5

Processing and related issues

5.1 Of all the issues that were raised during our program of visits in early 2001, the general topic of DIMA's processing applications for visas was the most common. This was in spite of the Committee's statement, made at each of the 15 meetings it held with detainees, that it was not able to consider individual cases.

5.2 The Committee believes that the indeterminate length of processing of applications for asylum leads to anxiety and despair among detainees. For this reason, it will suggest that the Government give consideration to establishing time limits on the processing of applications for asylum. It will also make recommendations that it hopes will reduce the impact of detention on individuals.

5.3 This Chapter will include references to other issues related to processing of these applications, including:

- consequences for detainees who do not receive protection from Australia;
- consequences for detainees who, having failed to get protection from Australia, do not want to return to the country of their birth or cannot gain acceptance elsewhere;
- the role of other Government agencies in the process;
- DIMA's charges and bonds for visas; and
- other ways apart from administrative detention to treat illegal arrivals.

5.4 To put the overall process into context, it is necessary first to provide some brief information on DIMA's procedures for dealing with applications for asylum.

5.5 This report merely recounts what detainees said to the Committee about their experiences of dealing with DIMA, and is not an in-depth analysis of

its decision making process. The purpose of the Committee visit was primarily to assess the human rights conditions and treatment of people in administrative detention.[1]

The purpose of detention

5.6 The *Migration Act 1958* (the Principal Act) requires that any people unlawfully in Australia must be detained and that, unless they are granted permission to remain, they must be removed as soon as practicable.

5.7 DIMA stated that the purpose of Australia' administrative detention policies is to hold people who have arrived without authority while their claims to protection under the provisions of the 1951 *Convention relating to the Status of Refugees* (the Convention) are examined. Others who are in the country illegally are also held in administrative detention. Detention ensures that individuals in both groups are available while their claims are being examined and assessed.

5.8 The Principal Act also allows the use of reasonable force to keep people in detention. As a result of its contract with DIMA, ACM is charged not only with keeping people detained but also with maintaining good order and security in the centres.

5.9 DIMA pointed out that detainees were placed in administrative, not criminal, detention. In a meeting with the Committee, it restated its absolute commitment to administering the laws about entry to Australia.

Numbers in detention

5.10 DIMA provided information that showed that, in 1999/2000, there were 8908 individuals detained: 8109 adults and 799 minors. In 2000/2001 to 23 February, 8401 individuals were detained: 7298 adults and 1103 minors.[2]

5.11 Of the current detainee population, 47 per cent were at the primary processing stage with Afghans the largest group. Of this figure, 90 per cent had been at this stage for less than three months.

5.12 A total of 5.75 per cent had been 'screened out', with Iranians being the largest group. Of this group, 56 per cent had been screened out for less than three months, while for 6 per cent it had been longer than six months.[3]

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1 See paragraphs 1.28-1.30.

2 See paragraph 4.4.

3 See paragraph 5.21.

5.13 Of the population at 23 February 2001, 13.5 per cent were at different stages of the review process: 9.5 per cent were before the Refugee Review Tribunal (RRT) and 4 per cent were undergoing some sort of judicial review. At these stages, Iranians are the largest groups.

5.14 DIMA noted that, while this had not always been the case, 'many in the current population' were successfully obtaining protection visas.

The process of examining claims

5.15 The following is a summary of the process used by DIMA to examine applications for refugee status. It does not include much detail, nor does it cover all the possible circumstances that can arise.

5.16 People who arrive in Australia without authority can come either by boat or air. Those who arrive by boat are taken into detention, delivered to DIMA and transferred to an IRPC, where initial processing is undertaken. This consists of medical screening, security and intelligence debriefings. To preserve the integrity of the DIMA process, new arrivals are separated from other detainees in the centre to which they are sent. A DIMA Business Manager at each centre coordinates the Department's process of examining applications for protection.[4]

5.17 DIMA then coordinates an entry task force, which begins to accumulate basic data on individuals, to determine:

- the identity of the individual;
- the reasons for coming to Australia;
- the route taken to Australia; and
- whether the arrival has any information or provides any claims that might engage Australia's protection obligations.

