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INQUIRY INTO IMMIGRATION DETENTION

In making this submission we, the members of the Circle of Friends 42 in South Australia, recognise that many reports have previously been written and submissions made on this and similar subjects by groups such as the Refugee Council of Australia, the Hotham Mission, Amnesty International, the Palmer report, the People's Inquiry into Detention, and the Human Rights and Equal Opportunities Commission to name a few.

All know only too well the many flaws of our immigration detention system particularly as practised in the past 10 years and, with their extensive knowledge are able to make more detailed and comprehensive submissions than us.

While it is unlikely then, that we will add anything much that is new, we believe it imperative to add our voice to others. As older Australians who supported one family in particular and a number of single men, we wish to share something of our experience as regular visitors to Baxter over a period of nearly 3 years.

VISITING BAXTER

Visits were deeply important to people in detention. Traumatized by the experiences which led them to leave their families and country, they had undertaken precarious journeys only to arrive and be locked up! They felt bewildered, abandoned, angry, sad, stressed and highly insecure.

And so, to be visited by people who cared for them, who offered friendship, who gave practical support in the form of telephone cards, clothing etc, and who shared their sense of injustice, meant a great deal. They were not forgotten!

People however had to be very committed to visit. Unlike the refugees from Kosovo, those in detention were hidden from the public in centres remote from major towns and received mainly negative publicity. Initially it was difficult to even make contact. Only as support networks gradually developed did names of asylum seekers become available for letter writing and visiting.

It took even more commitment to make the **long return journey to Baxter.** For us, it nearly always involved a 12 hour day. Its **remoteness** certainly discouraged potential visitors

There was **quite a process involved in actually making a visit.** This gave us a tiny glimpse into the powerlessness of those in detention and the officers who were the face of it. Three working days notice had to be given for a visit but it was essential to plan ahead and give longer notice in case the Visitor's Centre was booked out - numbers were limited. It also involved ensuring that the people we had listed to visit had given their permission - were we down on their visiting list? And so if one of our friends in detention asked us to include someone new, all this has to be arranged in time.

In view of the long day needed to travel, we always took the precaution of ringing Baxter to check that we were booked in and that it was OK to visit the people listed. Even this

generally took several phone calls because you had to catch officers when the visitors' centre was open and they weren't too busy. Definitely a limited opportunity.

We would leave for Baxter somewhere between 8 and 9am so that we would arrive in time for afternoon visiting between 1- 4 pm. Once arrived, the process of entry began: checking to see that we were listed on the computer, showing ID, have our hands stamped invisibly, a plastic numbered bracelet put on, locker keys for our personal gear, and the hand over to 'Property' of any things we had brought for our friends such as videos, clothing, books etc , all to be screened later.

This process could take half an hour or more if there were several visitors at the one time and if the officer was inefficient or deliberately prolonging it, as one regularly seemed to. It often seemed unnecessarily tedious. Again we appreciated those who did it efficiently and quickly.

Visits were always stressful. For people unused to prisons, it was a very strange and hostile environment - the high double fences, the tedious security screening, the seemingly endless doors though which we had to pass, the very limited space in which we were allowed, the continual overhead cameras, the constantly changing 'rules' about what we could take in with us and what had to be left with Property. This whole process was always fraught and alienating: at times, we felt like we had no business to be there!

Once inside, there began another wait for our friends to be called over. This usually took another half an hour, often longer for some, with officers being asked to call again. Was this delay because the officers had 'forgotten' which sometimes happened or because our friends were still getting ready?

And then our friends would start to come. Such a welcome! We appreciated the effort they had taken to dress well, to be cheerful and to be so courteous to us in offering the drinks available. We would gather around a table spread with food which they ate sparingly and over the visit, we relaxed together. And as the men relaxed the masks sometimes slipped and some of their depression, anger, pain, ill health, and frustration appeared. What was very hard were the times when the depression/ 'the tiredness' as they called it, had taken over and there was no energy to hide it and they sat slumped, heads down and staring blankly.

They might talk about what they had been doing - working in the kitchen or the gym (being occupied helped keep their sanity) or a video they had watched but in general they did not talk much about life in Baxter. The clearest message was that it was the indefiniteness of their detention which was the hardest.

