organisations
- Government and social services
- Private/commercial enterprise

Meaningful engagement activities should be identified in the client’s Care Plan at the time of the client’s entry into community detention. The client’s service provider case manager should discuss with the client their preferences and any constraints for activities (e.g. cost). DIAC approval is not required before activities are pursued for adult clients…. Case managers should continue to assess client needs for meaningful engagement activities as part of monthly home visits. As additional needs are identified the service provider should assist the client to access suitable activities. All meaningful engagement activities accessed by clients should be included in the client’s file.

Implementation of this policy that promotes engagement in meaningful activities was reflected in asylum seeker’s human experiences of having something to do in situations of increased freedom in community detention. Survey respondents indicated that community detention provides a situation of increased freedom, or “relative freedom”.

The Community Detention Chapter states that it aims to promote engagement in meaningful activities. However, policies that restrict engagement in meaningful activities in that they do not allow asylum seekers in the community to work (Community Detention Chapter, Section 5.6); limit opportunities for study (Community Detention Operational Framework – Section 9.9); and limit finances which restricts engagement (Community Detention Operational Framework, Section 8.2; Section 8.3).

Policies that restrict and control engagement in meaningful activities are found in the Community Detention Operational Framework, which states that “it is a condition of the community detention program that clients must not engage in paid work” (Section 9.10) and the Community Detention Chapter, which states that “clients in community detention are not entitled to engage in paid work or receive a salary” (Community Detention Chapter, Section 5.6).

Analysis of the data indicated that the policies that restrict and control engagement in meaningful activities contribute to situations of constraint in that access to many educational
opportunities, especially vocational education, were limited. For example survey respondents explained that asylum seekers “in the community have problems with finance and education; they may not work or study” and many recommended providing better English and vocational education programs for asylum seekers. Survey respondents provided justifications such as “if they are not allowed to work, at least give them better education than the short TAFE [English language] courses now offered.” Survey respondents explained that educational opportunities can provide “something to keep adults occupied during the week” as well as “distraction and opportunity”.

Freedom to participate in activities was reduced due to limited finances. The living allowance provided to asylum seekers was minimal, “calculated at 70 per cent of the relevant Centrelink payment(s)” (Community Detention Operational Framework, Section 8.2) and expected to cover a large range of basic costs including “all general household and living expenses. This includes food, household products (toiletries, cleaning products etc.), utilities (electricity, gas, water), general public transport costs, phone bills (mobile and land line) and clothing.” (Community Detention Operational Framework, Section 8.3), as well as adult education expenses (Community Detention Operational Framework, Section 9.9) and any additional activities asylum seekers wished to engage in (Community Detention Operational Framework, Section 5.8). These are policies that restrict and control engagement in meaningful activities.

Survey respondents described the contribution of policies that restrict and control engagement in meaningful activities by restricting finances as situations of constraint. For example, a counsellor with qualifications in both psychology and social work and three years experience working with asylum seekers across community and detention centres stated, “finances in the community are a major concern and limit people's ability to engage in meaningful activities, groups, socialisation etc.”

Other survey respondents explained that “asylum seekers cannot afford public transport” and “asylum seekers who receive income support through DIAC live below the poverty line. This has implications for health, mental health, schooling, adult education, employment chances in the future etc.”

During an observation session involving a visit to the home of two men who were clients in community detention, the case manager discussed the possibility of the men attending some group activities run by an asylum seeker service. The men responded that they would like to attend the activity groups, especially the fishing group; however, costs for public transport (bus) to attend and participation fees were too high. The case manager explained that many asylum seekers that she worked with in the community were unable to participate in activities of interest to them because
they could not afford the transport or costs to participate due to not being allowed to work and limited government financial support. She explained that instead the men sit in their house or walk in the streets with nothing to do to take their minds off their uncertain and distressing situations. This was also noted during conversations with asylum seekers at the music workshops during observations.

This example illustrates how as a ‘client in community detention’ asylum seekers are subject to policies that limit their access to services for leisure and social activities by limiting finances, creating situations of constraint and isolation. Policies that restrict and control engagement in meaningful activities are also found in the Community Detention Operational Framework where it outlines limitations on study:

Clients may also wish to participate in alternative English lessons, or undertake other education classes. The conditions of their community detention placement mean that clients must not undertake vocational studies or training. However, adult community education courses or similar short courses which do not result in formally recognised qualification may be attended by clients in community detention. These courses are often offered as night classes from technical colleges, schools or universities and have some associated costs. Courses may include cooking, arts, crafts, mechanics or languages and are a way for clients to learn new skills while living in the community.... The costs of attending an education course will need to be covered by the client themselves. (Community Detention Operational Framework – Section 9.9)

This illustrates the combination of policies that promote volitional engagement in meaningful activities in that some educational opportunities are allowed, and policies that restrict and control engagement in meaningful activities in that the type of education is limited. Thus, through the status-assignment mechanism both harming and protecting policies can apply to asylum seekers simultaneously, contributing to the situations that they encounter.

*Engagement in volunteering in community detention and the restrictions placed on volunteering*

Policy regarding volunteering by asylum seekers who have been assigned the status of ‘client in community detention’ provides another example of policies that promote volitional engagement in meaningful activities. The Community Detention Chapter, Section 5.6, reads

While it is a condition of the community detention program that clients must not engage in paid work, it is possible to engage in suitable unpaid volunteering
activities. DIAC encourages clients in community detention to participate in volunteering as a way to become involved in their local community, build relationships and obtain new skills which may be of benefit to them after resolution of their immigration status. In addition, volunteering may improve clients’ English language skills and assist with reducing social isolation and depression.

The Community Detention Operational Framework, Section 9.10, expands, specifying that Service providers should discuss possible volunteering opportunities with the client and the benefits of volunteering. Where an opportunity is identified for the client, the service provider must conduct an assessment and seek DIAC’s approval (either in the client’s Care Plan or a Care Plan Amendment). For more information on community detention clients participating in volunteering activities please contact …..

The assessment should address the following:

- The organisation is reputable
- The position is suitable for the client (e.g. matches ability, does not unduly interfere with other responsibilities)
- The client will be covered by insurance and safety provisions of the organisation
- The position is not a paid position filled by a volunteer
- The organisation has an understanding of community detention and associated requirements (e.g. possible interest of media, and sensitivities including photographs of clients in publications such as organisational newsletters or local newspapers).

While requiring some monitoring and government approval, overall these can be seen as policies that promote volitional engagement in meaningful activities if asylum seekers wish to engage in volunteering. This policy can be seen to contribute to situations of increased freedom in which “some [asylum seekers] volunteer” according to a survey respondent.

Policies that restrict and control engagement in meaningful activities was apparent in that while volunteering was a possibility, permission from DIAC was first required to engage in volunteer work (Community Detention Operational Framework, Section 9.10). Independence is
reduced as in order to benefit from these supportive services, asylum seekers must apply to DIAC for permission to volunteer. The environment of constraint to which this policy contributed is identifiable in interview responses describing the difficulties case managers experienced in assisting clients in community detention to access volunteer opportunities due to the procedures involving DIAC’s approval. For example,

They can volunteer but only at certain places…a lot of case managers are having trouble getting their clients involved in [volunteering with] anything because they [asylum seekers] put all this effort into all these activities [to apply for volunteering] and you know they feel like they’ve done as much as they want to do and then they’re just waiting [for approval to volunteer].

This example illustrates how a range of policies apply to asylum seekers who are assigned the status ‘client in community detention’. Some of these policies are mutually-contradictory, for example allowing asylum seekers to volunteer, but restricting volunteer opportunities and creating complicated processes for accessing volunteer work. In the status-assignment mechanism these policies that apply to asylum seekers assigned the status ‘client in the community’ contribute to situations of increased freedom to volunteer but also situations of constraint in which volunteering can be difficult to access.

**Clients in community detention are allowed to move within the community; however, restrictions on movement continue**

In contrast to situations of constraint and isolation in detention centres, interviewees and survey respondents explained that living in the community is a situation of increased freedom in that asylum seekers are able to engage with society, and they are not confined to spaces within fences and security equipment. Policies that apply to asylum seekers who have been assigned the status of ‘client in community detention’ allow for movement within the community (Community Detention Operational Framework, Section 1). At the same time, policies that restrict movement can be seen in terms of disallowing interstate travel and overnight-stays outside the allocated accommodation (Community Detention Chapter, Section 5.8; Community Detention Operational Framework, Section 9.13).

Regarding policies that restrict movement, the *Migration Act 1958* specifies that for asylum seekers in community detention, the

Act and regulations apply as if person were in detention in accordance with Section 189
1) While a residence determination is in force, this Act and the regulations apply (subject to sub-section (3)) to a person who is covered by the determination and who is residing at the place specified in the determination as if the person were being kept in immigration detention at that place in accordance with Section 189.

If: a) a person covered by a residence determination is temporarily staying at a place other than the place specified in the determination; and b) the person is not breaching any condition specified in the determination by staying there;

then, for the purposes of subsection 1, the person is taken still to be residing at the place specified in the determination.

In other words, people living in community detention must stay at their designated housing and must live under detention conditions. Accordingly, the Community Detention Operational Framework specifies that asylum seekers may not change addresses or stay for one or more nights in any location other than their residential address specified by DIAC without specific permission to do so (Section 6.4, Section 9.13). Some asylum seekers also have additional restrictions on their movement in the form of curfews (Section 9.15). The Detention Chapter also outlines policies that restrict movement for asylum seekers in the community:

1.1 Policy Introduction

CD [community detention] placements have specific conditions attached to them, which include requiring the person to report regularly to DIAC and reside at the address specified by the Minister

and

5.8 Overnight-stays

Clients living in community detention must reside in their allocated property each night, unless they have received DIAC approval to stay at a different address.

This example illustrates how being assigned the status of ‘client in community detention’ results in a combination of harming and protecting policies being applicable. Under the combination of harming and protecting policies, asylum seekers encounter a combination of harming and protecting situations including situations of increased freedom, constraint and isolation.

Chapter Eight in brief

This chapter illustrated the status-assignment mechanism through Samir’s story. It then
described patterns of the policies and situations for asylum seekers assigned the statuses ‘person in detention’ and ‘client in community detention’. Being assigned the status of ‘person in detention tends to be associated with predominantly harming policies and harming situations, whereas being assigned the status of ‘client in community detention’ tends to be associated with a combination of policies and therefore a combination of situations. The following chapter provides a detailed description of the translation to human experiences mechanism.
Chapter Nine.
Findings: The translation to human experiences mechanism in detail

Following on from Chapter Eight, which provided examples of patterns that arise in the status-assignment mechanism, this chapter explicates the translation to human experiences mechanism. Together, these two mechanisms form the Structural-Personal Interaction Process. Human experiences are consequences of the interaction between status-assignment (in particular the resulting situations) and personal characteristics because experiences arise through a cascade of links between designation of a status, relevant policies under that status, contributions of policies to situations, and interactions between situations and personal characteristics. This chapter aims to provide further explanation of the translation to human experiences mechanism, which was outlined in Chapter Seven. It offers examples of asylum seekers’ situations interacting with their personal characteristics to translate to human experiences. Additional details of asylum seekers’ human experiences along the suffering-wellbeing continuum are provided, with particular emphasis on the contribution of situations to asylum seekers’ human experiences. This chapter concludes with a description of patterns of asylum seekers’ experiences along the continuum.

The interaction

Personal characteristics interact with situations, shaping asylum seekers’ human experiences. A survey respondent, who is a manager of a trauma service for asylum seekers explained that

asylum seekers’ experiences are certainly influenced by challenges [they] faced before, during and after the Australian experience. However, personal characteristics also shape the way in which challenges are met, and influence the overall effect of difficulties faced.

This explanation indicates that personal histories and other aspects of personal characteristics interact with the difficulties faced (harming situations) and translate to asylum seekers’ human experiences.

An example of personal characteristics interacting with situations in Australia to result in individual asylum seekers’ experiences was provided by a survey respondent. She spoke about personal histories in terms of family responsibilities and situations of constraint in terms of limited
finances for clients in community detention. Asylum seekers’ situations of constraint due to limited finances and not being permitted to work often interact with the responsibilities they hold for their families in their countries of origin. A survey respondent explained,

often, being responsible for, and separated from wife and children and/or extended family is a huge stress, particularly if financial support is expected by the family. Asylum seekers will often go without basics in order to send some financial support back ‘home’.

Another survey respondent provided her observations that circumstances that “cause suffering include encountering stigma and discrimination, having to exist on very limited means, being barred from work and therefore being under occupied, [and] ongoing effects from previous torture or trauma.”

This example includes both situations of constraint (e.g. not being able to work, having little money, being under occupied) and situations of isolation (e.g. being excluded through stigmatisation), along with personal histories (e.g. effects of past torture or trauma) all contributing to asylum seekers’ human experiences of suffering. This illustrates the combination of situations and personal characteristics that interact to shape asylums seekers’ experiences. Another survey respondent provided an example of

a boy who was proud that his father was the head man of their village at home, famed for remaining calm under pressure. [The boy] was able to emulate that skill, and remain calm under the pressure of trauma memories and current settlement [living arrangement] changes.

This is yet another example of an asylum seeker’s personal history (trauma memories and family situation) and ability to cope (remaining calm, emulating coping skills of others) interacting with situations. In this case, a situation of uncertainty and disempowerment was evident in the changes in the boys’ living arrangements. His personal characteristics helped his experiences to remain where they were on the suffering-wellbeing continuum. He was able to remain calm, rather than experiencing increasing mental distress.

By comparing responses from two asylum seeker participants, different individual human experiences can be noted, despite both men experiencing a change in status from ‘person in detention’ to ‘client in community detention’. These two asylum seekers responded differently when their situations interacted with their individual abilities to cope with adversity and their personal histories. After leaving a detention centre and living in community detention one asylum
seeker explained, “I don’t feel the life. I don’t have a taste for this life now [in the community]. …It will not go away. I’ve been through a lot in my country and through stress, but it was unlike the experience I had here in the detention centres.” This suggests that his human experiences remained in the suffering zone on the continuum, despite the status change.