5.18 This task force includes representation from the Australian Security Intelligence Organisation (ASIO). If possible, ASIO grants security clearances immediately.

5.19 When large numbers of illegal arrivals began landing in Australia in late 1999, DIMA has said that it was unprepared. The Committee was told that, since then, the Department's processes had 'progressively…become a lot more streamlined'. In 2000, its practices were amended to make them more appropriate for the handling of large numbers of applicants. It has moved from handling key elements sequentially to 'front-end loading' the

4 ACM Centre Managers have no responsibility for DIMA's processes.

entire process. For those who engage Australia's obligations, the determination of refugee status commences immediately.

5.20 When he tabled the Flood Report in the Parliament, the Minister noted that other changes were being made to DIMA's processes. These were in addition to what he called 'the significant re-engineering of protection visa application processing' referred to above, and included:

- appointment of Assistant DIMA Business Managers at three of the centres, and
- refinements to case management of detainees.[5]

5.21 As a result of this initial process, individuals are either 'screened in' or 'screened out' of Australia's refugee determination process. This is done by assessing whether there are any issues that would *prima facie* engage Australia's protection obligations under the Convention.

5.22 While some cases may be very clear, others are more difficult because of lack of identification, because statements about particular circumstances are less explicit, or because people are being coached about what to say on arrival in Australia. There is also an element of nationality fraud, such as Pakistanis passing themselves off as Afghans, that must be addressed.

5.23 A committee of senior DIMA officials meets every fortnight to review detention cases, to ensure that all Departmental and external review processes are being undertaken in a timely way.

5.24 Those who are screened out of the process remain in 'separation detention' until they can be removed from Australia. They can be screened back into the process under the provisions of s. 256 of the Principal Act.

5.25 Those who have been screened in via the entry screening process move into the refugee determination process. A decision has been made that they have *prima facie* engaged Australia's protection obligations, and processing of their cases commences in detail.

5.26 Other Australian Government agencies seek the following clearances for DIMA:

- character checks, and
- penal or criminal checks, if detainees have lived in a third country for more than 12 months since leaving the country of their birth.[6]

5 House of Representatives *Hansard*, 27 February 2001, p. 24484.

6 The involvement of other Government agencies is addressed later in this chapter.

5.27 Applicants proceeding through the refugee determination process are entitled to be provided with application assistance funded by DIMA. These service providers are appointed to assist individuals in the development of their cases, and the lodgement of applications. Application assistance at Government expense is available at both primary decision and review (RRT) stages, but not for those seeking judicial reviews of their cases.

5.28 DIMA noted that the process is managed by its Central Office in Canberra. The process can be delayed by resource constraints if there are large numbers of arrivals in a short period. These can include:

- a shortage of interview rooms in each centre, and
- access to interpreters.

5.29 Those who are successful in their applications are granted a Temporary Protection Visa (TPV) for a three year period. While these do not allow the sponsoring of others, these visas allow people to apply for permanent residence after 30 months, and confer eligibility for Medicare, access to income support and a range of other benefits.

5.30 If applications for protection visas are rejected at the primary stage, applicants have a number of avenues of complaint and appeal, notably:

- the RRT;
- the Federal Court; and
- if they are given leave to appeal, the High Court.

5.31 In spite of all the changes DIMA has made to its processes, the Committee received a number of complaints about the time it took, for example, to complete penal/character checks. Such checks are made by authorities in other countries, and can be the cause of delays.

Length of detention

5.32 DIMA is provided with funding calculated on an average processing time of 14 weeks for every arrival, down from 18 weeks in July 2000. Funding arrangements vary for the additional weeks if a person has been refused a visa until their removal from Australia, or if they pursue their claims in the RRT, the courts, etc.

