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JOINT COMMITTEE ON TREATIES

Reference: Convention on the Status of Refugees

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JOINT COMMITTEE ON TREATIES

Monday, 10 April 2000

Members: Mr Andrew Thomson *(Chair)*, Senator Cooney *(Deputy Chair)*, Senators Bartlett, Coonan, Ludwig, Mason, Schacht and Tchen and Mr Adams, Mr Baird, Mr Bartlett, Mr Byrne, Mrs Elson, Mr Hardgrave, Mrs De-Anne Kelly and Mr Wilkie

Senators and members in attendance: Senators Bartlett, Cooney, Ludwig, Mason and Tchen and Mr Adams, Mr Baird, Mrs Elson and Mr Andrew Thomson

Terms of reference for the inquiry:

Convention on the Status of Refugees.

WITNESSES

Committee met at 10.05 a.m.

HOGAN, Mr Des, National Refugee Coordinator, Amnesty International Australia

PIPER, Ms Margaret Claire, Executive Director, Refugee Council of Australia

ACTING CHAIR (**Senator Cooney**)—I declare open this meeting of the Joint Standing Committee on Treaties. The chairman, Mr Thomson, will be here shortly. On 6 March 2000, the committee held a public briefing on how Australia is meeting its obligations under the Convention on the Status of Refugees. Today the committee is continuing to look at this issue. Firstly, we will be hearing evidence from non-government organisations involved with refugee issues. We will conclude our briefing this morning by taking additional evidence from the government agencies that appeared at the first briefing. They were the Department of Immigration and Multicultural Affairs, the Attorney-General's Department and the Department of Foreign Affairs and Trade. I now call representatives from Amnesty International and the Refugee Council of Australia. We have received a submission from Amnesty International Australia. Senator Ludwig has moved that the submission be received as evidence and authorised for publication. There being no objection, it is so ordered. Does either of you want to say something before we proceed to questions?

Mr Hogan—Yes. Thank you, Mr Acting Chair. Senators and honourable members, on behalf of Amnesty International, I would like to thank you for inviting Amnesty International here today with the Refugee Council of Australia to assist in your inquiry into article 31 of the refugee convention.

You should have before you the discussion paper that we prepared for the committee in its deliberations. You will see in that paper that we have addressed four key points under article 31. These are detention, access to the asylum system, temporary protection and the new seven-day rule under the border protection amendment act. At this stage I intend to make a brief opening statement before handing over to Margaret. Then I am very happy, as is Margaret, to answer any questions you might have.

The principal point that Amnesty International would like to make to the committee is that we believe an inquiry is needed, particularly into the mandatory detention of asylum seekers. The situation, we feel, has changed since parliament last examined this issue—which I think was in 1994. There now are approximately 3,700 people in immigration detention in the country, of which over 400 are children. Independent scrutiny, in our view, is unsatisfactory. There is no doubt that the detention regime does impact upon the asylum determination system. At the same time, we are strongly of the view that this inquiry, if the committee should go ahead with it, should focus on not only article 31 of the refugee convention but also other relevant international human rights standards.

One such standard is contained in the treaty known as the International Covenant on Civil and Political Rights—specifically article 9. The committee will note the views of the Human Rights Committee in the A v. Australia case in 1997. There has been no change to Australia's laws since then, despite the UN's views. We have also listed the other treaty provisions, including

those relating to ill treatment in detention. Again you will note our reference to independent scrutiny of the detention centres.

On the question of which other countries have similar situations to Australia, no other country has mandatory detention laws for a specific category of asylum seekers, as does Australia. Australia's situation may not be criticised by other governments—and that was a question I think the committee asked about at the last hearing. We think this would be most unusual. But we would make the point that the committee should be aware that Australia is criticised in other countries by ordinary citizens, by non-governmental organisations and UN committee bodies. Also, whether the UN working group on arbitrary detention will be able to visit Australia in the coming months is unclear, but the fact that it is seeking to come here certainly raises the fact that there is an issue of arbitrary detention in this country.