Another asylum seeker explained that he suffered a great deal in the detention centre and continued to experience challenges while living in community detention, however, “in the community it’s good for me.” This suggests that the change in situations due to a change in asylum seeker status might be linked to his human experiences moving in the wellbeing direction on the continuum when in the community compared to in the detention centre. These different reactions to living in detention centres and then in community detention illustrate the translation to human experiences mechanism.

**The contribution of situations to asylum seekers’ human experiences**

While the contribution of personal characteristics is important in shaping asylum seekers’ human experiences and each asylum seeker’s human experiences were therefore unique, patterns of human experiences which primarily are connected to particular types of situations were identified in the data. Human experiences in each of the situations identified in this analysis are described below.

*Human experiences in harming situations*

Human experiences that lie in the suffering zone of the suffering-wellbeing continuum tend to occur in harming situations of constraint, isolation, and uncertainty and disempowerment. For example, asylum seekers linked suicidal behaviour with their “surrounds”, with the “need to get out of detention”.

Asylum seekers described human experiences of suffering when explaining their responses to harming situations of constraint and of isolation. They shared a range of personal stories describing having ‘nothing to do’, and feeling mental distress. Describing a lack of engagement in day-to-day life, asylum seekers described having ‘nothing to do’. For example, “there was nothing to do in detention” and feeling mental distress, for example, “during this time [in detention] I spend a lots of days and very bad time, because we have to wait and we haven’t permission to go outside and we have to live in a small place.”

Asylum seekers suffered mental distress within these situations of constraint and isolation, “I don’t want to remember them [the detention centres] because it really makes me suffocated.” When describing the prison-like nature and situations of isolation in detention centres, asylum seekers explained their suffering. For example, “it was depressing and for me, I was depressed.”
Situations of constraint were also evident in the restricted routine and limited activities in detention centres. One asylum seeker shared that the detention centre was like, imagine one of your days, then repeat it seven months. There is nothing new. You know, it is like time is stopped and you just spend the same day, the same things, the same um things to do, eating the same time, eating the same food. …Yeah, the same things every day.

Suffering in situations of constraint in terms of routine and activities was noted in the data when survey respondents described the suffering experienced by asylum seekers in detention centres where their engagement in meaningful life activities is limited, for example, there is “generally not much to do,” and asylum seekers spend their days “eating, sleeping, eating, sleeping. Some go to English class until they get so stressed and anxious that they can't concentrate. Some also attend a cooking class, but mostly they say eating and sleeping.” Another survey respondent explained, “many [asylum seekers] complain of boredom, uncertainty and angst… [detention centres] destroy people mentally, physically and emotionally.”

Another example of asylum seekers suffering in situations of constraint is the ongoing monitoring of asylum seekers that occurs in detention centres. For example, one asylum seeker explained that cameras were always watching him when he was outside his bedroom. He explained that he was never able to be alone outside his bedroom, and that he wanted to be alone. He described that situation of constraint as “when you feel depressed.”

Considering situations of uncertainty and disempowerment, survey respondents explained the uncertainty experienced by asylum seekers, with one respondent claiming that the “uncertainty is mentally cruel” and another that “the uncertainty is very traumatising.” These claims were supported by the stories of asylum seekers who were put in detention “for unlimited time, they don’t tell you how long you’re going to stay – so we [asylum seekers] all develop psychological issues.”

One participant was particularly distressed when he described the environment of uncertainty and disempowerment in which he has lived as a ‘person in detention’ and then as a client in the community. He explained,

I don’t know how long. It makes me crazy… That’s what makes you crazy. I don’t know what will happen for me. Maybe I come back to my country, but I can’t go back. I don’t know what will happen, I don’t know where I am standing.

This expresses the mental distress experienced when asylum seekers who are in situations of
uncertainty and disempowerment. Such situations remove their agency, leaving them to wait for things to happen to them.

Survey respondents described the link between situations of uncertainty and disempowerment and mental distress. One survey respondent explained, “asylum seekers never know what will happen to them. Again the result is fear, hopelessness, anxiety depression, which may lead to phobias, paranoid thoughts, self harm and suicidal ideation.” This description shows how asylum seekers are in situations that remove their agency, leaving them waiting for things to happen to them. It also highlights uncertainty by explaining that asylum seekers ‘never know’. Another respondent explained that an asylum seeker with whom she had been exchanging letters had told her that he was “suffering at the hands of both his home government and the Australian Government.” This, again, demonstrates disempowerment and the resulting suffering. These examples demonstrate situations uncertainty and disempowerment, and their links to human experiences which lie in the suffering zone of the continuum for asylum seekers in detention centres.

All asylum seeker participants discussed human experiences of suffering in situations of constraint in community detention. In particular this was discussed in terms of having ‘nothing to do’ because they were not permitted to work. Amongst the many contributing factors to the human experiences of ‘clients in community detention’ which tend to lie in the suffering zone of the suffering-wellbeing continuum, not being allowed to work was mentioned by most survey respondents. For example,

Asylum seekers feel anxious about their lack of control, concerning where they must live, who they are housed with, the lack of certainty about where they will be in the future, their inability to engage in work or future study, their minimal finances. The symptoms of this anxiety is seen in inability to sleep, worrying thoughts which affect concentration, disappointment and self-blame, alternating with anger and confusion, and body pains such as headache and stomach ache is very common. Many are depressed.

When describing the mental distress and physical effects of being an asylum seeker, a case manager explained that

spending really long undetermined time in a detention environment can do some real damage to someone’s mental health and physical health as well. And just not having employment, as well, can be a challenge, because even when you are
released into the community you can’t really work, so you feel like you’re unproductive.

These human experiences of suffering occurred in situations of constraint, isolation, and uncertainty and disempowerment, where asylum seekers were excluded from work settings due to the policies that apply to asylum seekers who have been designated the status of ‘client in community detention’.

Situations of constraint for ‘clients in community detention’ include restrictions on study, and this is linked to human experiences of suffering. For example, a survey respondent, a counsellor, explained that asylum seekers are “given no access to English classes or training” and that “this just adds to feelings of failure for people and a sense that their lives will never improve.”

A case manager who was interviewed explained,

after they’ve been in CD for a while they’ve done as much English as they can.
They can do two blocks of the TAFE supported English which is two five week periods. So after a while they can’t do any more structured English classes… but they’re not allowed to work or do any training so it’s a bit of a limbo…. Yeah, so I think that’s quite hard.

Having ‘nothing to do’ and experiencing mental distress in the context of situations of constraint, isolation, and uncertainty and disempowerment, as illustrated in examples above, are indicative of asylum seekers’ human experiences in the suffering zone of the suffering-wellbeing continuum.

**Human experiences in protecting situations**

Survey respondents noted that community detention provides protecting situations of increased freedom, or “relative freedom”, in which asylum seekers engage in meaningful activities including

- “sleeping”,
- “English class attendance”,
- “walking”,
- “attending group programs such as sewing”,
- “school”,
- “sport”,
- “talking”,
- “using libraries”,
- “grocery shopping”,
- “cleaning”,

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- “washing”,
- “cooking”,
- “housework”,
- “homework”,
- “making plans for the future”,
- “daily living tasks”,
- “volunteering”,
- “spending time with friends”,
- “visiting services”, and
- “family roles”

These responses are indicative of increased freedom to engage in meaningful activities in community detention, whereas, in detention centres they were limited by restrictions on choice of activities, institutional routine and limited independence.

Within these situations of increased freedom and support, clients in the community tend to have human experiences which lie closer towards the wellbeing end of the suffering-wellbeing continuum when compared with people in detention. For example, with respect to the opportunity to volunteer which exists in community detention, but not detention centres, an asylum seeker explained that he would advise health professionals supporting asylum seekers’ wellbeing including case managers, doctors, nurses, physios, social workers and occupational therapists to “give volunteering [to asylum seekers]. Even volunteering.” When asked “what are the situations that support wellbeing for asylum seekers?” a survey respondent explained that

access to culturally sensitive services, being able to fully participate in the community (i.e. work, access services), recognition of the issues they have faced in the past, a welcoming attitude from Australians already living here, formation of sustainable, consistent connections with people in the local community contributed to asylum seekers’ wellbeing. This gives examples of protecting situations of increased freedom including being able to participate, and protecting situations of support in the form of services, recognition from other people of past struggles, welcoming attitudes, and building relationships.

While situations of increased freedom and support are linked to movement towards wellbeing, asylum seekers still tend to have human experiences that lie in the suffering zone of the continuum. This is reflective of the combinations of harming and protecting situations that occur together for asylum seekers in community detention. Asylum seekers with the status-assignment of ‘client in community detention’ encounter situations of increased freedom in which they are able to move in the local community, but they also encounter situations of constraint and isolation under
policies that restrict movement. As such, their human experiences lie in the suffering zone of the continuum. When compared with previous experiences as people in detention, however, their human experiences are moving towards wellbeing when they are in community detention.

A case manager who was interviewed explained that while asylum seekers have increased freedom to move in the community, they also feel frustrated that their movement is limited to the local area and their case managers cannot change that for them. Asylum seekers “are also really frustrated about, you know, the limited amount of things I can help them with at times, I can’t get them a visa, I can’t move them interstate.” Survey respondents explained that asylum seekers are “isolated in CD [community detention]” and “restricted to home or local area.”

Asylum seekers described the increased freedom to move around the community in a way that suggested their experiences move towards wellbeing when assigned the status of ‘client in community detention’. At the same time they described continued, albeit reduced, suffering with continued policies that restrict movement in community detention. For example,

we cannot go wherever we want within Australian territory in other cities…. It’s like detention is smaller, less facilities, less options to choose, and we are in a bigger detention and they call it community detention. So it is bigger, more options. …It was good at first when we came to community detention from detention, but now it is frustrating, and now it is not fun anymore.

Patterns along the suffering-wellbeing continuum

Analysis revealed that asylum seekers’ experiences tend to lie in the suffering zone. The length of time with the status ‘person in detention’ is linked to movement along the suffering-wellbeing continuum in the suffering direction. It was also noted that policies that apply to people with the status ‘person in detention’ are predominantly harming policies and linked to asylum seekers’ experiences in the suffering zone of the continuum. For people assigned the status ‘client in community detention’, policies tend to be a combination of harming and protecting policies and these tend to be linked to movement in the wellbeing direction, while remaining in the suffering zone, on the continuum.

Experiences in the suffering zone

Asylum seekers’ experiences tend to lie in the suffering zone of the continuum, especially in detention centres. The tendency for asylum seekers’ experiences to lie in the suffering zone of the continuum was explained by a case manager who had worked with asylum seekers in a detention centre and in community detention. In response to the survey, she explained,
asylum seekers I have met have reported feelings of utter hopelessness, lack of control of their lives and constant "thinking" and worrying about their unknown future. Most asylum seekers I have met have been depressed and reported limited motivation to engage in activities, some find it hard to socialise or engage with others, even those from their own cultural group. Most have erratic sleeping patterns and report difficulty sleeping in general. Many asylum seekers speak of self-harm and suicidal ideation and a number of asylum seekers I work with regularly self-harm while others have attempted suicide on numerous occasions.

All asylum seeker participants described their experiences that lie in the suffering zone of the continuum, the challenges presented by their living environments. For example, a survey respondent stated,

most often, I see feelings of hopelessness and helplessness. This is often in relation to their visa status and a long protracted visa determination process. But it also is in relation to living conditions and feeling as though they have little control over their lives. This tends to be at its most extreme for those in detention, particularly for longer periods of time. As people stay longer in detention centres, they seem to lose hope and faith in humanity. However, this feeling can also be present for those living in the community.

Length of time as a ‘person in detention’ and movement in the suffering direction

A pattern of asylum seekers’ experiences lying in the suffering zone of the suffering-wellbeing continuum was evident regardless of status-assignment. However, status-assignment of ‘person in detention’, especially for extended periods, was linked to further movement in the suffering direction along the continuum. One asylum seeker stated “if they keep us in long detention centre our problems get worse and worse.” Survey respondents reported having observed or heard accounts of suffering from asylum seekers in detention centres. These include “suicide attempts”, “self harm”, “trauma”, “depression”, “anger”, “boredom”, “despair”, and “mental illness”.

The longer a person spends being a ‘person in detention’, the further their experiences move in the suffering direction along the continuum. For example, an asylum seeker interviewee explained

when we are just arriving they are different to when we have stayed a long time in the detention centre. We’re getting like another person. Because of the depression and we are just waiting and waiting until we can get our visa and it makes us
different, like angry, to keep fighting, crying. We are all changing from what we are coming here like to when we stay a long time in detention; depression, anxiety, and sickness.

Survey respondents explained that “as time goes on, they [people in detention] become noticeably depressed, expressing sad or hopeless feelings” and “the longer they have been in detention they appear to be more distressed. Some had started taking anti-depressants and one person's hands used to shake.” Other respondents commented “the wait is excruciating and damaging to people's mental health” and “uncertainty and prolonged detention or waiting time for applications to be assessed causes mental anguish.” Overall, “lengthy stay [in detention centres] can have adverse effects.” A survey respondent explained that people seem to be okay if they have not been in detention for very long. The longer they have been in detention they appear to be more distressed. Some had started taking anti-depressants and one person's hands used to shake. Many complain of boredom, uncertainty, and angst.

This survey respondent’s comments regarding asylum seekers’ experiences moving in the suffering direction, include descriptions of having ‘nothing to do’ (boredom) and mental distress. A counsellor who works with people in detention detailed, after about three months plus in detention, people's mental health declines significantly and continues to do so. Those who have been detained for a very long time (more than one year) become extremely unwell and it takes a long time to see improvement even if granted a visa.