With the emphasis at Baxter on containment and compliance, little attention seems to have been paid to establishing open lines of **communication** so that visitors and detainees alike were poorly informed about the purpose of detention, the roles of GSL and DIMIA staff, the reasons for various rules and regulations, the complaint/request procedures. For people in detention, the biggest communication defect was the slowness or lack of feedback, particularly in response to requests and complaints. This created distrust, suspicion and discouraged communication. Not much accountability, it seemed!

Over time visits were often harder as we saw **the impact of years of detention**. Though they generally tried to 'put on a good face', it was hard to see the breaking of their spirits, their depression, the physical damage to their bodies caused by the stress, and at times, their sense of hopelessness. Particularly hard were the times when they felt too low to even come out for a visit. And yet, for us, there was never any sense of not visiting again or winding down the contacts. Quite the opposite. The bonds grew deeper.

Two excerpts from letters written to Circle members by friends while in Baxter capture something of their desperation.

We have one person that his name is X He is really sick and his disease is spiritual. He living in detention centre for long time like us ... and he missed his mother 2 months ago. He use more of tablets ... 3 weeks ago, he gone to medical for to receive his medicines but the nurses didn't give him his medicines.

He left to compound and take a razor and cut his leg (he cut hands chest and more of his body before) and start to breaking the glass. After minutes he tired of all things and sat on the land. We could not help him because he was angry and he really take a decision kill himself. But he didn't it and everybody were happy for him

After one night when the people were sleeping all officers take on the guard clothes and in their hands was electricity baton. They came into our compound and wanted catch him but we never let them do that, we resist guards men and they beat us very nice (this is human right in Australia)".

And this one, written after an attempted suicide

"all asked me the reason why I wanted to kill myself but when they faced this question from me that why should I stay alive in such a terrible detention centre, no one could answer me. I had to answer myself and I told them which one is better the death or the life in prison? The death is better than the living in the darkness? the death is better than eating and sleeping like an animal? Those who have not experienced the death think that death is the end of the life but I think that death is the beginning of a new life and because I lost everything in this life it mean I have no life in this world hence I should start another life in other world. ... the life was sweet with my family but now the life has missed its sweetness and there is nothing to make me happy even freedom and I think I am not [Y] the one who you think of him as a happy person and when you saw me with such a smile face it doesn't mean that I was happy but as you know there is nothing to offer you in such isolated prison except for smile, the only smile I can offer you. But you should know that my spirit it always sad and can't feel comfortable. The only wish I have is that one day I can return all that kindness I receive from you ... I would like to ask you not to be worried about us because these problems born with us and always with us so that they are not new thing to us.

If visiting Baxter was traumatic, how much more was **Glenside** which some of us visited mostly every week for 6 or 7 months. Suffice to say that while access was much easier, because it was located in a major city, sitting beside such damaged and broken men was heart breaking. Hope seemed gone.

One memory from a Circle member – "it is dusk on a winter's evening and I am with Y, a young man - we are hobbling down the road, arms around each other because he is finding walking so hard and he is so broken – it feels like the end of the world."

Medical services were so inadequate.: “A Panadol and a drink of water” seemed to be the standard treatment by staff on site while visiting local doctors changed so often that consistent treatment rarely seemed to happen. The men got frustrated by having to repeatedly describe their symptoms, especially knowing that any follow up was unlikely. Sadly the experience of one friend was not uncommon. His requests for help were not taken seriously until his symptoms were finally so severe that he needed to be flown to Adelaide with a ruptured appendix.

We were appalled to discover, within a few months of the release of the family we were supporting that the little boy who had been born in detention was found to be profoundly deaf. With his family, he was released just before his first birthday.

Why wasn't this picked up earlier?

His mother longed to be able to cook him nourishing meals but was not allowed, nor were we permitted to take in cans or jars of baby food.

For people with **increasing mental health problems**, treatment was extremely poor with the main psychiatrist visiting every 6 weeks or more from Bathurst!! The Palmer report details this far more comprehensively than we can. Refer sections 6.5.4 & 6.6.5

By 2005 support from outside was even more desperately needed. The men were so 'tired' by then, so despairing with less and less energy to pretend. And on the political scene, things were starting to happen. The long term detainees had been there for so long that surely something had to be done. Cornelia Rau had been found and the news broken of what life in detention involved. Around Easter there was talk of them perhaps being released but then came that awful, awful Removal Pending Bridging Visa and the attempted deportation of a man in May. The men had lived with hopes being raised and dashed over so many years. To them DIMIA and GSL 'played games with their minds'.