The committee posed to the department on 6 March a question regarding detention protocols—and I think it was Mr Byrne who posed it. There are detention protocols in international law and there are the UNHCR guidelines which emphasise that the detention of asylum seekers should normally be avoided because of the hardship involved, and there are limited and prescriptive grounds for detention which outline it being used only when necessary. On the issue of the department's own guidelines for detainees, the committee should have regard to the minimum standards required under international law and, indeed, to HREOC's guidelines that were published just last month which suggest a higher standard is needed.

Amnesty International does not agree with the department's assertion that the government has considered alternatives to detention. The minister and his department have refused to engage in dialogue on this issue with groups such as Amnesty International and the Refugee Council. The department is happy to discuss with us issues of conditions in detention but not the principle of mandatory detention.

A precondition that NGOs agree to be responsible for the reporting requirements of asylum seekers released into the community is, in our view, inappropriate. NGOs do not have a policing capacity, nor do we have a policing role. Indeed, there are fears that pilot programs to that effect could be engineered to fail.

Other countries do have alternatives to detention and rates of absconsion would not appear to be high. The end of the process, of course, is a different matter again. Again, this is something that the committee could examine fully in an inquiry. Most people who overstay visas in Australia are from the United States, the United Kingdom and Ireland; importantly, they are not asylum seekers.

In terms of children detained—over 400—surely this is something that can be addressed. At present, the child stays with the parent and there are no real possibilities for a bridging visa release for the parent. Similarly, you will note our concern about the psychological impact of detention on asylum seekers who have suffered pre-migration torture and trauma. We would again refer the committee to recent reports from the psychological field in this area. Heavily pregnant women remain in detention and return to the detention centre from hospital with child after the birth.

In our submission we do not mention the costs of detention, but the Australian National Audit Office, in its report of February 1998, averaged it out at $140 a day per person detained. Access is a serious concern for asylum seekers in detention centres, particularly in remote areas like Port Hedland, where they are kept isolated from others. We believe that there should not be pre-screening, as there is. We would also like to make the point that we experience considerable difficulties in gaining access to named detainees—sometimes because the Privacy Act has been invoked.

Finally, in relation to the temporary protection under article 31 and the other standards and the real risks involved in the border protection amendment act of actual or constructive refoulement, you will note our concerns in our paper. In summation, the law as to mandatory, non-reviewable detention still exists as it has existed since 1994 and no real investigation has been made into alternatives. Thank you very much for your attention. I now hand over to Margaret.

Ms Piper—Thank you very much for the invitation to appear before the committee today. In discussions with the secretariat, I was asked to focus today on two particular issues: the Alternative Detention Model, which I will describe in a little while, and international detention regimes. I would also like to make some brief comments, if I may, in relation to matters raised at the committee's previous hearing on 6 March.

There have been a number of comments made about the absence of any real alternatives suggested from the community sector to the government in relation to immigration detention. I would suggest that there has been one alternative on the table since 1997 to which the government has not yet made an appropriate response, and this is the Alternative Detention Model.

Very briefly, the model had its genesis in a series of meetings involving non-government organisations during the periods of 1993, 1994 and 1995. It also had its genesis in that which is called the 'Charter of minimum requirements for legislation relating to the detention of asylum seekers'. That was developed in consultation with a large number of non-government organisations and church groups, and it set out seven minimum requirements for immigration detention. It was signed off by the major non-government organisations in this area, including the then Australian Council of Churches, the now National Council of Churches; ACOSS, the Australian Council of Social Service; FECCA; the Human Rights and Equal Opportunity Commission; the International Commission of Jurists; the National Legal Aid Commission; the Refugee Council of Australia; and several other national bodies.

It was felt that this was possibly too general an ask of the government, so a working group was set up to develop a far more specific model to put to government concerning the framework for immigration detention of asylum seekers in this country. Over the next couple of years, what is now known as the Alternative Detention Model was developed. In formulating the alternative detention model, the committee that was charged with this work looked at a number of international precedents. In particular, it looked at Excom Conclusion 44 relating to the detention of asylum seekers. That states, in part:

... expressed the opinion that in view of the hardship which it involves, detention should normally be avoided. If necessary, detention might be resorted to only on the grounds prescribed by law to verify identity; to determine the

elements on which the claim to refugee status or asylum was based; to deal with cases where refugees or asylum-seekers had destroyed their travel and/or identification documents in order to mislead the authorities of the State in which they intended to claim asylum; or to protect national security or public order.