These survey responses indicate that the longer an asylum seeker is assigned the status of ‘person in detention’, the longer they spend in harming situations in detention centres, and the further their experiences move in the suffering direction along the suffering-wellbeing continuum. The following section of an interview with an asylum seeker illustrates the experiences of a ‘person in detention’ in the suffering zone. It shows the worsening of human experiences, moving further in the suffering direction along the suffering-wellbeing continuum over time:

Interviewer: Were you in detention for any time?

Interviewee: A long time. I met this interpreter there.

Interviewer: Do you mind if I ask you about it, I don’t have to

Interviewee: Two years.
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Interviewer: Two years, that’s a long time. Is it okay to talk about it in this interview?

Interviewee: (Seeming tense but open and wanting to talk) yeah.

Interviewer: What was it like being in detention?

Interviewee: When I was there, twice I tried to suicide. Once I tried, once I planned but I did not.

Interviewer: So it was pretty bad?

Interviewee: Yeah, for me every day was equal to one year. You feel like you are lost, you have lost your life.

Interviewer: … what is the main thing that you think of when you think about the detention centre?

Interviewee: It was depressing, and for me I was depressed, and remember I was there for nearly ten months in isolation, I just wanted to be on my own. It’s when you feel depressed, you know depression is, you even lose your appetite, you cannot even eat. For me, once I was even eating once a week, only drinking water, not because I don’t like, but because of the depression.

Interviewer: Did you ever experience depression like that before in your life?

Interviewee: No, only in detention centre, that was the greatest one.

Interviewer: Most people don’t know what it’s like in a detention centre. What would you like people to know about detention if they could know?

Interviewee: I’d love people to know about the detention centres and what situation the people are in. As I told you, some people are lucky, they get only a couple of months and they get out of detentions, and some of them they stay there and they get worse and worse.

Movement of asylum seekers’ experiences in the wellbeing direction of the continuum when assigned the status ‘client in community detention’

When an asylum seeker’s status changes from ‘person in detention’ to ‘client in community detention’, his/her situations change to include more protecting situations, which contributes to movement of human experiences in the wellbeing direction of the continuum. While the movement is in the direction of wellbeing, asylum seekers’ human experiences still tend to remain in the
suffering zone, as illustrated in Figure 7.1. An asylum seeker stated that when he first moved from a detention centre he was moved to hospital and then into the community. He explained that in the hospital and in the community,

there, people were good and help me, and I get better. They helped me, they bring psychologist to talk with me, the psychologist – they helped me a lot because they know I was depressed and how bad I was, because I hadn’t had any country anywhere to go back and also to get my visa here, was so difficult.

This example illustrates the status-assignment mechanism: an asylum seeker’s status changing from ‘person in detention’ to ‘client in the community’ which is linked to changes in applicable policies from the Detention Contract, which limits access to services designed to fulfil basic needs, to the Community Detention Chapter and the Community Detention Operational Framework, which include policies that promote access to services. For example the Community Detention Chapter, Section 2, specifies health services should be provided to asylum seekers in the community through International Health and Medical Service (IHMS) providers. Subsequently, with support from health services including psychology, his situation changed from a situation of isolation to a situation of support. Following on from the status-assignment mechanism, in the translation to human experiences mechanism, the asylum seeker’s human experiences moved in the wellbeing direction along the continuum. Things continued to be difficult despite movement in the wellbeing direction, indicating that his experiences remained in the suffering zone. Another asylum seeker interviewee provided an example of the movement of human experiences in the wellbeing direction with a move to community detention when he said

when it comes to detention, detention life is a prison life and we have no hope. There is no life for us, but when we came to community detention I had faith that life would be good and I’m not in detention now I can meet people and that kind of thing.

Reiterating the movement asylum seekers’ human experiences towards wellbeing with the change in status from ‘person in detention’ to ‘client in community detention’, a survey respondent stated, “community detention is certainly much better than detention centres [for] many reasons - it's better for mental health of asylum seekers.”

One survey respondent explained that an asylum seeker she knew
was delighted when he was released into community detention. He began to make plans to play sport …. His demeanor was much improved, but he became sobered by the realisation that his tenure in Australia was as insecure as ever.

While the human experiences of clients in community detention tend be closer to the wellbeing end of the continuum in comparison to people in detention, their human experiences continue to lie in the suffering zone of the continuum. A case manager explained her observations of the mental distress experienced by clients in community detention. She explained that as an asylum seeker in community detention, suffering mental distress, “you’ll feel a bit more withdrawn, you’ll be in the house for a lot longer than you should be, you won’t feel motivated.” A survey respondent also explained suffering of asylum seekers who are designated the status ‘client in community detention’ in terms of having ‘nothing to do’ in situations of constraint. This survey respondent reported that clients in community detention have “financial difficulties, housing difficulties, less additional activities (groups etc.) and still [are] not able to fill day (as cannot work).”

Other survey respondents reiterated the harming situations contributing to the experiences of asylum seekers in the community lying in the suffering zone, despite movement in the wellbeing direction after release from detention centres. For example, “while there is more freedom in CD the inability to work, along with very limited finances, is very restricting.” Another respondent explained the lack of activities and situations of constraint “[asylum seekers have a] lack of work, [feel a] lack of worth, [have a] lack of real freedom.” Describing the situations of uncertainty and disempowerment, a survey respondent stated that negative aspects of community detention are “continuing uncertainty, dependency, poverty.”

Protecting situations of increased freedom and protecting situations of support encountered by clients in community detention were also described by survey respondents. For example in the community asylum seekers encounter situations of increased freedom including “basic freedom of movement, food, lifestyle choices” and “slightly more normal lifestyle. More freedom to experience our society or contribute something to it.” Another respondent stated “people are out of prison, they have a home to live in.”

With respect to situations of support for clients in community detention, survey respondents explained that asylum seekers in the community are “living a more normal life (house, school, community etc.).[They have] access to wider support network which can lead to more independence from service providers.”

Overall, being assigned the status ‘client in community detention’ is linked to harming
situations of constraint and isolation, as well as uncertainty and disempowerment, in combination with protecting situations of increased freedom and support. Consequently, asylum seekers in community detention also tend to have experiences which lie in the suffering zone; however, they tend to move towards the wellbeing end of the continuum compared to experiences in detention centres.

Overall, this data analysis indicates that asylum seekers’ human experiences tend to lie in the suffering zone of the suffering-wellbeing continuum. For ‘people in detention’, human experiences lie in the suffering zone of the continuum, moving further in the direction of suffering the longer they are in detention. For ‘clients in community detention’, human experiences move in the wellbeing direction when they move from detention centres to community detention, however their human experiences tend to remain in the suffering zone of the continuum.

Strategies to reduce suffering

While situations (shaped by status and policy structures) and personal characteristics interact to create asylum seekers’ human experiences, all strategies identified by participants to address asylum seekers’ experiences in the suffering-zone targeted personal characteristics, and none of the described strategies targeted situations, policies, or status. Many participants described the use of medication, individualized psychological support such as counselling, and hospitalisation to address the suffering asylum seekers experienced. For example, regarding the use of medication, “I’m taking medication for sleeping tablets and depression. I’m still on them.” Another asylum seeker explained that he did not use medication in his home country. However, in Australia, he has been suffering mental distress and therefore has been prescribed medication due to the situation of uncertainty in which he lives. He stated, “I don’t know how long. It makes me crazy. Here I take sometimes medications. I didn’t have any at home. I wasn’t crazy.” Intervention strategies aiming to reduce asylum seekers’ experiences that lie at the suffering end of the suffering-wellbeing continuum targeted only individuals, and not structures or situations.

Participants described the hospitalisation of many asylum seekers. An asylum seeker explained,

after that 15 months [at Christmas Island] I was referred to [name of detention centre]. That detention centre was worse than Christmas Island, it was dirty and much worse than Christmas Island. Then I was in [that detention centre] for 3 or 4 months and then I went to the psychiatric hospital.

Another participant identified his situation in the detention centre environment as causing
him suffering and his need to be removed from the detention centre environment. However, he was not removed from the detention centre until he attempted suicide, which resulted in hospitalisation:

before my situation gets worse and worse,’ even I beg them and I wanted to kiss their hands, ‘please help me I’ve been here [the detention centre] a long time, just write to the mister, help me, I will get better’ but they did not until I ended up five months in the psychiatric hospital.

Other asylum seekers explained, “that was very very hard time for me and that’s why they referred me to the hospital”, “I came out from detention centre to the hospital because I tried to kill myself”, and “to implement the human rights they said ‘you are psychologically sick’ so they put me in the private hospital for five months”.

Hospitalisation of asylum seekers was described as a reactive response to suicidal or self-harming behaviours and no description of hospitalisation being used to prevent suicide or self-harm were provided. For example, an asylum seeker explained, “when I was in there, the other refugees they cut their hands, they hang to die, and they are being taken to the hospital.”

For some asylum seekers, these individually targeted interventions were useful, and for others they were not. One asylum seeker explained how he benefited from individualised psychological support and medication:

the two years I was crying in the detention centre. Because I was so much stressed I needed help from the mental health team and they prescribed me the stress medicines, and I was using them. With the help of mental health team only at least I’m being like this now…they teach me some relaxation exercises and also they prescribed the medication and used it on time. Also they are a lot of talk and the way they convinced my mind by talking to me very pleasingly not to worry.

A psychologist explained the negative experiences of one of the asylum seekers when he used medication:

I spoke to a guy this morning he said ‘oh I can’t see you in the mornings, only in the afternoons, because I’m really stressed and really depressed and I’m on all this medication and in the mornings I can’t do anything because of the medication’

Chapter Nine in brief

This chapter has described the translation to human experiences mechanism in which asylum seekers’ personal characteristics and situations interact to result in human experiences which lie along a continuum between suffering and wellbeing. Examples illustrated the ways in
which personal characteristics interact with asylum seekers’ situations to result in human experiences. Harming situations of constraint, isolation, and uncertainty and disempowerment were linked with human experiences in the suffering zone of the suffering-wellbeing continuum. Protecting situations of increased freedom and support usually occurred in combination with harming situations for ‘clients in community detention’ and these were linked with movement in the wellbeing direction on the continuum. However, overall ‘clients in community detention’ and ‘people in detention’ all have human experiences which lie in the suffering zone. This chapter also identified strategies implemented to reduce asylum seekers’ suffering. It was noted that strategies, such as counselling, use of medication, and hospitalisation, predominantly targeted personal characteristics and did not tend to address the structures and situations identified in the status-assignment mechanism.
Chapter Ten. Discussion: suffering in the context of harming structures

This chapter begins by reviewing the findings and discussing the Structural-Personal Interaction Process in light of structural violence. Drawing this dissertation towards its conclusion, it then calls upon three notions that resonate throughout the findings: harm, suffering, and a lack of meaningful activities (having ‘nothing to do’). The embodiment of human rights in the concept of engagement in meaningful activities is discussed, as well as asylum seekers’ human rights and their relevance to the Structural-Personal Interaction Process. Some policy recommendations are cautiously added with the aspiration to reduce the harm and suffering imposed upon asylum seekers by social structures. The findings presented here should be interpreted and applied with emphasis on the basicness of the social processes identified in this context-specific project, acknowledging that their application should not be independent from further research. This chapter is followed by a concluding chapter that summarises this dissertation and provides concluding remarks.

Review of findings

The Structural-Personal Interaction Process, which was abstracted from the data, explains how the social structures of status and policy interact with personal characteristics to create asylum seekers’ human experiences. Chapter Seven explained that it is comprised of two mechanisms; the status-assignment mechanism and the translation to human experiences mechanism. In the status-assignment mechanism, structures of status and policy contribute to situations. In the translation to human experiences mechanism, these situations interact with asylum seekers’ personal characteristics to create human experiences. The asylum seekers participating in this research most commonly encountered harming policies and harming situations, even though both harming and protecting policies and situations were identified. Overall, asylum seekers’ human experiences tended to lie in the suffering zone of the suffering-wellbeing continuum. They encountered more harming policies and situations when assigned that status ‘person in detention’ than when assigned the status ‘client in community detention’. This contributed to their experiences lying further towards the suffering end of the continuum when in detention than when in the community. This chapter explains the structural violence that occurs when harm is inflicted upon asylum through these mechanisms.
Structural violence

Structural violence is the infliction of harm through social structures such as economic privation, gender inequalities, educational disadvantage, employment type and status, migration and citizenship status, geographic location of residence, and ethnicity (Farmer 2009; James et al. 2003; Kozel 2007; Lane et al. 2008). Farmer (1999: 1488) describes structural violence as the “pathogenic effects of such inequality”. As opposed to personal violence, in structural violence, a single individual perpetrator is not directly responsible for the infliction of physical or psychological suffering. Galtung (1969: 170-171) explains that

violence where there is no such actor [is referred to] as structural or indirect…
There may not be any person who directly harms another person in the structure.
The violence is built into the structure and shows up as unequal power and consequently as un-equal life chances.

Structural violence extends the understanding of violence to include suffering based on inequalities amongst groupings of people. This reaches beyond infliction of physical pain by one individual to another.

Asylum seekers tend to have human experiences in the suffering zone of the suffering-wellbeing continuum. This occurs in the context of situations of constraint, isolation, and uncertainty and disempowerment. The harming policies that apply to asylum seekers determine these situations. Predominantly harming policies apply to asylum seekers who are assigned the status ‘person in detention’, while a combination of harming and protecting policies apply to asylum seekers who are assigned the status ‘client in community detention’. Both ‘person in detention’ and ‘client in community detention’ are non-citizen statuses.

If structural violence is the infliction of harm through social structures, then the Australian asylum seeker policies and status-assignment between 2012 and 2014 have been structurally violent. Examples of structural violence inflicted upon asylum seekers in Australia include that as non-citizens, they have been subjected to predominantly harming policies, contributing to experiences in the suffering zone of the suffering-wellbeing continuum. Linklater (2011) explains that societies exploit human vulnerabilities for the benefit of community members. “By inflicting pain, restricting liberty or causing suffering in some other way, they use the ‘power to hurt’ to punish transgressors and to protect members from injury” (Linklater 2011: 30). The Australian government inflicts harm on asylum seekers through structures of status and harming policies.