5.33 DIMA frequently made the point that each case was 'individual'. It was also pointed out that, while many detainees had been in one or more centre for long periods, many others with 'acceptable claims' were held for very short terms: about six weeks, because:

- they carried documents proving their identity, and
- they cooperated with DIMA officials.

5.34 For the 2000 calendar year, only about 42 per cent of successful applicants were released into the community within 14 weeks.

5.35 In the second quarter of 1999/2000, it took 228 days, or about seven and a half months, for 80 per cent of those who arrived by boat and lodged applications to receive a decision. By the last quarter of 1999/2000, that period had fallen to 145 days. In the first quarter of 2000/2001, it had fallen further to 101 days and DIMA stated that the time taken was still falling. It stated that its performance target is for 80 per cent of cases to be decided within 42 days, or six weeks.

Removal from Australia

5.36 DIMA's process finishes when people have either exhausted all possible avenues of appeal for their claims for protection, or have decided not to pursue the next step of appeal. They are then ready for removal from Australia by DIMA, and their destination will depend on their nationality, where they came from, where they can or want to go, etc.

5.37 If Australia does not have diplomatic relations with particular countries, this can complicate removal of detainees. For example, Australia does not have diplomatic relations with Afghanistan and, as will be discussed later in this Chapter, this is a cause of long-term detention for some individuals. Nor can people be returned from Australia to Iraq.

5.38 By contrast, in 1995, Australia negotiated a Memorandum of Understanding (MOU) with the People's Republic of China (PRC) dealing with unauthorised arrivals in Australia of Vietnamese refugees settled in China.

Acceptance rates

5.39 The Minister has been quoted as saying that '80 per cent of detainees had their applications dealt with within 15 weeks'. DIMA estimated that 80 per cent of visa applicants are able to remain in Australia but that, for boat arrivals, the percentage depended on nationality. About 80 to 90 per cent of Afghanis and Iraqis will be identified as raising issues that *prima facie* may engage protection obligations. Across all unauthorised arrivals, DIMA estimated that the percentage drops to between 50 and 60 per cent.[7]

7 See AAP report dated 8 April 2001: **Ruddock says immigration process not root of problems**. The Minister was quoted as saying that this 'extraordinarily short period' was being used by people smugglers as 'one of their advertising calls'.

5.40 In April 2001, a newspaper article reported that about 90 per cent of Iraqi and Afghan asylum seekers are found to be genuine refugees. In the nine months to 31 March 2001, it stated that 1292 Afghanis and 1962 Iraqis were accepted, while 'the overwhelming number' of applicants from the PRC and Iran were rejected.[8]

5.41 The same article referred to mounting concern about the small but growing number of Iraqis and Afghanis who had been rejected by Australia, but would not be accepted by other countries. As a result, some applicants whose claims had been rejected had been held in detention since June 1999.

5.42 DIMA also advised that, from July 1999 to the end of February 2001, there had been 580 Iranian arrivals, of whom 139 had been granted protection visas. While this was a lower percentage of acceptance than for the Afghanis or Iraqis, it was still 'significant'.

5.43 Boats carrying illegal Chinese immigrants had not been common for the previous two years. DIMA said that, when such people had arrived, 'virtually none' of them became engaged in the process of receiving protection as refugees because they had come to Australia for economic reasons, such as to get a job during the Olympics in Sydney in 2000.

Detainees' comments

5.44 During the Committee's visits, many detainees commented on DIMA's processes.

5.45 The fate of Iraqis and Palestinians who had come to Australia via Syria was drawn to the Committee's attention on a number of occasions. While people had been advised that any Iraqi who wanted to go back to Syria could do so, Syria would not accept anyone who did not have an Iraqi passport. The Committee was told that the Iraqi Government would not issue passports to these people. Australia was criticised by a number of detainees for continuing to follow policies that had now changed. Such matters are beyond the scope of this report.