The committee set out to produce a detailed legislative and regulatory framework that could be imported directly into the Migration Act and accompanying regulations. Concepts familiar to the immigration authorities, such as bridging visas and review mechanisms currently in place, were used wherever possible. For us, the workability of the model was of prime importance. The first working draft was completed in February 1996 and circulated widely. At the end of that year, it was sent in draft form to the department of immigration for comment and then sent to the minister for immigration in May 1997.

The alternative model sets out a linear three-stage regime, going from severe restrictions on personal liberty, through to increasingly liberal provisions for release if the individual is deemed not to fit into any of the risk categories—such as risk to public order or national security, lack of identification, possible risk of absconding. These are all set out in the model. If the person does not fit into these categories, it is considered that the person should be released once their identity is established and an application is lodged. The model has three stages of detention. These range from closed detention for people who fit into the risk categories, through to open detention where a person is free to go out of the detention centre during the day but is required to return in the evenings, and then community release. I am happy to answer questions about this, and I understand that the committee has been provided with copies of the Alternative Detention Model.

It is perceived that the Alternative Detention Model offers a range of advantages in that it provides a more humane regime, which reduces individual suffering and hardship by providing for alternative detention mechanisms which can be responsively linked to individual circumstances. It offers greater flexibility by being able to move applicants from one detention stage to another as their circumstances change. It has enhanced equity by reducing the present disparities in the treatment between those applicants who are immigration cleared and those who are not.

There are definitely reduced costs in terms of financial savings which can be achieved by the significantly reduced cost of closed detention—and that is, of course, the most costly regime. We also argue that there is a reduced political cost. Then there is closer harmony with the international guidelines, which we argue is very important. Also, we believe that it has an ease of implementation, as the alternative model requires few administrative adjustments to the existing visa asylum assistance and review framework.

The second issue that I wish to raise with the committee is that of international precedents. I have prepared for the committee a handout that is in the process of being circulated. It looks, as simply as I was able to put it, at the detention practices of 18 European countries. It focuses on the two areas that, of course, are most contentious in relation to Australia's regime: the right to review and whether or not detention is arbitrary or mandatory. The review rights that are referred to in this document are not the review of an immigration decision but the review of whether or not a person should be detained and whether or not that decision continues to be valid over a period of time.

The situation varies from country to country throughout Europe. But you will note that each of the European countries covered has one form of appeal right or another, be it something that the applicant or the detainee can initiate or an automatic review that kicks into place after a specified number of days where the person is in detention. Sometimes that is a short period of time, in the order of two weeks; sometimes it is once a month or so forth. But there is a body that will review the decision to detain.

You will also note from the right-hand column that in many countries the detention is of limited duration. In many instances, it is also prior to the lodgment of an application for refugee status and/or on particular grounds where the individual is perceived to be of some risk to the community. The material in the table is based on information from UNHCR, which is dated. I have, however, checked with the European Council on Refugees and Exiles earlier this month and I have been advised that, while there have been minor changes to the legislation of countries since the UNHCR document was released, essentially the framework that is here is still accurate.

Again we can come back and talk about this, but finally I will just pick up on some comments that I noted in the *Hansard* of the 6 March committee meeting. Senator Tchen raised very early in the hearing the issue of the meaning of 'coming directly', as is referred to in article 31. I refer the committee in relation to this to the UNHCR Guidelines on the Detention of Asylum Seekers. Paragraph 4 of the introduction to those guidelines says—and I will quote in part but refer you to the total:

> The expression "coming directly" in Article 31(1) covers the situation of a person who enters the country in which asylum is sought directly from the country of origin, or from another country where his protection, safety and security could not be assured.

I hope that provides clarification. Mr Hardgrave raised the issue of 'queue jumpers', a term that has been widely used in relation to the boat arrivals. I have given the secretary a paper developed by the Refugee Council of Australia on the recent boat arrivals. That paper covers this issue and a number of other issues in relation to the government's handling of this particular caseload. So I refer that to you.