Asylum seekers are vulnerable in their quest for protection from persecution. Successive Australian governments have exploited this vulnerability by excluding asylum seekers from
conditions that would fulfil their human rights as described in Chapters Three and Four. In particular, the chapters detailed exclusion through segregation in onshore and offshore detention centres and in restrictive conditions in the community. Chapter Three exposed the contradiction of the Australian government asserting that it prioritises the rights of its citizens over those of non-citizens (Department of Immigration and Citizenship 2012b 2012d). By asserting that asylum seekers do not have rights equal to citizens and permanent visa holders (Department of Immigration and Citizenship 2012b, Section 1.1), the Australian government extends the term rights to include civil and human rights, thus excluding asylum seekers from both. In addition to withholding civil rights which are owed only to its citizens, the Australian government also untenantly denies asylum seekers human rights, owed to all people without discrimination (Ballin 2014; Office of the United Nations High Commissioner for Human Rights 2006; Zifcak 2002). Employing this rationale, Australia inflicts harm upon asylum seekers, through the status-assignment mechanism. In this mechanism, harming policies apply to all asylum seekers, even if more so to those assigned the status ‘person in detention’ than to those assigned the status of ‘client in community detention’. Consequently, asylum seekers are excluded as vulnerable non-citizens and violence is inflicted upon them through structures of status and policy.

According to Article 31 of the Refugee Convention, it is legal to enter a state without prior authorisation if seeking asylum. Despite this, the Australian government contends that asylum seekers have entered Australia ‘illegally’ as ‘unauthorized non-citizens’ according to the Migration Act 1958. The Australian government exerts the ‘power to hurt’ (Linklater 2011), through structures of exclusionary non-citizen statuses: ‘person in detention’ and ‘client in the community’. These structures determine predominantly harming policy structures that restrict movement, restrict and control engagement in meaningful activities, and limit access to services. These policies contribute to harming situations, and ultimately contribute to asylum seekers’ suffering.

According to Farmer (2009), when structural violence occurs, belonging to a group restrains individual agency to prevent suffering. The Structural-Personal Interaction Process describes the creation of human experiences through an interaction between the asylum seekers’ personal characteristics and situations that arise as consequences of non-citizenship statuses. Each asylum seeker’s experiences are unique based on this interaction. However, the contribution of personal characteristics (agency) is overridden by harming structures of status and policy. Thus, asylum seekers’ experiences tend to lie in the suffering zone of the suffering-wellbeing continuum, especially in detention, regardless of their personal characteristics. Their experiences move further away from wellbeing the longer they remain within the status structure of non-citizenship,
particularly the status of ‘person in detention’. This process, which results in asylum seekers suffering, illustrates how structural violence is inflicted upon asylum seekers, overriding their agency.

Some participants provided accounts of direct personal violence along with the evidence of structural violence. For example, descriptions of brutal treatment of asylum seekers using tear gas, forceful contact, isolation, and withholding food and self-care items were provided. It is outside the scope of this research project to collect further evidence with respect to these concerns. In light of events in 2014 involving death and injury of people seeking asylum in Australia and Australian contracted offshore detention centres (Davidson and Laughland 2014; Griffiths 2014), further investigation of direct violence as well as structural violence towards asylum seekers is important.

**Structural amelioration?**

Changing status from ‘person in detention’ to ‘client in community detention’, results in a change of applicable policies and is linked to movement in the wellbeing direction. Predominantly harming policies apply to asylum seekers with the status ‘person in detention’, whereas, a combination of protecting and harming policies apply to asylum seekers with the status ‘client in community detention’. Protection as a term usually employed to describe legal structures (Abass and Ippolito 2014; Crock 1993; Fitzpatrick 2002). A protector, a powerful entity offering safety and wellbeing, guards people who are members of vulnerable groups from infringements upon their human rights. Government protection of asylum seekers describes the provision of safety from persecution in their home countries, in the form of a protection visa, such as a refugee visa or a temporary protection visa (Hallett 2014; Jacqueliene 2002; Mansouri and Leach 2009; O'Sullivan 2008).

Asylum seekers apply for the legal status of refugee in order to obtain protection from persecution in their home countries, for example, in the form of a protection visa under Section 36 of the *Migration Act 1958*. Protection is considered as a concept linked to state obligations under international human rights law, rather than a moral concept about protecting the wellbeing of human beings (Bailey 2002; Schloenhardt 2002). For example, when considering protection, asylum seekers are most often seen as “people seeking to engage the state’s protection obligations” (Bailey 2002: 2) in the form of a protection visa, rather than ‘rights-bearing agents’ who possess human rights and deserve to be protected in all aspects of their lives because they are human.

The Structural-Personal Interaction Process extends understandings of protection to

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36 The controversies of temporary protection visas are outside the scope of this thesis, further information can be found in work by Mansouri and Leach (2009) and Hallett (2014).
consider more than just visa status. By using the word protecting, rather than protection, the Structural-Personal Interaction Process challenges traditional understandings of protection. As an active part of a process for creating human experiences, the concept of protecting reframes existing understandings of protection. The Structural-Personal Interaction Process describes policies and situations as either harming or protecting. Protecting does not only refer to offering safety from external harm inflicted by another state, but it also applies to all policy structures which might harm or protect a person. As such, it is not only about shielding asylum seekers from external harm, but it is also about creating situations which are supportive of their wellbeing. Protecting is about the government’s treatment of asylum seekers, not just the provision of a legal status as a refugee. It relates to all asylum policies, not just those that relate to safety from persecution in their home countries.

Some protecting policies that promote volitional engagement in meaningful activities and promote access to services designed to fulfil basic needs apply to asylum seekers assigned the status ‘client in community detention’. These protecting policies contribute to protecting situations of increased freedom and support. Few of these policies are noted for asylum seekers with the status ‘person in detention’.

Protecting policies and situations are few in contrast to harming policies and situations for all asylum seekers. This suggests that structures can be modified to prompt movement of human experiences in the wellbeing direction, although between 2012 and 2014 such structures were scant. ‘Structural amelioration’, the opposite of structural violence, might be possible.

While some ‘structural amelioration’ is evident for those with the status ‘client in community detention’, the strategies to reduce asylum seekers’ suffering that were identified in Chapter Nine predominantly target personal characteristics. Given the interaction between situations (determined by status-assignment and policies) and personal characteristics, to create human experiences, a more balanced combination of ‘structural amelioration’ measures and strategies that target personal characteristics is needed to move asylum seekers’ experiences in the wellbeing direction (see Appendix 4 for supplementary discussion). Researchers, policy makers, politicians, and advocates might consider how social structures of status and policy might be adapted to reduce structural violence further and create conditions for ‘structural amelioration’. They might also consider ways of addressing other social structures which create barriers to ‘structural amelioration’ such as power, media representations, or public opinions.

Harm

Harm, with reference to harming policies and harming situations, refers to effects of
structures on human experiences of mental distress and lacking engagement in meaningful activities. For Linklater (2011), harm is physical injury and mental anguish imposed upon a person. An exploration of harm, a description of Linklater’s conceptualisation of the cosmopolitan ‘harm principle’, and ideas regarding the application of the cosmopolitan harm principle follow. The Structural-Personal Interaction Process is then considered in conjunction with the cosmopolitan harm principle to minimize the infliction of harm through policy and status structures (thus limiting structural violence).

Pogge describes harm as participation in the imposition of an “unjust global institutional order” which “perpetuates large-scale human rights deficits that would be reasonably avoidable through feasible institutional modifications” (Pogge 2005: 4). Australia participates in an unjust global institutional order of states which view the human rights of non-citizens as secondary to national interests. The unjust global order is exemplified by the persecution and lack of government protection that impels asylum seekers to leave their homes, as well as by the international trend of restrictive and exclusionary policies applied to asylum seekers described in Chapter One. As seen from this cosmopolitan perspective, Australia’s participation in the latter trend indicates its subscription to an ‘unjust global institutional order’. Australia institutes and implements harming policies, contributing to harming situations, and asylum seekers’ experiences in the suffering-zone of the suffering-wellbeing continuum. ‘Structural amelioration’ through protecting policies that move asylum seekers’ experiences in the wellbeing direction, suggests that “feasible institutional modifications” (Pogge 2005) are possible. Rather than perpetuating “large scale human rights deficits” (Pogge 2005) such as those seen in asylum seekers’ experiences in the suffering zone, this research shows that state policies have the potential to be protecting rather than harming.

Linklater (2011) indicates that the cosmopolitan ‘harm principle’ is the notion of not causing physical or mental suffering to other people because of shared membership in a global society as global citizens. He suggests the harm principle as a way to address the unjust global order that creates and perpetuates human suffering. The Structural-Personal Interaction Process is discussed as it relates to Linklater's 'harm principle'. For him, the ‘harm principle’ is a responsibility held by all state and non-state actors not to harm any human being. The tendency of

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37 Pogge’s (2005) ideas regarding an ‘unjust global institutional order’ and ‘feasible institutional modifications’ describe injustices experienced by all disempowered people, and not specifically to asylum seekers.

38 Linklater’s (2011) cosmopolitan conceptualisation of the ‘harm principle’ differs from Mill’s (2011) well known ‘harm principle’ described in his book On Liberty. Mill’s (1859) ‘harm principle’ is about freedom of individuals, except for in the case that harm to others would be prevented, stating “that the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others” (Mill 1859: 10) Whereas, Linklater’s (Linklater 2011) cosmopolitan ‘harm principle’ describes the moral imperative not to inflict harm upon others regardless of membership, or lack thereof, to any societal group.
asylum seekers’ experiences to lie in the suffering zone on the suffering-wellbeing continuum in the context of harming policies indicates a violation of the ‘harm principle’.

Linklater (2011) acknowledges that some actors may take the stance that they have a responsibility to violate the ‘harm principle’ in order to uphold national interests; the interests of citizens above the wellbeing of others. He explains that this is contrary to the view that all people deserve to be free of harm regardless of state membership and that all people have a responsibility not to inflict harm upon others. The Australian government posits that its treatment of asylum seekers is justifiable by prioritizing the rights of citizens above non-citizens (Department of Immigration and Citizenship 2012d). It does not distinguish between civil and human rights, and thus excludes asylum seekers from conditions that correspond with the human rights that they deserve simply by virtue of being human.

International agreement on a cosmopolitan ‘harm principle’ might provide a solution to the problem in which the rights and wellbeing of citizens are prioritized above the rights of those who are not, according to Linklater (2011). He suggests considering the ‘harm principle’ as a universal obligation to avoid inflicting harm upon others based on recognition of shared humanity. This would require states to “refrain from promoting their ends by transferring unreasonable costs to outsiders” (Linklater 2011: 76), without requiring that states would have to sacrifice their legitimate interests.

The “citizenship/humanity problem” (Linklater 2011: 76) underpins the citizen/non-citizen distinction used by the Australian government to justify its exclusion of asylum seekers from conditions commensurate with human rights. This was explained in Chapters Three and Four. Linklater’s (2011) normative project intentionally uses the language of avoiding harm to promote the wellbeing of all people regardless of citizenship (Hurrell 2012). The ‘harm principle’ offers an opportunity to shift perspectives when considering problems in the context of global politics (Lang 2011). Specifically, Linklater guides his readers to look at issues through the lens of the harm principle which applies to all people, rather than through the traditional lens of citizenship which excludes non-citizens. The Structural-Personal Interaction Process explains how Australian policies contribute to asylum seekers’ experiences through a lens that focuses on harm, protection, suffering, and wellbeing.

In The Problem of Harm in World Politics, Linklater sets out with a commitment to “theorizing harm” (Linklater 2011: 5), engaging with history, international politics, and global ethics to provide an overview of harm. Along with his ideas regarding ongoing development of international harm conventions, a practical how-to guide for avoiding harm in international and
domestic politics and examples of practical applications of the ‘harm principle’ could compliment his in-depth overview of the theory of harm in world politics.

Shapcott (2013) describes one way in which Linklater’s (2011) cosmopolitan ‘harm principle’ might be applied. He explores ways in which the cosmopolitan ‘harm principle’ might be written into national constitutions. He presents this as a method for incorporating cosmopolitan, or global citizenship, ideals at the domestic level. He recommends a bill of rights including a clause to extend human rights law to citizens and non-citizens equally. Shapcott acknowledges concerns regarding ‘overstretch’ of resources for protecting human rights, and issues concerning other states’ sovereign duties and jurisdictions. Thus, he suggests that a cosmopolitan constitution or bill of rights might not require upholding rights everywhere or engaging in battling human rights issues internationally, but would extend legal protections to outsiders (non-citizens) based on the state’s actions and policies. For example, the constitutional inclusion of the ‘harm principle’ might be relevant to foreign policies and asylum seeker policies. It would protect citizens and non-citizens alike from harm.

According to Gelber (2005), the Australian constitution is problematic with respect to protecting asylum seekers’ human rights. She explains, legal judgement based on the constitution within Australia has validated Australia’s use of mandatory detention despite this policy contravening international law. Shapcott (2013) explains that embedding the cosmopolitan ‘harm principle’, not to violate the human rights of any people regardless of citizenship, in the Australian constitution would protect asylum seekers and Australian citizens from mandatory detention without distinction. He explains the incorporation of the ‘harm principle’ in state constitutions as a potential step towards moving from an international order of inwardly looking self-interested states to a global community of states that recognise the human rights of all people, regardless of citizenship.

