

**RURAL AUSTRALIANS FOR REFUGEES
DAYLESFORD and DISTRICT**

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Overview of the submission. BY: MIG

Introduction

Criteria for detention and length of time in detention

Effects of previous policies, processes and the physical environment of detention centres

Importance of accountability and transparency in immigration detention and processes

Final comments

Appendix - Statements from individual RARD members

Introduction.

To the members of the Joint Standing Committee on Migration,

We are writing this submission for your inquiry into Migration Detention on behalf of the members of the Daylesford & district group of *Rural Australians for Refugees*. We hope it will be of assistance.

Our group has been operating since February 2002 to support and advocate for asylum seekers both in detention and in the community on Bridging visas E. As a group we have been in regular contact with people in detention centres via letters, telephone calls and visits. Many members have corresponded with people in the centres over the past 6 years and have shared their experiences with the rest of the group. We have written reams of letters and made many hundreds of calls in support of our detained friends.

Members have visited asylum seeker in Maribyrnong, Port Hedland and Baxter centres—seeing at firsthand the effects that Australia's policy of mandatory and indefinite detention has had on these men, women and children. We have

listened to their stories, shared their fears and tried to help them through the periods of deep depression. Several of us also visited detainees transferred from Baxter IDF to the Glenside Psychiatric Hospital because of their depressed state and/or attempted self-harm.

And when our friends were released, we were happy to welcome them into our homes and help them during the difficult days of adjustment after 4, 5, 6 years behind the fences. We have celebrated their good times—gaining of Permanent Protection visas, education highlights, jobs, marriage, the birth of children and family reunions—but we have shared the ‘down times’ too.

Together with refugee support organizations from around Australia the members of *Rural Australians for Refugees* in Daylesford have applauded with relief and hope each recent softening of the frequently inhumane and economically wasteful hardline policies of the previous government. We celebrated the official end of the ‘Pacific Solution’ with the closing of the Nauru and Manus Island detention centres and we look forward to celebrating the demise of the Temporary Protection visa in the next few months. Now we want to be able to celebrate the reformation of government policies of indefinite, mandatory detention and the setting in place of just and humane processes for all those who come to Australia seeking asylum.

Because of the knowledge and experience gained as a very active refugee support group, we feel qualified to make the following comments and suggestions.

Criteria for detention and length of time in detention.

In February 1999 the UNHCR brought out a set of revised guidelines on the criteria and standards relating to the detention of asylum seekers. The introduction begins with the statement, ***The detention of asylum seekers is, in the view of the UNHCR, inherently undesirable.*** It goes on to point out that, in order to be consistent with Article 31 of the 1951 Refugee Convention, if some form of detention is found to be necessary it should be neither automatic nor prolonged.

That seems an excellent starting point for this Inquiry. It would also be in keeping with the government’s promises that “Detention of asylum seekers will be for the purpose of health, identity and security checks” and to “process asylum claims within 90 days” (ALP policy document, November 2007).

We are hopeful that this Inquiry will investigate a range of options to replace the IDFs in which so many asylum seekers were held indefinitely with devastating results on their physical, emotional and mental health. We want policies and structures of which we can be proud, with asylum seekers (after the compulsory checks within the 90 day period) housed in the community with the right to work while their claims for protection are being processed. This would also get rid of the obnoxious Bridging Visa E whereby asylum seekers exist in the community on charity. And we want processes we can trust to bring about correct and humane

decisions rather than seemingly arbitrary ones which allowed one person to be granted asylum while his friend with almost identical claims was refused.

Effects of the previous system and the physical environment of detention centres.

In order to achieve reform it is necessary to look at the previous system and its results. It has been said that the Howard government's immigration policies were successful in deterring people smugglers and slowing the flow of 'unauthorised arrivals'. This is debatable but the great social, physical, mental, emotional and economic costs of indefinite mandatory detention are painfully evident and clearly indefensible.

Long-term results of prolonged detention.