Mr Byrne spoke about the comparative numbers of asylum seekers. I think here we have to make a distinction between 'developed' and 'developing' countries. The developing countries more often than not are the ones that receive very large numbers of asylum seekers. Gabon, for instance, in the second half of last year—and we are talking about a country that has a total population of 1.5 million—received 12,500 asylum seekers from the Democratic Republic of Congo. So that was a very substantial influx for such a small country, I would suggest. However, when we are looking at asylum seekers into Western countries, Australia still remains on a per capita basis towards the bottom of the list. Australia, during 1999—and these figures come from UNHCR—received 0.51 asylum seekers per 1,000 people. In the same period, Canada received 1.02; Sweden, 1.28; the Netherlands, 2.54; and Germany, 6.40.

Mr Byrne also asked questions in relation to access to phones for people in immigration detention. The DIMA response to that was that detainees do have access to phones, once they are through the initial processing. I raise with the committee the concerns that I have following advice from the human rights commission that, in Woomera, no asylum seekers have access to

phones because the entire population there is considered to be in separation detention, even for those people who have lodged applications for refugee status and who in any other detention centre would no longer be seen to be in separation detention.

Finally, on the issue of international criticism, there is the suggestion that Australia has not come under criticism for its detention of asylum seekers. I would suggest that is not correct. It is a matter that has come up at each of the UNHCR executive committee meetings that I have attended. There have been, over the years, a number of fora on immigration detention or detention of asylum seekers at which concerns have been raised by a number of parties about the practice in Australia.

I think it is also relevant to note the recent suggestions by the Irish Prime Minister after his visit here and that he considered that immigration detention led to a very strong response from a number of political parties in Ireland, including the minor or coalition party in government, and also the public. I would like to close by quoting from an editorial in the *Examiner*, an Irish newspaper, which is discussing the Prime Minister's thinking on this matter. It states:

Whatever policy the Government finally unveils must reflect caring and Christian attitudes towards our fellow human beings. The outdated, colonial approach to immigration embraced by Australia, where Aborigines have also been treated so shamefully, must be eschewed.

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CHAIR—What was the last quote you gave?

Ms Piper—It was from an editorial in the *Examiner*, an Irish newspaper.

CHAIR—Of what date?

Ms Piper—I am sorry, but I will have to go back and check that.

CHAIR—Was this in the last few months or so?

Ms Piper—Yes, I think it was 21 March this year, but I will check and let Hansard know.

CHAIR—I wonder whether any Australian newspapers have had anything to say about the Republic of Ireland's attitude to terrorists in the last few years. That would be interesting to find out.

Mr BAIRD—Thank you very much. I think you both gave very good presentations. I have a certain sympathy with what you are saying. My problem is twofold. One is the question of queue jumping. In a normal electorate office, you have a whole number of people who are lining up with what I think are some very deserving cases. People get married overseas; there is family reunion—a whole lot of things. You feel very sympathetic towards a lot of them. A recurring theme is: 'Why should there be queue jumping by these people who manage to pay to third parties?'—and you have mentioned that this was raised previously. Also, 'What gives them special rights over us and our relatives and friends?' and 'We're Australians,' et cetera. I think that is the question of fairness that goes to the heart of how Australians like to operate; fairness and equity are key criteria.

Then, despite the validity of a lot of things that you have mentioned, are you out of touch with where the average Australian is at? In my electorate, I am often concerned at the strength I feel at public meetings—for a while it was the No. 1 issue in my electorate—on the whole question of the arrival of boat people. The theme at the time was, 'Why don't we send these people straight back?' and everyone would join in. I understand the variety of reasons for your advocating what we should do. But, from my observation, there is that strongly held view at the moment over the treatment of unauthorised arrivals. How do we deal with that in terms of the community? They are criticising us for letting them stay even in detention centres, but you are going further. To what extent are you moving beyond where public opinion is? Why do you quote the Irish example?

This feeling is strong out there. So far this year, if I had to rank issues in my electorate that people felt strongly about, it would be right up there near the top. I am not saying whether this is good or bad; I am just saying that this seems to me to be a strongly held view. How do we cope with that? There are two issues there—queue jumping and public opinion.