The Structural-Personal Interaction Process addresses only one concern, that of asylum seekers, amongst a plethora of global political problems. Considering the breadth of Linklater’s (2011) writings on harm, this research is merely a drop in the theoretical ocean. Nonetheless, the wellbeing of every single individual is important according to the account of universal and inalienable human rights borne by every single person, presented in Chapter Two. In the context of Linklater’s (2011) theoretical consideration of harm in world politics, the Structural-Personal Interaction Process provides an empirical contribution to the understanding of harm in world politics, with a focus on asylum seekers in Australia. From an interpretivist perspective, oscillation between deductive theorizing and inductive theorizing, which draws on empirical data for theory
generation and testing, is important in order to develop understandings of social processes that are
grounded in actual interactions and occurrences (Johnson 2008). Della Porta and Keating describe
this as going “back and forth between inductive and theory-driven approaches” (della Porta and
Keating 2008: 38). This dissertation offers another link between the theory of the ‘harm principle’
(Linklater 2011), and empirical research. The Structural-Personal Interaction Process, grounded in
empirical data, explains how structures of status and policy contribute to asylum seekers’ human
experiences along the suffering-wellbeing continuum.

How might the Structural-Personal Interaction Process support the practical application of
Linklater’s (2011) cosmopolitan ‘harm principle”? Protecting policies that prevent harm and
promote wellbeing are policies that promote volitional engagement in meaningful activities and
promote access to services designed to fulfil basic needs. Thus when policies are written, they
could be checked against these types of policies to ensure they comply with the ‘harm principle’
(Linklater 2011) of not inflicting suffering. Given Australia’s ongoing policy changes regarding
asylum seekers over the past decade, it is likely that a number of new iterations of Australia’s
asylum seeker policies will arise in the future.39 Future asylum seeker policies could be considered
according to a checklist that corresponds to protecting and not harming policies. For example, after
a policy document has been drafted, it could be reviewed by asking “does this policy document
1. restrict movement
2. restrict and control engagement in meaningful activities
3. limit access to services?”
If the answer to any of the above were yes, then the policy would need to adjust in line with the
‘harm principle’. Similarly, after a policy document has been drafted, it could be reviewed asking
“does this policy document
• promote volitional engagement in meaningful activities
• promote access to services designed to fulfil basic needs?”
If the answer to any of the above is no, then the policy would need to be adapted to be in line with
the ‘harm principle’. This checklist could be integrated with the constitutional inclusion of the harm
principle that Shapcott (2013) identified.

The practical implementation of such a checklist would remain dependent on political will,
however. Policy is shaped by a range of interests and needs from a variety of groups (Hazlehurst
2001). Humanistic considerations in Australia’s migration policy are often clouded by
considerations regarding economics, security (e.g. border control), political power, public opinion,

39 See Chapter Four for an outline of the ongoing policy changes regarding asylum seekers in Australia.
xenophobia, and popularist policies (Johnston 2009; McKay 2011; Silove, Steel and Watters 2000; Spinney and Nethery 2013). To place human experiences at the centre of Australia’s asylum seeker policy would be an ambitious, complex, and groundbreaking task. Nonetheless, in the meantime, advocates could use the language of the Structural-Personal Interaction Process and the checklist described above to promote asylum seeker policies that adhere to the ‘harm principle’ and promote human experiences of wellbeing.

Further research would be useful before considering the application of the Structural-Personal Interaction Process in other areas of policy. The checklist described above might be extended beyond Australian asylum seeker policies, to policies in other countries or to policies regarding other vulnerable or excluded groups. Other vulnerable or excluded groups might include homeless people, people with disabilities, incarcerated youth, and Indigenous Australians. If this occurs, it is important to evaluate the applicability of the Structural-Personal Interaction Process to these other contexts.

Other harming policies and protecting policies might exist when considering this process for other groups. For example, community and ‘connection to country’ are important aspects of culture for many Indigenous Australians (O'Brien and Bloomer 2013). If the Structural-Personal Interaction Process was considered in research by and with Indigenous Australians, categories relating to these cultural values might be identified. Another category of harming policies such as ‘policies that weaken communities and connection to country’ or another category of protecting policies such as ‘policies that strengthen communities and connection to country’ might be recognised. These categories of policies could be added to the policy checklist suggested above. However, before assuming the Structural-Personal Interaction Process applies to other groups, questions must be asked about the generalizability of the process and relevant research should be carried out. Can the process be generalised across groups, or might it be irrelevant when considering policies regarding other groups such as Indigenous Australians or people with disabilities?

The Structural-Personal Interaction Process explains mechanisms through which structures of status (that of non-citizen and statuses within the non-citizen group) and policy contribute to the situations that asylum seekers’ encounter. Situations interact with their personal characteristics to create human experiences. Considering the Structural-Personal Interaction Process in light of Linklater’s conceptualisation of the ‘harm principle’ provides insights regarding ways in which this process might be applied to minimise harm infliction through structures of policy that prevent structural violence.
Suffering

Asylum seekers tend to experience suffering in the context of Australia’s asylum seeker policies. Harming policies apply to all asylum seekers regardless of the status assigned to them. These harming policies contribute to harming situations, resulting in a pattern of asylum seekers having experiences that lie in the suffering zone along the suffering-wellbeing continuum. When asylum seekers are assigned the status ‘person in detention’, predominantly harming policies apply, contributing to predominantly harming situations and consequently experiences in the suffering zone on the continuum. Asylum seekers who are assigned the status ‘client in community detention’ are subject to a combination of harming and protecting policies. This contributes to a combination of harming and protecting situations. Consequently, asylum seekers who are assigned the status ‘client in community detention’ still tend to have experiences that lie in the suffering zone on the continuum. However, experiences tend to move in the wellbeing direction when asylum seekers status changes from ‘person in detention’ to ‘client in community detention’.

According to the Structural-Personal Interaction Process, experiences of mental distress and having ‘nothing to do’ characterise the suffering that occurs within the context of Australia’s harming policies.

There is ambiguity with which the term suffering is used (Levinas 1982; Sensky 2010) and the suffering-wellbeing continuum offers insights to its conceptualisation of suffering. In what follows, the absence of physical pain as an aspect of this definition is noted and the relationship between suffering and pain is discussed firstly. Secondly, the conceptualisation of suffering as part of a continuum between suffering and wellbeing along which human experiences oscillate, rather than suffering being considered as a separate state to wellbeing, is considered. Finally, having ‘nothing to do’ is considered as a characteristic of suffering.

Pain and suffering are separate concepts according to current consensus (Chapman and Gavrin 1993; Chapman and Gavrin 1999; Krikorian, Limonero and Maté 2012; Schleifer 2014). They are understood to exist independently of each other (Krikorian, Limonero and Maté 2012; Schleifer 2014). Sensky (2010) explains that pain might cause suffering, but suffering is not physical pain. According to Sensky, pain is a physical concern for a specific body part, whereas suffering involves the whole person. According to Sensky, suffering is a threat to an individual’s entire being involving more than just his/her physical body.

Cassel (1982 2003) also makes a clear distinction between physical pain and suffering. He explains that pain might be one cause of suffering and that there may be other causes. These include constraints, loss of autonomy, worry about the future, factors in the social environment, and
unwanted/unacceptable changes in everyday life. These causes of suffering align with the situations of constraint, of isolation, and of uncertainty and disempowerment which contribute to experiences of suffering in the translation to human experiences mechanism of the Structural-Personal Interaction Process.

Cassel (1982: 640) defines pain as a “state of severe distress associated with events that threaten the intactness of the person”. In contrast, he portrays suffering as distress experienced by the whole person when the integrity of the person is under threat, and not just by a physical part of the person. For him, personhood includes physical body, culture, roles, rights and obligations, past life experiences, relationships, belonging, regular behaviours, personality, activities, imagination, dreams, perceived future, and spirituality. When any aspect of personhood is under threat, a person might experience distress, and this is what Cassell identifies as suffering. He explains that suffering and pain are related, but “phenomenologically distinct” (Cassell 1982: 640). This correlates with the understanding of human experiences in the suffering zone of the suffering-wellbeing continuum involving mental distress as well as having ‘nothing to do’, but not necessarily involving physical pain.

Bourdieu’s (1999) account of suffering encompasses thinking, feeling, and responding. It is without consideration of physical pain. Bourdieu focuses on social suffering. According to him, welfare policy has traditionally viewed social suffering as the unequal distribution of material goods in society. He proposes an expanded view of social suffering that involves lived experiences of domination and repression. Social suffering includes feelings of humiliation, anger, resentment, and despair as a response to social structures including poverty, race, and class. In the Structural-Personal Interaction Process, human experiences in the suffering zone involve having experiencing mental distress and ‘nothing to do’ as a consequence of harming situations which are shaped by harming policies and determined by the social structure of status. In this conception of suffering, mental distress is an aspect of suffering and involves feelings of shame, frustration, anger, and hopelessness. The situation, policy and status aspects of the Structural-Personal Interaction Process are similar to Bourdieu’s consideration of suffering as a response to social structures of repression.

The definition of suffering presented by the Structural-Personal Interaction Process, which does not include pain, is theoretically congruent with other conceptualisations of suffering. These include Sensky’s and Cassell’s arguments that pain might cause suffering, but that suffering involves the response of a whole person in response to a threat to his/her personhood, and Bourdieu’s ideas of social suffering as an emotional response to unjust social systems.

Suffering and wellbeing are often seen as two distinct and contradictory concepts (Gobbo
and Raccanello 2011; Rath and Harter 2010; Wilkinson 2009). In the Structural-Personal Interaction Process, suffering and wellbeing are connected in one continuum. Experiences might be of severe suffering, lying at the extreme end of the continuum, and might range through to experiences of milder suffering. The continuum does not end at mild suffering but extends to include experiences of wellbeing, which are characterized by feeling hopeful, feeling safe and having something to do.

By offering this new perspective on suffering as the experience at the opposite end of a continuum with wellbeing, the Structural-Personal Interaction Process elucidates possibilities of moving asylum seekers’ experiences away from the suffering zone of the continuum and towards wellbeing. A status could be created that includes protecting policies, which in turn might contribute to protecting situations. This might be a mechanism to support adherence to the ‘harm principle’ (Linklater 2011), as described above. In the context of a status that determines protecting policies and contributes to protecting situations, asylum seekers’ experiences might begin to move in the direction of wellbeing. Protecting situations of support and increased freedom are linked with movement of asylum seekers’ experiences towards the wellbeing end of the continuum. These situations tend to occur under protecting policies that promote volitional engagement in meaningful activities and promote access to services designed to fulfil basic needs, which were more evident for asylum seekers with the status ‘client in community detention’ than for asylum seekers with the status ‘person in detention’. A status that moves asylum seekers’ experiences in the wellbeing direction might draw on protecting policies of the ‘client in community’ status included in this project. Creation of a status that determines protecting policies could be considered as a form of ‘structural amelioration’.

Few definitions consider having ‘nothing to do’ as a characteristic of suffering. Some definitions of suffering see it purely as a psychological state. Others see suffering as multidimensional, for example, involving “physical, psychological, spiritual, social, and cultural dimensions of the person” (Krikorian, Limonero and Maté 2012: 804). Some scholars, although very few, see limited engagement in activity as an aspect of suffering (Cassell 1982 2003; Wilson et al. 2007). All definitions of suffering described above include something akin to mental distress as an aspect of suffering. This aligns with the conceptualisation of suffering in the Structural-Personal Interaction Process.

Cassell is amongst the few scholars who include having ‘nothing to do’ as part of their definitions of suffering. For example, when describing suffering as disruption to an individuals personhood, or being themselves, Cassell (1982: 643) stated
Persons do things. They act, create, make, take apart, put together, wind, unwind, cause to be, and cause to vanish. They know themselves, and are known, by these acts. When illness restricts the range of activity of persons, they are not themselves.

In a study regarding the suffering associated with lung cancer, Benedict (1989) conducted structured interviews with thirty patients. Sixty three percent of the participants reported experiencing a change in activities and 34 percent of the participants reported that a change in activities was associated with their experiences of suffering.

For occupational therapists, the original profession of the researcher, occupational deprivation is the inability to engage in meaningful day-to-day life activities because of external constraints (Whiteford 2000; Whiteford 2005). Occupational therapists see engagement in meaningful activities as a vital aspect of wellbeing (Kielhofner 2009; Law, Steinwender and Leclair 1998; Letts et al. 2011; Steindl, Winding and Runge 2008; Townsend and Polatajko 2007; Wilcock 2006; World Federation of Occupational Therapy 2010). It would be logical to draw the conclusion that if someone is deprived of their meaningful day-to-day activities, or has ‘nothing to do’, that they would be suffering.

Further research regarding characteristics of suffering, in particular having ‘nothing to do’ would provide insights regarding the generalisability of the definition of suffering provided in the Structural-Personal Interaction Process. Even though suffering relates to both mental distress and having ‘nothing to do’ for participants in this project, research that further explores suffering across a range of groups would be useful. This might include different vulnerable people (e.g. asylum seekers in other countries, cancer patients), different cultures (e.g. individualist cultures such as non-indigenous Australian culture, collectivist cultures such as Indigenous Australian cultures or Japanese cultures), and different age groups (children, adolescents, adults, the elderly).

Lack of engagement in meaningful activities

A lack of engagement in meaningful activities, or having ‘nothing to do’, is a theme that permeates the Structural-Personal Interaction Process. It is expressed in harming policies that restrict and control engagement in meaningful activities. For example, policy structures that require asylum seekers to be monitored in their engagement in detention centre driven activities, that prevent asylum seekers from engaging in home maintenance or gardening, or that prevent asylum seekers from working in the community. A lack of engagement in meaningful activities is also expressed in situations of constraint including situations in which asylum seekers are unable to access the resources to do what they want or need to do in detention centres and in community
detention, or situations where security staff restrict the actions of asylum seekers in detention centres.