5.46 In this context, a detainee referred to:

- a lack of knowledge of Australian law;
- a lack of standardisation in DIMA's process;
- interpretations of the term 'refugee' in Australia that differed from the usual usage of the term in the 1951 UN Convention elsewhere;

8 See *The Sydney Morning Herald*, 18 April 2001, p. 7. Some of these issues will be addressed later in this chapter.

- an interrogation process in Australia that was 'more intense and more difficult and more threatening' than a secret police interrogation in Syria; and
- 'racial discrimination' against claimants from the Middle East.[9]

5.47 There were other accusations of bias in DIMA's handling of applications from various groups, including:

- a pro-Afghani, anti-Iraq stance, as only 5 per cent of the latter were allegedly accepted, as opposed to 90 per cent of the former;
- acceptance of Pakistanis as Afghanis;
- a lack of differentiation between different groups of Afghanis;
- discrimination against people from Bangladesh; and
- that Iranians stayed in detention longer of any group, and were required to provide an additional burden of proof for their claims.

5.48 The Committee was told that Iranians believed that DIMA had 'already made up their minds' to reject them, before processing cases. It was alleged that no case for refugee status was accepted on interview alone, but that acceptance of such claims did come through the RRT or the Federal Court.

Lack of information

5.49 While most detainees were clearly aware of some of the processes of appeal and complaint that were open to them, the Committee did not believe that this knowledge was universal. A detainee claimed that people were not aware of their rights in detention, nor did they have an advocate who could tell them what these rights were.

5.50 For example, during the visits to the centres the Committee did not see many posters advertising the Ombudsman's interest in detainees' welfare. Where such posters were displayed, detainees claimed that they had been put up just before our visit.

9 In view of the figures in the 18 April 2001 article in *The Sydney Morning Herald*, see above, this claim is hard to substantiate.

The role of other agencies in the process

5.51 During the Committee's discussions with DIMA, and with detainees, there were many references to the role of other agencies in the process of examining applications for visas.

Refugee Review Tribunal

5.52 The agency most frequently mentioned for its involvement in DIMA's process was the RRT.

5.53 The RRT was set up in 1993 to review decisions of the Minister for Immigration to refuse or to cancel protection visas. It is a 'merits review' body that 'stands in the shoes' of the original decision maker, reconsidering the factual and legal aspects of the application in order to make a new decision. The RRT can affirm or vary the original decision, set it aside and substitute a new decision, or remit the original decision back to the Minister for reconsideration in accordance with a direction from the Tribunal.

5.54 During his meeting with the Committee, the Acting Principal Member of the RRT noted that, effectively, one case in every three received is a detention case. While there was some capacity to deal with an increase to that rate if it was required, the consequences for the rest of the RRT's case load would be 'quite significant'.

5.55 In the 1999/2000 Financial Year, the RRT received 6091 cases and finalised 6194 cases lodged in that year or in previous years. In 2000/2001 to 28 February 2001, it had received 4083 cases and finalised 3711 cases. On 26 March 2001, it had a backlog of 5639 cases, slightly higher than the number of 5625 cases it is expected to finalise in any year.

5.56 It is expected that all detention cases, given priority in processing, should be finalised within 70 days of being given ('constituted') to a Member of RRT, and that all cases will be constituted within a week of receipt in the Tribunal. The tribunal has met the 70-day deadline in 75 per cent of the cases finalised this year and, for the group of applicants arriving by boat, the average time to complete a case is just over 58 days.

5.57 According to DIMA's figures, about 89 per cent of rejected applicants appeal to the RRT. Until 2000/2001, detention cases had comprised less than ten per cent of the RRT's case load but, to 27 March 2001, 708 such cases representing 15.2 per cent of the total case load had been received. At the time of the meeting with the Committee, the RRT had 213 cases on hand, with 54 exceeding the 70-day deadline.

5.58 Of these 54 cases, 24 were delayed by difficulties getting information through the adviser provided by DIMA to the asylum seeker. A further 30 cases were delayed by the need for additional country research via third country governments.