Ms Piper—Perhaps I can tackle that one, I think the two are actually very closely linked and have in their genesis the press reporting of these issues, which I would say has been highly irresponsible in some quarters. I think it is interesting to reflect on the way that public opinion has been manipulated in the last 12 months. This time last year, the Australian public was absolutely all for the arrival of the Kosovars. Refugees were people whom we had seen trudging across mountains in rain, sleeping out, and we were opening our hearts totally to these people.

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Then you have boat arrivals, and public opinion switches back in the opposite direction. I would say that this is largely because of the way that they are portrayed in the press as being a threat to our community. The use of the terms 'queue jumpers' and 'illegals' as well as the association with drug smuggling and various other issues that impute criminality to these people are generating the kind of response that you are talking of. I think it is unfortunate that the Australian public has a very poor understanding about issues relating to refugees.

I have found in the many years that I have been working in this area—it is now getting up to 14 years—that, if you explain to people the circumstances of the individuals involved and if you explain to people Australia's obligations under international law, more often than not they will take a step back. Particularly in the circumstances that we see now with the boat arrivals who are coming, they are people who, in most instances, do have legitimate claims on our protection given the very high rate of refugee status applications that we are seeing.

There is the issue of taking places away from the aunties, the cousins, the fiances and so forth. Here too it is an issue of ignorance, with people failing to understand the operation of the immigration program, the distinction between the humanitarian and the non-humanitarian programs and the fact that they have no numerical linkage. But, more significantly, I would like to point to something that the Refugee Council is totally opposed to—it is contained in the discussion paper that I have tabled for your information—and that is the numerical linkage between the onshore and offshore humanitarian program. With the arrivals of the boats we have seen an impact on the offshore processing. We saw in the middle of February this year the cessation of processing at offshore posts. We have also seen the announcement by the

government that there will be a reduction of 2,000 places in the number of visas that it will allocate to offshore posts for the 2000-2001 program year.

We argue that this numerical linkage is confusing our obligations as a signatory state to the convention with the non-compulsory support given by the Australian government to UNHCR through its resettlement program. We argue that it has many detrimental features, in particular, the creation of friction between and within ethnic communities, and between the ethnic communities and the mainstream community. We also argue that it should be handled differently and in this way: if the number of people granted refugee status in this country exceeds a nominal level—say, the 2,000 places we have been talking about—that number should be taken from some kind of contingency reserve, as opposed to being deducted from the offshore program in such a way that would recognise it is a particular contribution that Australia is making to an emergency situation or a situation where people are warranting Australia's protection under international law.

Mr ADAMS—If I can take up one of those points: you are sympathetic to the plight of the boat people, but there is criminality involved in boat people arriving in Australia through people organising for boats to come here for people to pay to jump our immigration laws. That is a fact. You can put whatever spin you wish on it, Ms Piper, but it is a criminal activity that is occurring to beat our laws. Some of those people may have claims for refugee status within our system but they are actually doing it criminally—they are going against our laws and trying to get in front of other people. You can say that government needs to have contingency plans to take more people, fine, but it is a hard act to accept that your organisation has that view because, as I said, a criminal act is taking place because people are paying for that to occur.

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Ms Piper—I think back to the words of the former UNHCR representative in Australia on this very issue when he said, 'If your house is burning, you don't ask for permission to leave.' The right to seek asylum is a fundamental human right enshrined in the Universal Declaration of Human Rights. People who are fleeing a regime where they are in danger, or people who have fled that regime and are in a situation where protection is breaking down, do not necessarily have access to travel documents; nor are they likely to be issued with a visa to a country where they can seek protection. They have to resort to irregular means of travel in order to secure their protection.

I take issue that they are breaching a criminal law in Australia; they are breaching an administrative law by arriving without documentation. Those people who are organising their travel may be breaching a criminal law, but we in this country do not have laws that go from the perpetrator and extend to the victim. I think it is terribly important that that distinction is made. On the basis of evidence thus far from the numbers of people who have been granted refugee status from the recent boat arrivals, we are looking at people who are exercising a legitimate right to seek asylum. They are not making abusive claims; they have in fact been granted refugee status, something that Australia is obliged to give under international law.

Mrs ELSON—Do you have any concerns that the unlawful arrivals who are released into the Australian community would go underground? Who do you think should take responsibility for

that? Is there a role for the NGOs such as Amnesty International to take responsibility and have guarantees for these people?