Previous research has also identified a lack of engagement in meaningful activities in asylum seekers’ everyday life experiences. For example, Coffey and colleagues (2010) carried out semi-structured interviews with people who had previously been detained as asylum seekers. They described Australian detention centres as constraining, inhumane, and stark environments. They noted that within these environments, asylum seekers experienced an absence of meaningful activities, restrictive routines, changes in self-view related to changes in family roles, difficulties taking initiative in everyday life, and difficulties with goal directed activities.

Connor, Schisler, and Polatajko (2002) reported that engagement in self care, productive activities and leisure were limited for asylum seekers and refugees living in the community in Canada, based on an ethnographic study. Similarly, Steindl, Winding, and Runge (2008) carried out an ethnographic study involving seven interviews and weekly observations with female asylum seekers in a detention centre. They noted that privacy, physical, cultural, legal, and social factors limited asylum seekers’ engagement in meaningful activities. This limited engagement extended to meal choice, meal preparation, engagement in work, and self-care. Moreover, according to Morville and Erlandsson’s (2013) analysis of the narratives of three asylum seekers in Denmark, they had ‘nothing to do’ and were seeking activities to fill their time.

These previous studies identified human experiences of having ‘nothing to do’ and situations that contributed to this lack of engagement in meaningful activities. The Structural-Personal Interaction Process explains how social structures shape situations that result in asylum seekers having ‘nothing to do’. Structures of status and policy contribute to situations that interact with personal characteristics to contribute to human experiences. In particular, for asylum seekers, harming policies that restrict and control engagement in meaningful activities were noted. Harming policies that restrict movement and limit access to services also contributed to harming situations of constraint in which asylum seekers were unable to engage in things they wanted or needed to do. When harming situations of constraint, isolation, and uncertainty and disempowerment interact with asylum seekers personal characteristics, they tend to result in experiences in the suffering zone, which includes having ‘nothing to do’. This illustrates how a lack of engagement in meaningful activities is not only an aspect of their human experiences, but also occurs as a consequence of policy structures.

Some scholars have argued for a human right to occupation, that is, a right to engagement in meaningful activities (Hammell 2008; Nílsson and Townsend 2010; Pollard and Sakellariou 2007;
Sakellariou, Pollard and Kronenberg 2008; Townsend and Wilcock 2004). While all people bear an equal deservedness to engage in activities that hold meaning to them in their own unique life contexts, considering a ‘right to occupation’ might be superfluous. This additional right to occupation, stemming from the field of occupational therapy, uses confusing terminology and re-states human rights that are already articulated and well founded in positive law.40

International human rights law including the ICCPR the ICESCR, and international human rights law regarding specific groups such as the Refugee Convention are documents which are already in practice internationally, across a range of fields, to articulate and promote human rights. Townsend and Wilcock (2004) propose four additional ‘occupational rights’:

- to experience meaning and enrichment in one's occupations;
- to participate in a range of occupations for health and social inclusion;
- to make choices and share decision-making power in daily life; and
- to receive equal privileges for diverse participation in occupations.

These, however, could be considered in terms of human rights which are already articulated in the ICCPR and the ICESCR. For example, the proposed occupational right to experience meaning and enrichment in one’s occupations could be considered in terms of the human rights to dignity (Articles 7 and 10, ICCPR), and to engagement in cultural (Article 18, ICESCR) and religious life (Article 18, ICCPR). The proposed occupational right to participate in a range of occupations for health and social inclusion could be considered in terms of the human rights to work (Article 6, ICESCR), education (Article 13, ICESCR), participation in culture (Article 15, ICESCR), and physical and mental health (Article 12, ICESCR). The proposed occupational right to make choices and share decision-making power in daily life could be considered in terms of the human right to freedom of thought, conscience and religion (Article 18, ICCPR) as well as the right to freedom of expression Article 19, ICCPR). The final proposed occupational right to receive equal privileges for diverse participation in occupations could be considered in terms of the human right to non-discrimination (Article 26, ICCPR).

40 The term occupation is unclear within the field of occupational therapy, as well as outside the profession (Bauerschmidt and L. 2011; Fisher 2013; Kautzmann 2009; Leclair 2010). According to Hammell (2008: 62), the idea of the right to occupational and other associated terms “are culturally specific and lacking in distinct parameters – [they] may serve to muddy rather than elucidate the profession's theoretical waters.” This language can be confusing, and the terminology already commonly in use regarding human rights is more effective for communicating concerns and goals regarding human dignity and wellbeing. Thus, international human rights law including the ICCPR, the ICESCR, and Refugee Convention might articulate and promote human rights more effectively than concepts of occupational rights.
Engagement in meaningful activities, or occupation, could be understood as embodying human rights, rather than as a right itself. Occupation embodies human rights to engagement in work as a productive occupation; housing and privacy in which to carry out self care and leisure activities; education; welfare to provide means for engaging in meaningful activities; freedom of movement to access places and resources for engagement in meaningful activities; an adequate standard of living including food, water, and shelter, for example maintaining one’s own house or engaging in activities for meal preparation or sharing food; physical and mental health as means for achieving engagement in meaningful activities as well as outcomes of engagement; dignity and freedom from cruel treatment reflected in self-chosen engagement in activities of self care, leisure, and productivity; and participation in cultural life. See Table 10.1 provides an outline of these rights and the relevant human rights documents.

Returning to human rights

Returning to the concepts introduced in earlier chapters, asylum seekers are excluded from Australian territory, community, and government protection of their human rights based on their non-citizens status. Exclusion of asylum seekers from civil rights protections is normatively acceptable based on their non-citizenship status (Ballin 2014; Office of the United Nations High Commissioner for Human Rights 2006; Zifcak 2002). However, exclusion of asylum seekers from conditions commensurate with the fulfilment of their human rights contravenes international law including the Refugee Convention, the ICCPR, and the ICESCR. It is morally unjustifiable because all people possess and deserve human rights in virtue of their humanness (Gardner 2008; Griffin 2008; James 2007; Lamey 2012). Considering the Structural-Personal Interaction Process in light of a human rights framework, with reference to the Refugee Convention, the ICCPR and the ICESCR, human rights concerns for asylum seekers are discussed in terms of policies, situations, and human experiences. The findings presented in Chapters Six, Seven, Eight, and Nine contribute to the existing human rights critique of Australia’s treatment of asylum seekers which was outlined earlier in this dissertation. Additionally, the Structural-Personal Interaction Process provides novel insights to the mechanisms through which Australia’s status-assignment and policy structures contribute to asylum seekers’ experiences. This research provides insights regarding the lack of respect for asylum seekers’ human rights (discussed below) and how this comes about in the Australian policy context.
The human experiences of asylum seekers in Australia predominantly lie in the suffering zone on the suffering-wellbeing continuum. These experiences occur in the Australian policy context in which harming policies outweigh protecting policies and contribute to harming situations of constraint and isolation. Asylum seekers also encounter situations of uncertainty and disempowerment that, considering the policy documents analysed, were evident regardless of the policies that applied to asylum seekers. Harming policies, harming situations and human experiences that lie in the suffering zone of the suffering-wellbeing continuum indicate that while asylum seekers’ human rights are latent, continuing to be borne by asylum seekers, they are
unfulfilled because of the harming structures.\textsuperscript{41}

Table 10.1 provides an outline of the human rights according to the Refugee Convention, ICCPR, and ICESCR that Chapter Two discussed as being relevant to the everyday experiences of asylum seekers. Concepts in the Structural-Personal Interaction Process align with human rights. For example, harming policies that restrict movement align with the human right to freedom of movement (Article 26, Refugee Convention; Articles 9 and 12, ICCPR). The trend noted in the findings that harming policies that restrict movement apply to all asylum seekers indicates that in Australia, the human right to freedom of movement of all asylum seekers is not respected.

Examples of situations of constraint described in the findings include asylum seekers not being allowed to work in the community; living in detention centres with little privacy and therefore constraints on private activities; not being allowed to pursue educational opportunities such as gaining qualifications; being limited in self-chosen and self-directed activities because of a lack of resources, opportunities in detention centres, and finances in the community. These situations of constraint are incongruent with human rights to work (Article 17, Refugee Convention; Article 6, ICESCR), housing and privacy (Article 21, Refugee Convention; Article 11, ICESCR), education (Article 22, Refugee Convention; Article 22, ICESCR), an adequate standard of living (Article 11, ICESCR) and dignity (Articles 7 and 10, ICCPR) respectively.

Considering human experiences in the suffering zone on the suffering-wellbeing continuum, experiences of mental distress indicate latent human rights to physical and mental health (Article 12, ICESCR) and the human right to dignity and freedom from cruel treatment (Articles 7 and 10, ICCPR). Human experiences of having ‘nothing to do’ indicate latent human rights to participation in the cultural life of the community (Article 15, ICESCR), to self-expression (Article 19 ICCPR), education (Article 22, Refugee Convention; Article 13, ICESCR), work (Article 17, Refugee Convention, Article 6, ICESCR), and freedom of movement (Article 26, Refugee Convention; Articles 9 and 12, ICCPR). For example, asylum seekers have little choice regarding their own engagement in meaningful activities in detention centres, and in the community. They are unable to access many educational opportunities and are not permitted to engage in work. With a lack of movement (being held in detention, or unable to stay outside their designated accommodation in the community), asylum seekers’ opportunities to engage in family events or work that is located away from their designated homes are limited.

As Duffy (2001: 10) proposes, human rights might even be considered the “very antithesis of human suffering”. Considering the Structural-Personal Interaction Process from a human rights

\textsuperscript{41} Chapter Two provides more explanation of the term ‘latent’ human rights.
perspective, harming policies, harming situations and human experiences of suffering are in opposition to human rights specified in the Refugee Convention, the ICCPR, and the ICESCR. These are the conditions, contexts, and human experiences of asylum seekers in Australia. When describing their experiences of suffering, some research participants referred to “the opposite of human rights”. Human experiences of suffering in harming situations and under harming policies might indeed be considered ‘the opposite of human rights’. The Structural-Personal Interaction Process identified in these research findings offer a potential framework for moving asylum seekers’ experiences away from suffering, in the direction of wellbeing, and therefore a framework for working towards human rights.

**Is this a complete conceptualisation of asylum seekers’ experiences?**

This research used constructivist grounded theory methods to identify a social process, that is, a ‘theory’ is not described. Glaser and Holton (2005) explain that there is a “tendency to over-generalise” basic social processes. They are often erroneously applied as formal theories when their implications are often clear and general, without the research needed to evaluate their robustness. It is therefore important to continue research to develop formal theory from basic social processes, rather than assuming a basic social process holds across contexts without obtaining evidence. A basic social process requires four key features to develop into a robust formal theory: stages, change over time, full variability, and pervasiveness.

Stages are delineated theoretical units that account for changes in behaviour over time (Glaser and Holton 2005). The stages in the Structural-Personal Interaction Process include the statuses ‘person in detention’ and ‘client in community detention’.

Changes over time are evident in the Structural-Personal Interaction Process, for example, movement along the suffering-wellbeing continuum occurs with status changes. When an asylum seeker’s status changes from ‘person in detention’ to ‘client in community detention’, human experiences usually move in the wellbeing direction. Increasing time with the status ‘person in detention’ is associated with movement in the suffering direction along the suffering-wellbeing continuum.

Pervasiveness refers to the continuation of the basic social process regardless of conditional variation. The Structural-Personal Interaction Process still applies, even with a variation in statuses. For example, a new status of ‘illegal maritime arrival transferred from Australia to an offshore processing country’ (Department of Immigration and Border Protection 2014a), or ‘offshore IMA’, was created in late 2013. Asylum seekers assigned this status were not considered in data collection and analysis. This is the only status assigned to asylum seekers who attempt to enter Australian
territory since 2014. Under this status, policies include the Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, Relating to the Transfer to and Assessment of Persons in Nauru, and related issues (Department of Foreign Affairs and Trade 2013a) and the Regional Settlement Arrangement with PNG (Department of Foreign Affairs and Trade 2013b). These policies specify that asylum seekers who are assigned the status ‘offshore IMA’ will be held in detention in Nauru and Manus Island, as well as the possibility of community-based arrangements on Nauru (Department of Foreign Affairs and Trade 2013a 2013b). Similar to the Detention Contract (Department of Immigration and Citizenship 2009) that was included in the grounded theory analysis, these documents include harming policies that restrict movement, restrict and control engagement in meaningful activities, and limit access to services. Apart from a statement regarding Papua New Guinea’s withdrawal of its reservations to the Refugee Convention and its 1967 Protocol, no mention is made regarding the wellbeing of asylum seekers. These policies do not mention the situations in which asylum seekers will live nor protecting policies that promote volitional engagement in meaningful activities and promote access to services designed to fulfil basic needs. The Structural-Personal Interaction Process is pervasive in that the new status, ‘offshore IMA’, continues to apply even though the status is not one identified in the original research. These harming policies and the lack of protecting policies are likely to contribute to harming situations and, regardless of the abilities to cope and personal histories of asylum seekers, result in asylum seekers’ experiences lying in the suffering zone. Research could consider the experiences of ‘offshore IMAs’ using the Structural-Personal Interaction Process as a framework for aspects of human experiences to consider.

Full variability of a basic social process means that it accounts for differences between individuals and across contexts. The Structural-Personal Interaction Process accounts for individual differences; it considers the uniqueness of human experiences. In the translation to human experiences mechanism, personal characteristics interact with situations to result in unique individual human experiences.

Only three professionals and seven asylum seekers participated in face-to-face interviews. This was due to participants’ fear of information sharing impacting visa decisions as well as researchers’ and professionals’ concerns regarding re-traumatisation of asylum seekers through interviews. Detention requirements also prevented many potential participants from taking part. Research with asylum seekers requires additional time and sensitivity compared to research with other groups due to vulnerable nature of asylum seekers and limited access to participants (Zion et al. 2010). While the number of interview participants was limited due to the complex nature of
doing research with asylum seekers, observations were extensive, and a large number of survey respondents participated in two surveys and follow-up emails. The data included the experiences and perspectives of a range of people (asylum seekers and professionals) across a range of geographical locations and organisational settings to account for individual and contextual variability.