For we supporters, it felt like a cruel pendulum that could swing either way – release or deportation and those months were a very fearful time. Constant churning. DIMIA decisions seemed so unpredictable, no rhyme nor reason. You could never relax and you were so powerless despite all the letters written and e-mails sent!

Hooray for Petro Georgiou, Judy Moylan, Russell Broadbent, Bruce Baird and other colleagues and the changes that were so hard won that winter. But still we couldn't relax until one by one, our friends were released, albeit on TPVs or RPBVs.

THE LACK OF FOLLOW UP CARE ONCE RELEASED

And after all the money that had been spent keeping people in detention for 2, 3, 5, 7 years – what happened when they are released?? A bus ticket to Adelaide or for some, a plane ticket interstate and then NOTHING! Absolutely nothing!

If it weren't for ARA, the Circles of Friends and other volunteer groups, people would have been destitute and of course, some were and still are because they slipped through the gaps of this network of support.

So much readjustment was needed to this new culture – Centrelink, accommodation, setting up homes, service utilities being connected, banking, health care, shopping, using public transport to name the immediate essentials and then the hard job of trying to find employment, of becoming more proficient with the language and of fitting in –

of finding a place for themselves in the community while often homesick, lonely, bewildered and battling with depression and ill health.

A post release booklet written in different language giving helpful contacts would have been a start, together with a help telephone line with interpreters. Above all **caseworkers were and are still needed for every current and former detainee**

Three years on it is not much easier in 2008.. Certainly the essentials are generally in place by now for most, but the joy of freedom has long gone and the realities of living in the Western society have set in – struggling to have enough money to pay the bills and perhaps support family back home, not being well enough to find regular employment, of not being able to concentrate to learn English or study, trying to find new friends and be accepted, longing for family re-unions, working long hours in low paid and insecure jobs, mistrusting authorities which means they may miss out on helpful services, being conscious of how much they have missed out on in those vital 5 years in their lives, and all the while, dealing with disturbing events back home in Iraq, Afghanistan and Iran. The list goes on.

Sadly ‘ **the Baxter syndrome**’ is still evident in varying forms in our friends.

In an article in the Melbourne newspaper, The Age, (May 27 2008) Dr Fiona Hawker, formerly from Glenside Hospital in Adelaide, talks of detainees in Glenside

“suffering episodes of agitation and violence, reduced appetite, nightmares and disturbed sleep, anger, anxiety, auditory and visual hallucinations and severely damaged short term memory.”

She goes on to say

“It was caused by their mistreatment, stress and alienation in detention and the trauma associated with an ‘unpredictable and arbitrary visa application process.”

The terms of reference for this inquiry do not seem to include **the visa application process**. Suffice here to say that it contributed enormously to the stress of asylum seekers. Their very limited English, the fear they felt for their families when interviewed and taped by government authorities, the inquisitorial approach often adopted by interviewers and at times, the lack of neutrality by some interpreters all combined to make those early vital interviews a highly stressful process. If they remembered different details at different times and/or gave ‘new’ or different information at subsequent interviews, then it was taken to cast doubts - it created ‘inconsistencies’ which then prolonged their case and time in detention.

Early decisions and appeals to the Refugee Review Tribunal (all employed by DIMIA) were so binding, with recourse to the courts limited to establishing only if due legal processes had been followed.

For all the detainees we met, the whole system seemed like a huge, cumbersome lottery in which they had no trust. Why permanent visas for some, temporary visas for most and Removal Pending for others when all were ultimately given permanent visas? We, they and their legal advocates gave up trying to make any sense of it all. Its unpredictability, apparent arbitrariness, its lack of transparency, objectivity and independence made for a deeply flawed process.

The **abolition of TPVS** is most welcome. Once recognised as refugees, why prolong and exacerbate the insecurity, the stress, the tension? TPVs just added to the breakdown in mental health.