5.59 More than 50 per cent of those who receive a negative decision from the RRT go on to appeal that decision. It was pointed out that the legal position for the RRT's work constantly changed. For example a judge had recently redefined 'effective protection' of a third country. The effect of this redefinition is that additional information is required to establish the veracity of claims.

5.60 More than a year ago, the Tribunal was overturning almost 95 per cent of DIMA's decisions on asylum seekers from Iraq. The Department then reviewed the information the RRT received and, as a result, reconsidered its decision-making in cases from Iraq. During the course of RRT review, matters are 'quite often' raised that had not been revealed at earlier stages.

5.61 The Acting Principal Member pointed out that the RRT paid particular attention to humanitarian issues in its determinations for subsequent consideration by the Minister under the provisions of s. 417 of the Act.

5.62 DIMA noted that those people who do not engage Australia's protection obligations do not have access to the RRT. Because they have not received a favourable primary decision, they do not have the right to a review. Unless they come forward with further claims that may engage protection obligations, they can be removed from Australia.

5.63 The Committee believes that there are some measures that would assist the RRT in carrying out its task.

Recommendation 6

5.64 **The Committee recommends that the Australian Government consider the establishment of a reserve list of Members to assist the Refugee Review Tribunal at times of peak workload.**

5.65 Under an informal arrangement, the RRT draws the Minister's attention to humanitarian issues in particular cases. Section 417 of the *Migration Act 1958* allows the Minister to substitute another, more favourable decision than the one made by the RRT.[10]

10 In **A Sanctuary under Review**: **An Examination of Australia's Refugee and Humanitarian Determination Processes** (June 2000), the Senate Legal and Constitutional References

Recommendation 7

5.66 **The Committee recommends that the current informal arrangement, whereby the Refugee Review Tribunal can draw attention to humanitarian issues in the case of an asylum seeker, should be formalised by an amendment to s. 417 of the *Migration Act 1958* so that these issues are formally included in the Minister's consideration of such cases.**

ASIO

5.67 DIMA advised that ASIO is part of the initial processing teams for illegal arrivals by boat, and that this ensures that all parts of the process run simultaneously. In the past, this had had resource implications for ASIO and, with the incentives in its funding model, it suited DIMA to pay that organisation to engage additional staff on contracts to increase its capacity. This occurred as the result of the review in February 2000, but delays still occur as information is frequently sought from security authorities in other countries. Because of the low priority these organisations may accord to requests, delays in the receipt of the required information can occur.

5.68 During his discussion with the Committee, the Director-General stated that ASIO is not required to make security assessments on all applicants for protection. As a result of the revised procedures, from mid 2000, ASIO had cleared 80 per cent of applicants within 10 working days, and the remaining 20 per cent from within three to six months.

5.69 In the year 2000, ASIO had examined 4021 cases, finalising all but 16. Of these, 13 were outstanding for less than three months.

Recommendation 8

5.70 **The Committee recommends that the Australian Security Intelligence Organisation develop an appropriate risk profile to assist the early release into the Australian community of asylum seekers.**

Committee made a number of recommendations about the operation of s. 417 of the Act. The Government response to that Report indicated that there would be no change to current arrangements.

Detainees in State/Territory correctional facilities

5.71 At the beginning of March 2001, there were 62 detainees in custody in State or Territory jails because:

- they had been removed from a centre into police custody, pending the laying of charges following a disturbance;
- they were on remand for criminal offences;
- they had been convicted of criminal offences;
- they were awaiting deportation because of criminal records in Australia; or
- they had behavioural problems, or had repeatedly attempted to escape, and there had been a resultant assessment by DIMA and ACM that they could not be properly detained in the low to medium security environment of a detention centre.

5.72 Those in the latter category were being held in jails without formal charges being laid against them.

DIMA's notional cost recovery

5.73 People in detention accrue a debt to the Commonwealth for every day that they are detained. From arrival to departure, an unauthorised arrival costs taxpayers an average of $50,000, and a day in detention costs an average of $104.[11]

5.74 DIMA noted that whether those debts are enforced and restitution sought is a separate issue. If a person is granted a visa, collection of a debt may not be enforced. If a person is not a refugee and is removed from Australia, the debt would not be enforceable. If that person then wanted to return legally to this country, any outstanding debt would become recoverable. The debt could include the costs of deportation, as well as charges incurred in a detention centre.

