

20<sup>th</sup> of August 2008.

Committee Secretary  
 Joint Standing Committee on Migration  
 Department of House of Representatives  
 PO Box 6021  
 Parliament House  
 Canberra ACT 2600

Submission No.....	122
Date Received.....	AS

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RECEIVED  
 21 AUG 2008

Dear Secretary,

BY: MMG

**Submission For Javad Khan**

I, Habib Rehman, the brother of Mr Javad Khan now deceased, respectfully write this submission in the hope that what happened to my brother under Australia's mandatory detention regime, never happens again. Ms Pamela Curr is writing this submission with me.

This submission to the Joint Standing Committee on Migration inquiry into immigration detention in Australia addresses the following terms of reference:

- The criteria that should be applied in determining how long a person should be held in immigration detention
- The criteria that should be applied in determining when a person should be released from immigration detention following health and security checks
- Options for the provision of detention services, including health services, across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention.

These terms will be discussed in relation to the case of Mr Jawad Khan, now deceased, who was detained in Maribyrnong Detention Centre in December 2001. At the heart of this case is the systemic failure to provide adequate health care for people detained in Immigration Detention Centres (IDC's) in Australia and the

discriminatory standard of health care for people in IDC's. This case illustrates the way in which medical advice provided by qualified medical personnel is dismissed by the Immigration Department (DIAC) even when it pertains to matters of life and death.

Mr Javad Khan contracted Hepatitis C in October 2002 whilst in the "care" of the then Department of Immigration and Multicultural Affairs (now called DIAC) at the Maribyrnong Detention Centre (MIDC). Medical proof in the form of blood tests taken before and after this date exists to place this fact beyond dispute. Treatment was not commenced until February 2004 despite medical evidence that early treatment is important to a patient's prognosis. The delay was caused by a dispute as to who would pay for treatment.

Despite medical opinion that Mr Khan would be best cared for by his family, out of the detention environment, and assurances from Mr Khan's family that they were willing to undertake this care and ensure Mr Khan's compliance with DIAC requirements, DIAC refused to release Mr Khan to the care of his family. Mr Khan's brother, a highly respected member of the community, was willing to take responsibility for his brother's accommodation and care in his home. **The criteria that should be applied in determining when a person should be released from immigration detention** following health checks is at the heart of questions concerning Mr Khan's care.

Mr Khan's treatment was eventually commenced in 2004. Despite advice that liver failure and death could result from incomplete treatment, recommendations to delay deportation until he had a 6 month follow up were not accepted. Medical advice from Australian and Pakistani doctors about the difficulty and expense of accessing treatment in Pakistan (see letters) was disregarded. In January 2005, Mr Khan was deported/removed to Pakistan where he died on the 7<sup>th</sup> July 2007 of liver failure as predicted.

The facts of this case are clear. A man contracted an illness whilst in Immigration Detention. His subsequent treatment was then delayed while the Immigration department and its contractors quarrelled about who would pay for this treatment. He was deported against the advice of his own treating doctors.

I have heard that Mr Khan is likely to be deported this year. This would be most unfortunate as it would interrupt his treatment and I very much doubt it could be continued in Pakistan. It is clear that moving to Pakistan before the treatment is completed is medically inadvisable.

*Dr*

*sexual health physician*

“His hepatitis C therapy will need to continue for 12 months to be effective and deportation will completely disrupt what has been painstakingly organised for him. Furthermore therapy for hepatitis C is not available in Pakistan and, given the accelerated progression of this infection in patients with HIV, it is likely that his hepatitis C will progress further and may lead to liver failure in the future if he is left untreated.” Dr \_\_\_\_\_ MBBS, FRACP, Ph.D, FRCPC. Infectious Diseases Physician

Then, in accordance with his treating doctor's expectations, this man died of liver failure because he did not have access to comprehensive follow up treatment. It is hard to know which part of this medical advice was not understood by DIAC. The only conclusion possible is that this man was denied the duty of care to which he was entitled.

This case illustrates that Mr Khan was not given the treatment which any Australian could expect and would receive in similar circumstances. It is clear that DIAC's decision to deport this man and, in so doing, denying him proper medical care for a disease contracted whilst in their custody, contributed to the eventual outcome – his death.

At every turn, choices and recommendation concerning Mr Khan's treatment were ignored. Mr Khan need not have remained in mandatory, indefinite detention. His health needs would have been better met in community care with his family, as recommended by several doctors. DIAC should not have the power to dictate or disregard medical treatment in order to facilitate deportation and removal outcomes.

We ask that you examine this case and its sad conclusion to ensure that mandatory detention legislation is repealed and policies are changed and regulations put in place to ensure that other families do not suffer the loss which has befallen Mr Khan's family.

Yours Sincerely,

Mr Habib Khan

Ms Pamela Curr

Mr Habib Khan

Email:

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