Asylum seeker participants included six males and one female. While this is representative of the gender ratio amongst asylum seekers in Australia, it would also be valuable to obtain more information from the perspectives of women asylum seekers to account for variability between males and females. A larger and more diverse sample of asylum seekers and professionals in interviews would strengthen future research with asylum seekers.

The Structural-Personal Interaction Process does not have evidence supporting its generalisability to groups other than asylum seekers, or to contexts outside Australia. The process has been derived based on asylum seekers’ experiences in Australia with consideration to government policy. Further research is needed to understand if and how the Structural-Personal Interaction Process applies in other contexts, such as, future research regarding the generalisability of the Structural-Personal Interaction Process to other vulnerable and excluded groups, as suggested earlier in this chapter.

There are aspects of the Structural-Personal Interaction Process that could be developed further. Grounded theory aims for “theoretical coverage and not descriptive completeness, which is seen as impossible” (Glaser and Holton 2005: 25). When findings are presented from research that uses grounded theory methods, some concepts might be identified as incomplete and needing further investigation (Charmaz 2006).

The potential incompleteness of the personal characteristics concept because it describes only two characteristics, which might be a simplistic view of human beings, is important to note. However, discussion regarding personal characteristics in a political science dissertation is extraneous. Therefore, the completeness of the personal characteristics concept is discussed in Appendix 5, rather than here.

The Structural-Personal Interaction Process provides theoretical coverage of asylum seekers’ experiences, and the contribution of Australian policy to their experiences, in response to the research question. It does not describe all factors contributing to all human experiences. The possibility of missing structural mechanisms in the Structural-Personal Process are discussed below.
**Missing Mechanisms?**

The Structural-Personal Interaction Process describes the status-assignment mechanism feeding into the translation to human experiences mechanism in order to explain how structures and personal characteristics interact to shape human experiences. Status-assignment is not the only mechanism that feeds into the translation to human experiences mechanism. Human experiences are also shaped by other structures in addition to status and policies. The Structural-Personal Interaction Process was identified in response to questions about policies contribute to asylum seekers’ experiences. Therefore, the findings focus on policies; however, other non-policy mechanisms also exist.

For example, when the research findings identified protecting situations of support, this support might have been promoted by policies, but it also occurred with reference to friends and families, non-government organisations (NGOs), and societal attitudes. Chapter Nine explained that asylum seekers encounter situations of support including support from NGOs, welcoming attitudes, building relationships, as well as friends and family. Situations of isolation are partly due to policies; however, the findings also suggest that societal attitudes, cultural differences, community context, language context, and NGO context might also play a part in shaping situations. This indicates that other mechanisms feed into the translation to human experiences mechanism. Culture and religion, family/friends/community, NGOs, societal attitudes, media representations, and language barriers might form other mechanisms. Figure 10.1 illustrates the possibility of status-assignment (in a grey box) and other structures (in white boxes) feeding into the Structural-Personal Interaction Process.

These other structural mechanisms contributing to asylum seekers’ human experiences are supported by existing literature. For example, culture, language barriers, and family, friends and community networks can also contribute to asylum seekers’ mental health according to research carried out by Silove and colleagues (1997). Wilson’s (2011) research identified the role of NGOs in providing support and advocacy for asylum seekers. Several authors (Haslam and Holland 2012; Mckay, Thomas and Kneebone 2012; Pedersen, Watt and Hanser 2006) have researched the role of Australian societal attitudes in the treatment of asylum seekers at the policy and personal-interaction levels. O’Doherty and Lecouteur (2007) analysed the ways in which media representations of asylum seekers shaped actions towards them. Further research might use the Structural-Personal Interaction Process to build on existing knowledge to develop a more holistic understanding of the ways in which structures contribute to human experiences. Two examples follow.

Regarding the potential media representation mechanism, O’Doherty and Lecouteur (2007)
conducted a discourse analytic study of 200 media texts from newspapers, television, radio, and internet. They identified social categorisation of asylum seekers as ‘illegal immigrants’, ‘unauthorised arrivals’, and ‘boat people’. These categorisations of asylum seekers were found to encourage and legitimise marginalising practices including “sending them home, detention, and a policy of mandatory detention” (O’Doherty and Lecouteur 2007: 9). Future research regarding the Structural-Personal Interaction Process might expand on the work of O’Doherty and Lecouteur to identify the mechanisms through which media portrayals contribute not only to actions towards asylum seekers, but also to their human experiences.

With respect to the potential NGO mechanism, future research might extend existing literature that emphasises the importance of NGOs for supporting asylum seekers’ wellbeing. For example, Wilson (2011) analysed eight interviews with members of six faith-based NGOs in Victoria, Australia. The NGOs involved in her study were faith-based organisations (predominantly Christian) whose work was underpinned by commitments to the inherent dignity of all people “because they are made in the image of God” (Wilson 2011: 553) and to practising hospitality to stranger “to emulate the life of Christ” (Wilson 2011: 553). These faith-based NGOs were found to play a role in accommodation support, financial support, and welfare support service provision for asylum seekers in Australia. They were also found to have been influential on Australian asylum policy, in relation to community detention in 2010. Considering that faith-based NGOs provided support services for asylum seekers and were influential in asylum seeker policies regarding the expansion of the community detention program, it might be postulated that these NGOs are involved in mechanisms that move asylum seekers’ experiences in the wellbeing direction.
Figure 10.1 Structural-Personal Interaction Process: Identified (grey) and potential (white) concepts contributing to human experiences.
Future research might consider the role of NGOs, faith-based and non-faith-based, in light of the Structural-Personal Interaction Process to understand better the mechanisms through which NGOs influence asylum seekers’ human experiences. It would also be interesting to evaluate the similarities and/or differences in the mechanisms through which faith-based and non-faith-based organisations might contribute to the everyday human experiences of asylum seekers. For example, research might consider faith-based and non-faith-based NGOs that deliver support services to asylum seekers and those that hold contracts to manage detention facilities.

The research question in this project asked how policies contribute to asylum seekers’ experiences, and therefore the findings relate to policies. However, the findings and existing literature suggest that other social structures also have a role in shaping situations and therefore shaping human experiences. Future research should explore these other mechanisms.

Chapter Ten in brief

People's everyday lives occur in the context of social structures. Therefore, social structures are integral to understanding the human experiences of asylum seekers. This chapter discussed structural violence and considered the Structural-Personal Interaction Process as a way of understanding the harm inflicted upon asylum seekers. Asylum seekers’ suffering with particular focus on their lack of engagement in meaningful activities was discussed with reference to existing theoretical frameworks. The Structural-Personal Interaction Process was considered in the context of existing human rights theory and consideration was given the completeness of this basic social process. Other mechanisms contributing to the Structural-Personal Interaction Process were also discussed.
Chapter Eleven.
Conclusion

A summary of this dissertation and concluding remarks are provided in this brief final chapter. This dissertation commenced with Chapter One providing descriptions of asylum seekers’ journeys across the globe; starting with their fear of persecution in their home countries, their diverse and usually perilous passages to host countries, and their arrival in host countries where they often find themselves subject to exclusionary policies that do not respect their human rights. Chapter Two presented an account of human rights in which all people, including asylum seekers, are ‘rights-bearing agents’. In Chapters Three and Four, Australia’s disregard for the rights of non-citizens, such as asylum seekers, was discussed with reference to policies of offshore processing and third country arrangements, community detention, and detention centres. The question was raised: how do Australia’s policies contribute to asylum seekers’ everyday experiences?

Chapter Five described the constructivist grounded theory methods used for data collection. Then Chapter Six explained the flexible emergent design of this project and explained why the reported research findings do not use human rights terminology. The Structural-Personal Interaction Process was outlined in Chapter Seven and then Chapters Eight and Nine provided additional details. Finally, Chapter Ten considered the findings in light of structural violence. It discussed the Structural-Personal Interaction Process with respect to existing theory regarding harm, suffering, and engagement in meaningful activities before returning to human rights. Chapter Ten cautioned that any applications of the findings should not be independent of further research and then considered additional mechanisms in the Structural-Personal Interaction.

The Structural-Personal Interaction Process explains how status and policy structures contribute to asylum seekers’ situations (the status-assignment mechanism), and these situations interact with their personal characteristics to create their human experiences (the translation to human experiences mechanism). Human experiences are distributed along a continuum that spans from suffering through to wellbeing. For asylum seekers, suffering entails mental distress and having ‘nothing to do’. Wellbeing entails 'having something to do', feeling hopeful, and feeling safe. A pattern of predominantly harming policies contributing to harming situations and resulting in a tendency for asylum seekers' human experiences to lie in the suffering zone on the suffering-wellbeing continuum was noted.

The Structural-Personal Interaction Process reflects the structural violence perpetrated by
the Australian government. This process might offer a framework to work towards human rights by moving experiences away from suffering, in the direction of wellbeing along the suffering-wellbeing continuum. Strategies to reduce asylum seekers’ suffering might aim for ‘structural amelioration’, targeting aspects of the status-assignment mechanism, or they might target the personal characteristics in the translation to human experiences mechanism, or both.

In conjunction with research regarding other structural mechanisms that might contribute to human experiences, the Structural-Personal Interaction Process offers a novel way of understanding asylum seekers’ human experiences in Australia. Most notably, and of most concern, this dissertation provides empirical evidence of the structural violence imposed by the Australian governments’ asylum policies between 2012 and 2014.
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Appendices
Appendix One:
Ethics

Original Ethics Approval – Granted 24 May 2012

Outcome of Ethical Clearance Application
Muriwai Salam [m.salam@uq.edu.au]

Sent: Thursday, 24 May 2012 1:42 PM
To: Miss Emma Campbell
Cc: Morgan Brigg [m.brigg@uq.edu.au]; POLSIS RHD ENQUIRY [rhd.polis@uq.edu.au]; Jean-Louis Durand [jdl@uq.edu.au]; Merrill Turpin [m.turpin@uq.edu.au]
Importance: High

Hi Emma,

I am writing to inform you that your application for Ethical Clearance has been approved for your research project “PEMO Project – Part 1”.

I wish you well with your project.

Kind regards

Dr Morgan Brigg
Chair of Research Committee
School of Political Science and International Studies

By way of
Vanessa

Muriwai Vanessa Salam
Research Higher Degree Administrative Officer | School of Political Science & International Studies
The University of Queensland | St Lucia Queensland 4072
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email https://sn2pr0102.outlook.com/owa/redir.aspx?C=J_qx5pJnMk2r-EceSttj8xfV82JHs8IT_SDuNqiw2of9bTsH3C0wEnKTgYrE5Vypa9X0ScZ9Y.&URL=mailto%3ae.l.w hyte%40uq.edu.au | web https://sn2pr0102.outlook.com/owa/redir.aspx?C=J_qx5pJnMk2r-EceSttj8xfV82JHs8IT_SDuNqiw2of9bTsH3C0wEnKTgYrE5Vypa9X0ScZ9Y.&URL=http%3a%2f%2fwww.uq.edu.au%2fsbs
Updated Ethics Approval – Granted 31 May 2013

Outcome of Ethical Clearance Application - Emma CAMPBELL 40544023

Muriwai Salam [m.salam@uq.edu.au]

To: Miss Emma Campbell; Jean-Louis Durand [jduand@uq.edu.au]; Merrill Turpin [mturpin@uq.edu.au]
Cc: Christian Reus-Smith [c.reussmit@uq.edu.au]; Barbara Sullivan [barbara.sullivan@uq.edu.au]; Rae Wear [rae.wear@uq.edu.au]

You replied on 31/05/2013 5:02 PM.

Dear Emma,

I am writing to inform you that your application for Ethical Clearance has been approved for your research project “PEMO Project – Part 1”.

I wish you well with your project.

Kind regards

Prof. Christian Reus-Smith
Chair of Research Committee
School of Political Science and International Studies

By way of
Vanessa
Muriwai Vanessa Salam
Research Higher Degree Administrative Officer
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CRICOS 00258
Appendix Two:
Participant information sheets and informed consent form

Original Participant Information Sheet

What is the PEMO project?
PEMO is a newly developed tool to support ethical decision making for health and social services users. PEMO stands for People, Environment, Moral standards and Outcomes for daily life. It has a focus on human rights.

The PEMO project is looking at whether the PEMO tool is helpful in making ethical decisions. Does it address human rights? Does it promote ethical processes? Does the tool promote inclusion in discussions about decisions?

Your contribution to the project (if you wish to be involved) will be to meet with the researcher to talk about the tool; thanking about human rights, ethics, decision making and inclusion in services for asylum seekers.

If you are staff, you will also attend training and try using the tool, then give feedback about how you used it.

I would also like to spend time in the service environment, to see how things work, and I might have a few questions for you while I’m around.

How much time will it take?

All:
2 meetings
30 - 60 minutes each
June and September

Staff:
Training (2 hours)
Any additional time to use the tool (minimal between June and September)

If you do not want to participate during the project you can always stop.

For more information contact
Emma Campbell
0422 492 500
University of Queensland

Voluntary Participation

- Your participation is voluntary
- You can withdraw at any time without any consequences

What if I become upset?

- If you feel upset or emotionally distressed during your participation in the research, please tell the researcher and the research activities will stop (e.g. the interview will cease). You are able to withdraw from the project at any time. If you would like to continue later you will be able to.
- You will be offered debriefing with a relevant and qualified person from the organization.

Questions and Answers

Who will know that I have participated?
The only people who will know that you have been part of the PEMO project will be me (Emma) as the person who meets with you, and staff from the organization (e.g. those who ask you to participate), those who see you participate.

Your name and personal details will not be shared with anyone.

What will you do with the information I provide?
Information you provide will be stored on a password protected computer and printouts will be stored securely in a locked filing cabinet.
It is your choice to have any interviews recorded or to have the researcher take notes.