What is particularly damaging to asylum seekers was their imprisonment when they had committed no offence. They were in a situation over which they had no control—that was arbitrary, unjust and incomprehensible. Their shame and confusion made many of those known to us unable to explain what was happening to their families overseas. This increased their isolation and provided the added stress of having to pretend that Australia had accepted them. There was also the constant fear of deportation and reprisal, exacerbated by the knowledge that the possibility of their arrest, imprisonment, ill-treatment and even death if returned was dismissed as exaggeration by DIMIA and the RRT.

We have seen the damage caused by prolonged detention in many former detainees. This includes bouts of depression, lack of self-confidence, volatility of reactions, difficulty with concentration, nightmares and sleeplessness, 'flashbacks', the replaying of the experiences or refusal to talk about them and difficulty in forming relationships due to loss of the ability to trust. Members of the committee will recognise this list as classic symptoms of Post-Traumatic Stress Disorder.

Detention debt is another great stressor for released asylum seekers. It is surely unnecessary for us to speak of the injustice and absurdity of the practice of billing ex-detainees for the cost of their detention. While mentioning it here as a factor compounding the long-term consequences listed above, we acknowledge that the policy is under review. We make the point that, although the psychological damage is difficult and slow to heal, the burden of a financial debt can be removed immediately. We urge the government to make this simple and obvious decision as soon as possible.

Contents of the Appendix

There are many reports on the public record which document the privations experienced by those in immigration detention centres. Rather than go into detail in the body of the submission, we have added an appendix containing personal statements from members on the following 3 topics:

- Description of a first visit to Baxter IDF. This was written as a RARD Newsletter article by Ms Margaret Murphy. We are aware that committee members have themselves most probably visited detention centres but there are differences between official visits and those of ordinary refugee supporters.
- Differences between prison and detention. Mrs. Frances Palmer wrote these observations specifically for this submission as she has experience visiting inmates of both.
- Medical treatment of detainees after a hunger strike. This is a copy of a letter written by Ms Rosalind Berry and faxed to Baxter IDF in 2004.

We hope that by reading these statements, committee members will gain insight into the reasons for the passionate support of asylum seekers exhibited by so many ordinary Australians.

Importance of accountability and transparency in immigration detention processes

We will comment under the following headings:

- The privatisation of facilities
- 'Culture change'
- The need to overhaul the system of processing and reviewing of refugee applications
- Christmas Island Detention Centre
- The need for external oversight

The Privatisation of facilities

A major impediment to accountability and transparency has been the privatisation of the immigration detention facilities.

Neither ACM nor GSL is appropriate for the job. Their reason for existence and the training of their staff are geared to the running of correctional services and the oversight of criminals. In the immigration detention centres the work is to care for innocent people in a residential setting while the assessment processes take place. This structural mis-match almost inevitably led to instances of inappropriate treatment as described in various government and non-government reports. It was an important factor in the mind-set in the centres, the government, the department and the community which criminalised asylum seekers. Please note that we use the past tense in the hopeful expectation of change.

Another problem with the privatisation of detention facilities is the need the operators to make a profit. Firstly, there is likely to be a reluctance to spend money on the conditions and comforts of the detainees, even in such basics as good nutrition. This also has been well documented. Secondly, it is now on the public record that instances of mistreatment of detainees, wrongful detention, failure to provide adequate medical care and so forth took place under the auspices of both companies and were concealed to protect their financial interests.

The Palmer report also pointed to difficulties caused because the roles and responsibilities of the Immigration Department and private companies like ACM and GSL were unclear. At times important decisions failed to be made because they were seen as coming under the jurisdiction of other party. There were instances when staff members of DIMIA and GSL failed to work together as closely as necessary to achieve positive outcomes.

It is imperative that the government takes direct responsibility for the conduct of all forms of immigration detention in the future.

'Culture change'

The need for 'culture change' within DIMIA was highlighted by Mick Palmer, AO, in his Report, *Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, July 2005. On page 168 of the report, he wrote of a pervasive 'assumption culture'—sometimes bordering on denial—that generally allows matters to go unquestioned'. A culture which exhibited 'considerable deafness to the concerns voiced repeatedly by a wide range of stakeholders... a culture that ignores criticism and is unduly defensive, process-motivated and unwilling to question itself' (p.164).