Ms Piper—This is an issue that has come up on a number of occasions in relation to release of people from detention—very specifically it was mentioned in the migration committee's 1994 report. It is important to note that the number of people in immigration detention who are granted refugee status has been extremely high over the years. We are looking at in excess of 70 per cent of the people who were detained being granted status. The figures are a little bit hard to get exactly; they have to be extrapolated from material that the department has released but it is in excess of 70 per cent. I would suggest that that figure is running substantially higher now with the new cohort of arrivals. So we are looking at the majority of people who end up in the Australian community anyway. I would suggest that, of those who will not, they have a belief that they will pass the test and be found to be refugees. So they have a vested interest in being found and staying in touch.

The alternative detention model that is suggested is one that provides the government with the opportunity—if it believes somebody has a demonstrable flight risk—to keep that person in detention or under close scrutiny in open detention so that the risk is minimised. However, the vast majority of people are unlikely to be a risk because they have a very real reason for keeping in contact. In terms of the community responsibility towards this, I feel that I should pass at least part of a question on to my colleague Des Hogan who has agreed to take this point up.

Mrs ELSON—Just before you do, does Amnesty International take any responsibility at the moment?

Ms Piper—He is Amnesty so we will let him answer that one.

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Mrs ELSON—I am sorry; I came in a bit late.

Mr Hogan—The first point is that people who come on tourist visas and who apply for asylum are in the community and remain in the community until they are rejected or accepted as refugees—and that never comes up. It often seems to be connected with the boat people arrivals rather than the airport arrivals of people with false papers. The second point is that, in a lot of European countries who do not have detention or who have alternatives to detention, NGOs work with them in such countries. NGOs do not really have a policing role but there some times where the Red Cross, for example, might operate reception centres or that sort of thing. When someone is rejected as an asylum seeker, we move on to a different phase in terms of absconsion rates, et cetera, but that is something that could be dealt with if you were looking seriously at alternatives.

In terms of NGOs getting involved, Amnesty International itself would not really have a role. We have more of a monitoring role in international human rights—

Mrs ELSON—You would or would not have one?

Mr Hogan—We would not have a role of monitoring released asylum seekers because we would not have the capacity to do that.

CHAIR—So the taxpayer would, basically.

Mr Hogan—Yes.

CHAIR—Our chequebook, not yours.

Mr Hogan—Exactly.

Ms Piper—But you would be saving substantially on the costs of immigration detention.

CHAIR—It depends how many are running around free. Anyway, go ahead.

Mrs ELSON—My concern is that sometimes organisations like yours make all of these rules and regulations that we should be doing this and that, but they do not think about the taxpayers who complain to us of the costs and the risks that could be involved if no-one is taking responsibility for them.

Mr Hogan—Absolutely. Where we are coming from is international human rights standards; so, in terms of mandatory and non-reviewable detention, we would say that that breaches international human rights standards, responsibilities and obligations. In terms of the state moving on from there, as to alternatives, that is something that the NGOs are happy to discuss with the department. As Margaret has already said, NGOs have already come up with this alternative model.

Mrs ELSON—And you believe that allowing them to go into the community is a better alternative than keeping them in detention centres?

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Mr Hogan—Yes.

Mrs ELSON—Does that send a message to people coming from other countries who say, 'Heavens, you can walk straight into there and live in the community as normal'?

Mr Hogan—As I said before, a lot of people who come on tourist visas already do live in the community and are not detained. The second point is that Amnesty International does not oppose detention of asylum seekers but only detention when it goes over a certain period of time or it starts breaching international standards. So we recognise that states have the right to control their borders and to detain people for very specific and prescribed grounds such as verifying identity, travel route, fraudulent documentation, national security and public order. We do not disagree with the department or with the government on that; we are saying that at a certain stage you have to start looking seriously at alternatives to detention.