11 See the Minister's statement, House of Representatives *Hansard*, 27 February 2001, p. 24485. See also paragraphs 3.25, 4.4 and 5.10.

Other options

5.75 Administrative detention is one of a number of ways Australia could treat people arriving unlawfully. Since 1901, successive Governments have carefully controlled access to Australia, consistent with international practice.

5.76 One alternative to the current system is to allow those who claim refugee status to go directly into the community. It was suggested to the Committee several times that detainees had friends and relations in the Australian community who would be prepared to act as guarantors to DIMA.

5.77 In response to this, DIMA explained that it was difficult and expensive to locate applicants who had been released into the community to assess their claims.

5.78 DIMA discussed two possibilities:

- creation of 'white lists' of countries that are judged to be incapable of producing refugees, and
- negotiation of arrangements with other countries so that none of their nationals can apply for a protection visa in Australia.

5.79 DIMA made the following comments in relation to these possibilities. The first negates an essential feature of the Convention: that anyone can have their case for refugee status assessed on its merits. The Committee notes that it is unlikely that Iraq or Afghanistan, currently generating the greatest number of applications for protection by Australia, would be placed on such a list.

5.80 The Committee also notes, in relation to the second possibility, that an agreement has already been negotiated with the PRC for the removal from Australia Vietnamese who had settled in China.[12]

5.81 If either proposal were to be adopted, negotiations could be required with a large number of countries, a time-consuming process and one with no guarantee of success.

5.82 In his **Report of Inquiry into Immigration Detention Centres**, Mr Philip Flood AO recommended that:

> DIMA should expedite its examination of the scope for women and children in certain circumstances to live outside of detention centres, while respecting the fact that many women and children,

12 See paragraph 5.38.

> especially but not only from an Islamic background, will be opposed to being separated from other members of their families.[13]

5.83 When he tabled this Report, the Minister noted Mr Flood's conclusion that alternative arrangements for women and children detainees was 'another highly complex matter'. The Minister announced that he was:

> going to trial some different arrangements than those which currently exist for women and children with a view to implementing such arrangements on a large scale if they prove effective. I envisage a small scale trial based on voluntary participation.[14]

5.84 The Committee was very concerned at the impact of detention on families, particularly women and children. The improvement in the condition and treatment of families is a priority for the Committee.

5.85 The Committee notes the Minister's announcement of a trial of alternative detention arrangements for women and children in the Woomera township. He said that this trial would involve a maximum of 25 volunteers and run for between three and six months, 'during which time it would be rigorously evaluated.' The Committee believes that such a trial should be extended to other detention centres.[15]

Recommendation 9

5.86 **The Committee supports the proposed trial of facilities for women and children in towns, with access to nearby detention centres.**

Summary

5.87 The focus of the Committee's visits to detention centres was the human rights conditions and the treatment of detainees. An important element of their general well-being is the time taken to process applications for protection.

13 This report, together with a list of the responses to its Recommendations was tabled by the Minister in the Parliament on 27 February 2001. See p. 43 of Mr Flood's Report for Recommendation No 12. Further information on the recommendations in that Report can be found at paragraph 2.72.

14 See the Minister's statement, House of Representatives *Hansard*, 27 February 2001, p. 24487-24488. See also his Media Release MPS 021/2001 of 27 February 2001: **Immigration Detention Trial Being Considered for Woomera**.

15 See Media Release MPS 060/2001 of 25 May 2001: **Immigration Detention Trial to Begin in Woomera**. See also paragraph 2.72.