This study adheres to the Guidelines of the ethical review process of The University of Queensland. Whilst you are free to discuss your participation in this study with the researcher (contactable on 0422 492 500), if you would like to speak to an officer of the University not involved in the study, you may arrange to speak to the Chair of Research Committee of the School of Political Science and International Studies by making contact with the Finance and Research Support Officer on (07) 3365 2635.
Transcribed Participant Information Sheet

Questions and Answers
INFORMED CONSENT FORM – PEMO PROJECT

Name of Project: __________________________________________________________________________

Investigator: __________________________________________________________________________

Consent agreement
1. I have read the Project Information Sheet and confirm that I am willing to participate in this research and that I understand the nature of the research and my role in it.
2. I understand that I am free to withdraw from the project at any time and to withdraw any information I have contributed that has not already been processed.
3. I understand that while information gained during the study will be published, information that identifies me will not be used.
   ☐ Yes   ☐ No
4. I give my permission for my responses in interviews to be audio-recorded.
   ☐ Yes   ☐ No

Name of participant: ______________________________________________________________________

Signature of participant: __________________________________________________________________

Date: / / 

Researcher’s signature and date: ____________________________________________________________
Updated Participant Information Sheet

PROJECT INFORMATION SHEET
Name of Project: Living Conditions of Asylum Seeker and Australian Policy
Investigator: Emma Campbell, University of Queensland
0422 492 500

Purpose of this study
The purpose of this study is to investigate the ways in which Australia’s policy does or does not fulfill human rights obligations according to international human rights. Examples of asylum seeker experiences driven by Australian policy from previous interviews have included institutionalization in the form of forced dependence on the detention centre for daily routine, meals, access to finances, health services, transport, access to resources such as computers, art materials or food items; institutionalization in the form of highly monitored environments; being unable to engage in social activities beyond the detention centre; losing choice; being unable to work. Some of these restrictions on living conditions were also described with respect to community detention, however conditions in community detention were described as much better than in detention centres.

Questions remain regarding ways in which policy plays out in the lives of asylum seekers, types of policies that have the greatest influences on the lives of asylum seekers, policies that are less restrictive than others in terms of the living conditions of asylum seekers and the consequences of restricted living conditions (created by policy) on the wellbeing of asylum seekers. The purpose of this interview will be to ask you about these issues.

Your involvement in this study
You have been invited to participate in an interview as part of this study. This will involve sitting with the researcher and answering questions about your observations of the living conditions for asylum seekers and ways in which they are shaped by policy. It is expected that interviews will range from 15 minutes to 1 hour, depending on what you have to share in the interview. There are no foreseeable risks associated with your involvement in this study.

It is your choice to have any interviews recorded or to have the researcher take notes.

Voluntary participation
Your participation is voluntary. You can withdraw at any time without any prejudice.

Confidentiality
The only people who will know that you have participated in this research will be the researcher (Emma Campbell). Information you provide will be stored on a password protected computer and printouts will be stored securely in a locked filing cabinet.

Your name and personal details will not be shared with anyone. The findings of the project will contribute to my PhD thesis, they will be published in academic journals, shared on websites and shared with organizations that advocate for asylum seekers so that they have some additional evidence to support their arguments. No potentially identifying information will be included in any reports or publications resulting from the research.

Feedback about the project will be provided verbally throughout the project. Copies of publications of the research findings will be provided to the organization.

If you would like to ask any questions about the research outcomes – please contact Emma Campbell (0422 492 500).

This study adheres to the Guidelines of the ethical review process of The University of Queensland. Whilst you are free to discuss your participation in this study with the researcher (contactable on 0422 492 500), if you would like to speak to an officer of the University not involved in the study, you may arrange to speak to the Chair of Research Committee of the School of Political Science and International Studies by making contact with the Finance and Research Support Officer on (07) 3365 2635.
Updated Informed Consent Form

INFORMED CONSENT FORM

Name of Project: Living Conditions of Asylum Seeker and Australian Policy

Investigator: Emma Campbell

Consent agreement
1. I have read the Project Information Sheet and confirm that I am willing to participate in this research and that I understand the nature of the research and my role in it

2. I understand that I am free to withdraw from the project at any time and to withdraw any information I have contributed that has not already been processed.

3. I understand that while information gained during the study will be published, information that identifies me will not be used.

☐ Yes ☐ No

4. I give my permission for my responses in interviews to be audio-recorded.

☐ Yes ☐ No

Name of participant____________________________________________

Signature of participant____________________________________________

Date: / /

Researcher’s signature and date:____________________________________
Appendix Three: Theoretical sensitivity

As well as methodological and interpretive rigour, quality grounded theory methods should be carried out with theoretical sensitivity. This is a key component of grounded theory methods which ensures that the theory is integrated and strongly grounded in the data (Charmaz 2006; Glaser 1978; Strauss and Corbin 1998). Theoretical sensitivity is an ability to establish insights intuitively and derive appropriate meaning from the data in the form of an emerging theory (Charmaz 2006; Strauss and Corbin 2008). Theoretical sensitivity describes the researcher’s acknowledgement and awareness of his/her personal connection and responses to the data as well as closeness to the data which helps with interpretation and finding meaning in the data (Strauss and Corbin 2008). Theoretical sensitivity describes the way in which the researcher interprets the data based on his or her own experience (Charmaz 2006). It might be established through familiarity with the research context, for example through professional experience, through extended time spent in the research context or through reading about the research context.

The researcher has previously worked in community-based services in paid and unpaid work with asylum seekers, and carried out research with refugees prior to this project. During the research, she engaged in prolonged field exposure; researcher notes on theoretical sensitivity are contained in Appendix Three. Sensitivity to the data can also be noted in the introduction.

Various approaches to grounded theory advocate conducting literature reviews at different points of the research process. Objectivist approaches to grounded theory promote reading the literature prior to data analysis so that the researcher becomes sensitized and can understand the true meaning in the data (Glaser 1978). Constructivist approaches to grounded theory advise the researcher to remain separated from the literature until the data analysis is nearing completion so that the theory can be generated entirely through interpretation of the data rather than through externally imposed existing theoretical models (Charmaz 1990). A literature review was a necessary part of this project as it was required for a PhD milestone review. Carrying out a literature review prior to data collection has allowed for increased theoretical sensitivity at an early stage. As the data collection emerged, the research focus shifted, and subsequently Chapters One to Four were written after data analysis. This allowed the data analysis not to be constrained by existing theories and literature.
Researcher Reflection

I have worked as the coordinator of a volunteer program for one year in an asylum seeker service prior to data collection. As an occupational therapist, I have also been engaged in unpaid work with organisations working with refugees and asylum seekers for five years. This professional experience contributed to theoretical sensitivity, helping me to understand the data and find meaning in it. I also had other experience through prior research with one of the organisations involved in this study looking at refugee home safety (Campbell and Turpin 2010). This previous experience further helped to develop theoretical sensitivity. Theoretical sensitivity also increased over time with prolonged field exposure.

I was aware that having worked with asylum seekers prior to this research, my assumptions might influence the analysis. For this reason I was mindful to remain open to the data and used discussions with my supervisors throughout the research to ensure my assumptions were challenged through their probing and questioning. They strongly pushed me to always be ready to critique any proposition I might put forward.

I also developed theoretical sensitivity in this project through reviewing the literature prior to the research project. This helped me to become sensitized to concepts that might be relevant in the research, and to identify gaps in the literature.
Appendix 4: What can be done?

People working across a range of professions can support realisation of asylum seekers’ human rights, their engagement in meaningful activities, and movement of their experiences in the wellbeing direction along the suffering-wellbeing continuum. For example, health and social service professionals, policy makers, advocates, and politicians all influence the lives of asylum seekers, be it through influencing personal characteristics or structures of status and policy. This dissertation is situated in political science and therefore the discussion chapter focused on addressing social structures. While it noted that a combination of ‘structural amelioration’ measures and strategies that target personal characteristics are needed to reduce the suffering of asylum seekers, an in depth discussion was not provided. This discussion is included here, in Appendix 4, for completeness.

Skills of adapting, advocating, coaching, collaborating, consulting, coordinating, designing/building, educating, engaging, and specialising as core competencies for being able to enable people to engage in meaningful activities in their lives, according to the Canadian Model of Client Centred Enablement (Townsend and Polatajko 2007). These skills are intended to apply when working with individuals through to addressing the “social structures that influence engagement in everyday life” (Townsend and Polatajko 2007: 109). Professionals applying these skills in relation to the Structural-Personal Interaction Process might support movement of asylum seekers’ experiences in the wellbeing direction.

This set of skills, in conjunction with the understanding drawn from the Structural-Personal Interaction Process, could target both structures and personal characteristics to promote asylum seekers’ human rights and support movement of asylum seekers’ experiences in the wellbeing direction. For example, advocacy and coaching could be implemented.

Advocating describes raising awareness of an issue, prompting change through those in positions of power, or promoting a position on a particular issue (Townsend and Polatajko 2007). Advocacy might be employed to promote protecting policies or to prompt the government to provide a status to asylum seekers that supports their human rights and wellbeing.

Coaching might also be applied. Coaching refers to encouraging a person to reflect on and self-assess strengths, resources, challenges, goals, and engagement in meaningful activities (Townsend and Polatajko 2007). For health and social service professionals, coaching might involve using the suffering-wellbeing continuum with asylum seekers as a visual tool for reflecting
on where their experiences lie along the continuum in terms of how they are feeling, and their engagement in meaningful activities. It might also be used to set goals regarding moving in the wellbeing direction, for example “where would you like to be on the continuum next month?” and “what personal characteristics can we work on to get there?”

The interaction between situations and personal characteristics could provide a way of reflecting on how human experiences come about. Coaching can support asylum seekers to think about things that could change in their situations (e.g. more opportunities or resources for a particular activity, access to more spaces that allow for engagement with other people) as well as about their personal characteristics (e.g. building on coping skills, addressing concerns about family, accessing counselling regarding past trauma). Using the Structural-Personal Interaction Process in this way might also provide a chance for coaching to understand how social structures are influencing asylum seekers’ lives and promote community development/social movements to change those structures.

Chapter Seven noted that interventions described by participants that aim to move asylum seekers’ experiences in the wellbeing direction are targeted at individuals. These interventions include medication, psychological services, and hospitalisation. Regardless of the outcomes of medical and psychological treatment for the suffering experienced by asylum seekers in Australia, these interventions do not address the harming social structures and resulting harming situations which are pivotal to human experiences. Professionals aiming to move asylum seekers’ experiences in the wellbeing direction can call upon these findings that social structures and situations are instrumental in shaping asylum seekers’ human experiences. This research provides an evidence-base for strategies to reduce suffering that target status and policy structures and the situations encountered by asylum seekers.

The skill set outlined in the Canadian Model for Client Centred Empowerment (Townsend and Polatajko 2007) could support practitioners from a variety of fields to address a variety of concepts in the Structural-Personal Interaction Process to reduce the suffering of asylum seekers and move their experiences in the wellbeing direction. Further research regarding the interfacing of the Canadian Model for Client Centred Empowerment and the Structural-Personal Interaction would provide a strong evidence-base for practice.
Appendix 5:
Personal characteristics and the ‘person’ in the PEO model

The concept of personal characteristics, in the Structural-Personal Interaction Process, is complete in the context of asylum seekers in Australia. Theoretical sampling was carried out until no new categories or codes were identifiable with respect to personal characteristics. This is in line with Charmaz’s (2006) description of arriving at theoretical saturation. While the concept of personal characteristics is a complete concept with respect to the research context, it might not be complete when considered for other groups of vulnerable or excluded people, or for asylum seekers in other countries. Considering other conceptualisations of personal characteristics might provide useful insights.

Like the Structural-Personal Interaction Process, the Person-Environment-Occupation (PEO) model of occupational therapy (Law et al. 1996) considers an interaction between personal factors, and environmental factors to result in outcomes for experiences (Turpin and Iwama 2011; Law et al. 1996; Strong et al. 1999). The PEO model also considers how ‘occupation’, or engagement in meaningful activities, interacts with the person and environment to influence experiences. The PEO model views experiences in terms of occupational performance, a person’s “dynamic experiences of a person engaged in purposeful activities and tasks within an environment” (Law et al. 1996: 16). The Structural-Personal Interaction Process sees experiences more broadly as human experiences along a suffering-wellbeing continuum, in terms of doing (having little/something to do), and feeling (mental distress/hope about the future/safe). The developers of the PEO model intended for it to “interface with other perspectives, theories and practices” (Strong et al. 1999: 125).

The PEO model offers a more holistic perspective of ‘person’ than the concept of personal characteristics in the Structural-Personal Interaction Process. The interfacing of the Structural-Personal Interaction Process with the PEO model might offer a more complete understanding of personal characteristics contributing to human experiences along the suffering-wellbeing continuum. For example, personal history, a characteristic of personal characteristics, aligns with the personal experiences and cultural background aspects of person described in the PEO model (Law et al. 1996). Ability to cope with adversity might align with the PEO’s inclusion of personality style as an aspect of person (Law et al. 1996). The PEO model describes aspects of the person that extend beyond the personal characteristics described by the Structural-Personal Interaction model including self-concept; personal competencies/attributes (performance
components) including motor performance, sensory capabilities, cognitive aptitude, general health, and skills (Law et al. 1996) as well as interests and values, desire for autonomy and learning style (Strong et al. 1999). Figure 10.1 illustrates aspects of personal characteristics identified this research data in grey. Other potential personal characteristics that might interact with situations to shape human experiences, identified through interfacing with the PEO model, are illustrated in white.

Health and social service professionals applying the Structural-Personal Interaction Process in practice might be mindful of these other personal factors when considering how personal characteristics interact with situations to result in human experiences along the suffering-wellbeing continuum. Researchers might explore the personal characteristics further, with consideration of these broader ideas regarding the person offered by the PEO model.