We are pleased to note that since the report, the Department of Immigration and Citizenship has recognised the need for culture change and that progress has been made towards this. However, real and lasting culture change arises only from changed policy. That is to say, it is a matter of leadership. It is unreasonable to expect departmental staffers to abandon the assumptions and attitudes in which they have been trained without top-down policy change which alters the circumstances of the asylum seekers for whom they have responsibility.

Asylum seekers and their advocates rightly fear that without such a change the same mistakes—'failed practices, poor decisions and regrettable outcomes' (p. 172)—will inevitably re-occur.

The need to overhaul the system of processing and reviewing refugee applications

In 2005 the Palmer Inquiry highlighted a lack of 'high-level internal review' to ensure fair and proper outcomes, stating that 'important decisions seem to have been made on the basis of incomplete information', and that there was 'little evidence of management arrangements for regular review and assessment of decisions...' (p. 165). From this and other reports, it is obvious that the department's system of processing and reviewing of claims needs a complete overhaul so that this situation does not occur again. We suggest that the best way to accomplish this would be to act upon the recommendations of the Palmer report.

The structure and performance of the Refugee Review Tribunal also needs to be looked at. We suggest as a start that it would be fairer for more than the current single person to hear cases and make decisions. Asylum seekers should

automatically be enabled to attend hearings with legal representation and their access to qualified interpreters should be ensured. It is crucial that these interpreters be from the same language, religious and ethnic group as the applicant.

Christmas Island Detention Centre

We believe that the remoteness of the island does not lend itself to the necessary accountability and transparency. The difficulty of ensuring properly trained staff for such a huge, remote establishment is a problem in itself. Transparency comes about when access is opened to medical practitioners, legal representatives, departmental officials, government members and committees, the media, refugee supporters and families and friends of those detained. The costs of getting to Christmas Island would be exorbitant for most of the above.

At present asylum seekers who arriving in excised areas do not have the same access to legal assistance or right of review by Refuge Review Tribunal or the courts as they would have if they had managed to get to the mainland. We hope that this is another change that the Labor government will put in place quickly.

Our members are unhappy with the idea of this new off-shore detention centre. We hold grave concerns that Australia's obligations to uphold the human rights of asylum seekers as stated in international agreements may be in jeopardy. We ask that the government should make certain that:

- the policies, processes and structures relating to the immigration detention facility on Christmas Island will not put us in breach of these obligations,
- there is on-going freedom of access and information so that the situation can be monitored at a professional level, and most importantly,
- legislation will be quickly enacted to limit the detention time of asylum seekers to 90 days for identity, security, and health checks, as promised in ALP policy.

The need for external oversight

To explain why this is seen as necessary, we again cite the Palmer report. Mr. Palmer expressed great concern that DIMIA (now DIAC) officers were authorised to exercise enormous powers and were 'permitted and expected to do so without adequate training, without proper management and oversight, with poor information systems and with no genuine checks and balances...' (p.194).

That was in 2005 and changes within the department have clearly been made, especially in the last six months under the new government. However, on the same page there was an even more worrying statement which noted 'evidence of reluctance at middle management and senior executive level to accept responsibility and acknowledge fault'. In the light of these findings, it is hard to feel full confidence that the department is truly capable of providing the necessary reviews of its structures and processes.

Therefore, we believe there is a great need for on-going independent oversight of immigration policies and practices by individual experts and committees of review. These would work in conjunction with but apart from Parliamentary committees, the Ombudsman etc and they must have the 'teeth' to bring about necessary when changes.

Final Comments.

Currently, Australia has the wonderful opportunity to put into operation improved and more compassionate policies covering asylum seekers and refugee—ones which are in keeping with our obligations as signatories of international agreements such as the United Nations Declaration on Human Rights, the Refugee Convention and the Convention on the Rights of the Child.