5.88 During the briefing at Curtin IRPC, the Committee was told that the right of complaint to the Commonwealth Ombudsman was explained to new arrivals. At Port Hedland, the Committee was given a copy of the English version of the **Detainee Information Booklet**. It includes the address, phone and facsimile numbers of the Ombudsman's office in Perth, and refers to 'the information sheet on the resident notice board'.

5.89 The Committee accepts that this material is available, but is concerned that the volume of information given to people on arrival at a centre may be overwhelming and, because of language difficulties, not understood. This may mean that references to the Ombudsman, or HREOC are meaningless.[16]

5.90 Figures on the acceptance of Iranian applications for refugee status supported some detainees' views that their claims were less likely to be accepted than some other national groups. However, the Committee is satisfied that these statistics reflect the nature of the claims, rather than any alleged racial bias.

5.91 Resource constraints have an impact on DIMA's ability to process applications, particularly if they are complicated. It is true, however, that significant progress has been made in reducing the time generally taken to process the average application.

5.92 It is our belief that DIMA could make a number of other changes that would go some way towards improving the condition of detainees.

Recommendation 10

5.93 **The Committee recommends that for asylum seekers who have received security clearances:**

- **there should be a time limit on the period that they are required to spend in administrative detention;**
- **it is desirable that this time limit should be no longer than the period that the Department of Immigration and Multicultural Affairs is funded by the Australian Government from time to time to process individual applications for asylum in Australia, currently 14 weeks; and**
- **similarly appropriate time limits should be established for consideration of applications by the Refugee Review Tribunal.**

16 See paragraphs 5.49-5.50.

Recommendation 11

5.94 **The Committee recommends that all detainees are given appointments on a regular basis with their case officers to update the detainees on the precise current status of their applications for protection.**

Recommendation 12

5.95 **The Committee recommends that the Department of Immigration and Multicultural Affairs negotiate with appropriate community groups to examine the feasibility of developing a sponsorship scheme for detainees who have not been processed within the time limit against which the Department is funded, currently 14 weeks, and who have received a security clearance.**

5.96 The Committee notes that newly constructed facilities at the Woomera Immigration Reception and Processing Centre provide for families to be accommodated together, but that this is not the case at all centres.

Recommendation 13

5.97 **The Committee recommends that, wherever possible, blocks within detention centres be designated for the exclusive use of families.**

5.98 This report has already referred to a body appointed by the Minister as a result of the Flood Inquiry. The Committee believes that access by representatives of the community access is important for detainees. It is also important for local communities to have access to the centres to give what assistance they can.[17]

5.99 Some members of the Committee were attracted to the idea of the creation of a position of inspector-general of detention centres, but the majority thought that the powers of the Commonwealth Ombudsman should have sufficient resources to carry out this function.

17 See paragraphs 4.233-4.234.

Recommendation 14

5.100 **The Committee recommends that appropriate community organisations, including religious and welfare groups, be given greater access to the detention centres after detainees have met initial processing requirements.**

5.101 There remain two groups of detainees for whom revised arrangements must be made:

- detainees held in State / Territory jails whose position needs to be regularised, and
- those detainees who may need for any of a number of reasons to be held in high security surroundings within detention centres.

Recommendation 15

5.102 **The Committee recommends that, as a matter of urgency, the Department of Immigration and Multicultural Affairs negotiate Memoranda of Understanding with relevant States and Territories about the detention of asylum seekers in their jails.**

5.103 The Committee believes that there may be a need to create a facility, or a part of a facility, to accommodate that small group of detainees who need a higher degree of security than the majority of the detainee population. This would not be a means of punishing that group, but would be the means of enabling all other detainees to remain in centres with a lesser degree of security.

Recommendation 16

5.104 **The Committee recommends that the Minister for Immigration and Multicultural Affairs consider the establishment of a higher security facility, either within an existing centre or as a new facility, for the housing of a particular group of detainees that could include those who have been:**

- **charged with a criminal offence and are awaiting trial; or**

- **convicted of a criminal offence and have completed their jail term; or**
- **found to have been convicted of a criminal offence in another country; or**
- **instigated serious disturbances in existing centres.**