However, as David Manne, co-ordinator of the Refugee and Immigration Legal Centre in Melbourne points out in a recent article in *The Age* newspaper (June 21 2008) there is much more to be done, particularly in the area of legal reform.

“ any review of refugee policy must first recognise that immigration legislation has departed radically from ordinary legal principles that lie at the foundation of our legal system. These legal golden threads include application of the rule of law, access to legal advice, access to the courts, habeus corpus (the ancient right to challenge the legality of one’s detention) and anti-discrimination principles. The executive has sought to expunge these matters from immigration lawu ... basic safeguards considered essential prerequisites for fair decision making remain absent from many areas of refugee policy. The policy must be restored to the mainframe of our legal system while also reflecting our international commitments to respect human rights.”

We agree.

Some brief comments on several other important issues:

GE OGRAPHIC ISOLATION

While visits from friends and supporters were valued, far more significant were the visits from professional people such as lawyers, migration agents, doctors, specialists, psychiatrists and organizations such as Red Cross. They could take action in ways we could not, action that was essential in assisting detainees with legal, visa, medical and health issues But for busy professionals the remoteness of Baxter meant that access was severely limited with visits being necessarily pressured as they tried to fit in as much as possible. Finding experienced and appropriate staff was also made difficult by its comparative remoteness.

How much more so on Nauru, Lombok and Manus!! Thank God the Rudd government has ended the so called Pacific solution. This was inhumane and cruel beyond belief, as well as being hideously expensive! At a total cost of over 1 billion dollars to process fewer than 1700 asylum seekers! \$500 000 for each person!

And as for **Christmas Island**, it is imperative that it be returned to Australia’s migration zone so that there is no longer two tier system for processing asylum seekers in which those who reach the mainland are treated differently from those whose boats are intercepted outside the zone. IF Christmas Island must be maintained, as Senator Evans has said, for Indonesian fishermen and possible future influxes, then it must be for very short term detention, no longer than 90 days.

CHILDREN IN DETENTION

No child should ever be kept in detention and families should not be separated. The Residential Housing Project in Port Augusta, while not as hostile an environment as Baxter, was nevertheless, still a detention centre with fences, guards, security cameras and very limited access to the community. Forcing fathers to be separated was a travesty of family life at a time when politicians were extolling the virtues of family like and only exacerbated the fragile mental state of many families.

LENGTH OF DETENTION AND ALTERNATIVES TO DETENTION

We welcome the election promise by Kevin Rudd that mandatory detention should be for a **maximum of 90 days** to allow for identity, health, and security checks and urge that this be adopted as soon as possible.

Once these essential checks have been done, and people are shown to be of no risk to the community or low risk in terms of absconding, they should be released in the community either in private homes or in immigration residential housing. Case management is essential, ideally by a social worker from a national welfare agency to work with people and their families to ensure they understand our refugee system and to support and counsel them as they move through the legal process.

They should be allowed to work or to receive income support, to have access to health care and to short – medium term study while awaiting decisions about their cases.

For those considered medium risk for health, welfare or flight reasons, some form of community hostel would be better, again with appropriate case management and with some form of income support and health cover.

For those considered high risk or where, in exceptional cases, release is not possible within 90 days, asylum seekers together with their lawyer/migration agent and where possible, an Australian friend/contact should be notified and given some explanation for the delay with some indication also of the time expected before decisions are made.

CONCLUSION

Mandatory, indefinite and unreviewable detention as seen at Baxter was such an unnecessarily inhumane, harsh and expensive system which seriously damaged the mental health and well being of asylum seekers. They were not criminals, they posed no real threats to our national security, and over 90% of them were found to be genuine refugees. Prisoners in low security gaols have a much better life!

There has to be a better way! Hopefully this is beyond question now.

Their time in immigration detention will never be forgotten by those who sought refuge in Australia, nor will it be forgotten by those who in various ways, tried to support them. Was this really happening in Australia, our country?

We are glad of this Inquiry by the Rudd government and the opportunity to record something of the deeply shameful time in Australia's history in the hope that significant changes will be made so that we will never see such a time again.

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Over 90 such Circles were established to support people in detention and came under the umbrella of the Australian Refugee Association in Adelaide.