As longtime supporters of asylum seekers and refugees, the members of RARD look forward to having policies of which we can be proud, knowing that they reveal Australia as the truly generous and compassionate country we know it can be.

We are sure that the members of this committee of inquiry will do their utmost to bring this about and would like to wish them well in the endeavour.

On behalf of *Rural Australians for Refugees – Daylesford & District*
ROSALIND BERRY - spokesperson

31st July, 2008.

JANET GADEN - spokesperson

1st August 2008

APPENDIX - Statements from Individual RARD Members

Personal statement 1:

From Ms. Margaret Murphy, RARD member.

VISITING BAXTER Easter 2003

I have been writing to two detainees for about a year now. These men arrived in Australia by boat about three years ago and were detained in Curtin IDF before being transferred in the middle of the night to Baxter late last year. My partner and I decided to visit them. It's not an easy thing to do....you can't just arrive and visit. They are in a maximum security purpose built 'facility' in the desert, at the gateway to the starkly beautiful Flinders Ranges. They have no awareness of their surroundings though because any windows in the facility face inwards or into walled compounds. They only see the sun when it is directly overhead and at its most oppressive in that environment.

To visit the facility we first had to send three forms of identification, at least one being photo ID. Then we had to fill out forms and send all of these to the IDF. When I didn't hear anything for a few days I rang them and discovered that we had been allotted a time to visit on a Saturday afternoon, 1pm-4pm. I rang three times during the week to confirm and reconfirm this time as we would be driving from Daylesford to Adelaide and then on to Port Augusta, to the detention centre. Each time I was told that we were on the list. On Friday night after arriving in Adelaide I contacted the centre again to find out what we could take in with us for our friends. This time I was told that there was no record of us visiting the following day so therefore we could not visit. We could not visit on the Sunday as they were booked out for that day. We could visit on Monday afternoon and no, we couldn't bring anything except a packet of biscuits which must be eaten in the visitor's centre. I had brought photos of home and family to give my friends an idea of where we were from but nothing is allowed in other than biscuits and they must be eaten inside the visitor's room, anything left over remains with the guards.

Mark and I drove the three hours to Baxter on Monday. We were not prepared for what we would see or experience. Just arriving there was enough to enrage me ...enormous electrified double fences ...most definitely a prison ...and don't forget that there are children living here and that no one here has committed a crime or has any idea how long they will be incarcerated or what their future holds. We walked up to the gates carrying parcels for each of the men we hoped to see. At the gates I spoke into an intercom stating who we were and what we were there for. I gave the names of the men but was asked for their numbers...these people are numbered and nameless. The gate opened and we walked through a caged walkway to the next door where the procedure was repeated. This time we were let in to a small and crowded reception area. In here were several other visitors, three staff and the equipment. We were told to fill out the forms again and to present our three forms of ID. These were all checked off against our previous forms. I presented my parcels and asked naively if I would be allowed to give these to the men but no, the personal pleasure of giving and receiving is denied. The parcels were taken, opened and x-rayed. I had to fill in another two forms, one for each parcel, detailing contents. We were told that they would be made available to the detainees tomorrow. The parcels had CDs, phone cards and Easter eggs in

them. We then had wrist bands put on us and were given a locker for our personal belongings. Mark was allowed to bring in his cigarettes but not a lighter, a guard would light each cigarette. We then walked through a metal detector and were swiped and patted down by a guard. There are cubicles in case the guards decide that a strip search is necessary ...if this had been demanded of us I think I would have left.

I was told that we would be only seeing one of the men because the other one had decided that he didn't want to see me. I was astonished by this news and disbelieving but was too intimidated to say anything other than a mild "oh".

Now the visit itself.

We are taken by a guard to the next doorway, she talks into her walkie-talkie and the door opens. We are in a small claustrophobic passage with a video camera trained down on us. We are locked in. She repeats her walkie-talkie business and the next door opens. Now we are in a small office with a window in to the visitors room. Here we are stamped with invisible ink and again wait for the door to be opened for us. Now we are in the visitors centre, not unlike a school portable with a few tables and chairs, a toilet and an alcove with a café bar and of course the video cameras and the guards. Outside there is a small grassed area with a children's climbing frame and a couple of park benches and a guard. The area is enclosed by a high steel wall and there is no glimpse of the surrounding facility or the scenery. Here we meet the other visitors, surprisingly few considering we were told that the session was fully booked. We wait and wait feeling more and more uneasy and finally the detainees (four men, one woman and her child) are brought in one at a time after a full hour of visiting time has passed.

We meet Ali (name changed). It is strange to meet someone that you have been writing to but don't know. It is enormously difficult to think of what to talk about under the circumstances. I have to start with an apology for how my country has treated him and all the other detainees. I want my words to be able to make a difference. It sounds feeble ...my apology ...we are his first visitors since arriving in Australia thirty months ago. His first question is why didn't we come on Saturday. He says we were on the list posted in the compound for Saturday afternoon and he was waiting for us. When we didn't arrive the guards told him we just didn't turn up. The entire time that we are visiting a guard walks around recording the session on video camera. It is invasive, intimidating and disconcerting. The time passes very slowly ...it is hard to talk to someone who has given up hope and we have no hope to give him. He is seriously depressed. And what he tells us about his incarceration is depressing and infuriating and yes, I **am** ashamed.

He tells me that he has heard that the other man I wanted to visit is in a management facility (code for solitary confinement) and is not allowed to write letters or receive visitors. He assures me that anyone in detention would welcome any visitor to break the monotony. These people have NOTHING to do .

They live in isolated compounds and have no contact with the other compounds. So because Ali is a young single male he is locked up with only single men. Their food is brought to the

compound and eaten there. To come to the visitors centre, a short walk inside the facility, they are brought by van and searched before and after.

We listen to him tell us how hopeless his situation is in the country he comes from and now here in Australia. He doesn't understand and neither do we. He did not attend his Refugee Tribunal hearing and had no lawyer. He did not attend his appeal and had no lawyer. He did not attend his Federal Court hearing and had no lawyer. He is waiting for an appeal in the High Court. He will not be able to attend and I am trying to get him a lawyer. He is twenty seven years old and obviously an intelligent young man. He wants to study and work and build a life for himself in a land where he thought he could escape persecution.

The time that passed so slowly is now suddenly over. Ali is led out and so are the other detainees. Then we are taken out, we have to have our wrists checked to see whether we have the invisible ink stamp and the wrist bands. Back in the reception area I ask the guards if the other man I hoped to see is in a management facility. I am told that they don't have anything like that and he just didn't want visitors. I am assured that he will get his parcel.

Outside the centre we exchange a few words with the other visitors. One woman who visits every day said that there are eight men in the management unit and that they are shackled, wrists and ankles, and have been for several days in anticipation of the Easter protest (still six days away). All the visitors are very subdued. Mark and I drive back to Adelaide, in silence. I feel dirty and relieved to be leaving. But what about the 700 men, women and children in detention centres around Australia?

Margaret Murphy

Personal statement 2:**From Mrs. Frances Palmer, RARD member.**

For a number of years I visited several inmates of high, medium and low security prisons. Between early 2002 and 2006 I visited asylum seekers detained in the Maribyrnong Immigration Detention Facility in Melbourne. I would like to make the following points regarding the differences I noticed between conditions in these two types of establishments and the effects on those detained.

One of the differences between prison and detention centre was that the visiting rules in the prisons were always consistent although they were more strict in high security units. Both prisoners and visitors were aware of these rules. However, in Maribyrnong IDF they were more arbitrary and often seemed to depend on which guard was on duty, their personality and even their mood that day.

It was my impression that there was more control over the behaviour of the prison officers and their treatment of prisoners than I saw in the immigration detention centre.

In the prisons the inmates accepted that they had been justly convicted for their wrong-doing in the community. They knew the maximum time they would be imprisoned and also that their good behaviour could result in being moved to a lower security prison and the chance of being released after serving the minimum sentence. On the other hand, the asylum seekers were distressed to be detained, believing themselves innocent of any crime. They also had no idea how long their detention would last or even what the ending would be.

In the prisons there were good educational programs which covered not only general interest subjects and also ones which could lead to a qualification. I saw and heard very little sign of this in the detention centre.

I was also aware that the medical and psychological services provided to the prisoners was more thorough than I saw evidence of while visiting and telephoning my asylum seeking friends. After he had had a minor but still painful operation on his foot, I saw a nurse hand the young man I was speaking to a small bandage with the comment, "Here, you'd better change the dressing" as she passed through the visiting centre.

Several of these detained friends showed signs of very deep depression. I saw evidence of similar depression in the prisons but it was usually at the beginning of a sentence and linked to their loss of freedom, family life etc. However the asylum seekers began with hope which decreased as time went on. Over the years I watched their depression increase to the extent that I am afraid that it will affect the whole of their lives, even with good psychological counseling.

FRANCES PALMER

Personal statement 3: Copy of a letter faxed by Ms Rosalind Berry, RARD member, to GSL at Baxter expressing concerns about the medical care of a friend during a hunger strike in December, 2004. (Note: There was no answer received from GSL)

TO: The Manager and Deputy Manager
Global Solutions Limited
Baxter Immigration Detention Facility

FAX No. 0886418956

Date: 17.12.2004

FROM: Rosalind Berry
FAX No. 03 53 48 1323

MESSAGE:

Dear Sirs,

I am writing to explain about my concerns with the medical care received by my friend, Mr.(name removed for this submission) (BX No. xxxx) when he had stopped, after six days, taking part in the current hunger strike by Iranian detainees.

Mr. X told me on the evening of 15th December that, having stopped his hunger strike on the 13th, he experienced blood in his urine and pain. He spent 10 hours in the medical centre on 14th (evening/night) and was examined and treated by the doctor. The doctor explained that he had kidney damage and that he would see him again the following day (15th). On that day (15th) Mr.X still had blood visible (macro blood) in his urine and was experiencing pain. He attended the nurses' station (I think about midday) and was told that the doctor would see him that evening in the compound (W1). However, and in my eyes most unfortunately, when he asked to be seen by the doctor, he was told by Mr. that, as he was no longer on a hunger strike he could not be see the doctor. He was distressed and angry about this situation.

I had a short telephone conversation with Mr. yesterday afternoon in which he explained that although he was not allowed to go into the details of Mr. X's medical situation, he disagreed with his version of events. He told me that he had explained to X that the doctor was only in the compound to see specific people and not residents in general but that this explanation was not accepted. (I apologise if I haven't used the exact wording here but that was the meaning.) I accept that but would like to point out that it gives the same message as that given to me by Mr. X namely, hunger strikers will receive medical attention by the doctor but those stopping their hunger strike will not be seen by a doctor ...or at least not after the first 12 or so hours have passed. (I take it for granted that this would be waived in an emergency situation.) This seems to me to be extremely shortsighted of GSL management and possibly dangerous to the physical health of detainees. Yesterday X still had pain but there was no blood visible in his urine—there may, however, be micro blood which is not visible. He was not checked by a doctor yesterday either.

I am deeply concerned not only about the effects of the hunger strike on Mr. X's health but even more at the poor precedent this has set. If and when others come off the hunger strike they will be in an even weaker state and if medical attention is seen as unnecessary after 12

or so hours then there will be serious repercussions on their physical health. I believe that this breaches GSL's duty of care requirements.

I am also concerned that there should be adequate and high quality food made available—food suggested by medical practitioners for ex-hunger strikers. Finally I would suggest that psychiatric help be available for all those on the hunger strike and their carers. After the recent spate of suicide attempts, self-harm actions and adverse reactions to the erratic distribution of medication over the last month I believe it to be in the best interests of the detainees, GSL, DIMIA and medical staffs to make these changes.

I look forward to hearing from you.

Yours faithfully,

(Signed by Rosalind Berry)