Ms Piper—It is important to note that the alternative detention model does provide for immigrant detention of unauthorised arrivals, and this is something not opposed by the vast

majority of human rights organisations in this country. But we believe that, once a person's identity has been determined, once they have lodged an application for refugee status and once it has been established that they pose no risk to the community, the continuance of the detention beyond that initial processing period is of substantial cost to the taxpayer and also to the individual involved. I would just reiterate Des's point that we still have the majority of asylum seekers who are in the community because they have arrived with appropriate documentation and who remain in the community for that time. We are not talking about doing anything that is particularly dramatic in this sense; we are talking bringing our practice in Australia in line with international precedent elsewhere where similar models are used.

Senator LUDWIG—Just on that point, who would then fund, for argument's sake, the requirement to ensure that they can find accommodation and work and to ensure they have the skills to engage in those sorts of activities; and how long would that take? One of your arguments is that in terms of at least a cost benefit analysis—I may misrepresent you on this—it might be simpler to release them into the community. The difficulty I have with that proposition is: what would be the cost of ensuring that, prior to their release into the community, they had the necessary skills to be able to maintain themselves and not otherwise become a continual burden on the community at a particular cost? But, if they were, what would that cost be? Do you have anything to say about that?

Ms Piper—You have hit upon an interesting area that goes to the crux of the morality of immigration detention. Here you have human rights groups universally saying that people should be released into the community but knowing that, in terms of their material needs, those people will be far worse off than they would be in immigration detention where at least they would have a roof over their heads and three meals a day. But we are unanimous in our view that the harm of immigration detention is such as to warrant this suggestion. Asylum seekers in the community get minimal support from the state. Under particular circumstances they have permission to work and attached to that is Medicare. A small proportion of asylum seekers get access to benefit through the Asylum Seeker Assistance Scheme which is approximately 89 per cent of special benefit, but there is no universal access to this benefit. Asylum seekers are not eligible for any other kind of government funded social security.

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Senator LUDWIG—As a consequence of what you have just said, suppose they fall into a category where, by some illegal act, they offend under our laws and are then caught and incarcerated in our prison system because of the difficulties they face by being released into the community. What then happens to them? They are likely to be refouled even quicker, I suspect.

Ms Piper—Not necessarily, it would depend on the offence. But bear in mind that, up until this recent spate of boat arrivals, we have had 95 per cent plus of asylum seekers who have been in the community and having to survive in the community under these conditions.

Senator LUDWIG—So you are saying there is very little risk.

Ms Piper—Why do you suggest that there would be a far higher risk factor amongst those people who arrive undocumented—we have seen over many years that they are far more likely

to be people who have a legitimate right to stay in the Australian community—than the majority of asylum seekers where the determination rate is less than 20 per cent?

Senator LUDWIG—You also talked about best practice, and I think Mrs Elson explored that with you. Can you point to another country that has a model that is worth holding up and saying, 'This is a model Australia should adopt in terms of dealing with its illegal immigrants'? 'Unauthorised arrivals' is perhaps a better term.

Mr Hogan—It is difficult to pick out one country. For example, my understanding is that Germany has a system where undocumented arrivals are taken care of by the state authorities. They would then allow people to stay in reception centres or live in one particular state province where they would have reporting requirements while their asylum claim was being processed—and Germany takes in a lot of asylum seekers. I know that, in Denmark, after initial detention, the government has some facility with the Red Cross where the Red Cross moves people into sort of secondary level reception centres. So there are other models. Unfortunately, we have not had time to do that sort of research for the committee in this space of time.

Ms Piper—It is relevant to note that the Alternative Detention Model was an effort to pull from a variety of sources, including the UNHCR guidelines, something that would not only satisfy the Australian government's concern about immigration control but also be consistent with our international obligations. It drew from a variety of sources. It is also important that the committee notes that what is being suggested in the Alternative Detention Model is a far more rigorous system of detention than exists in most European countries. We are vesting with the government far more control than exists with most countries.

Mr BAIRD—If I can take up the point of the German model, surely it is very different from the Australian one in terms of the level of guest workers that are in the country who are required to return to their own country. If we did the same with the people who are working here—

Mr Hogan—I am only talking about asylum seekers, though.

Mr ADAMS—How many asylum seekers would Germany take?

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Mr Hogan—I think it was 94,000 in 1998-99.

Mr ADAMS—A year?

Mr Hogan—A year. In addition to the Bosnians where they took about half a million during the 1990s and then they took a lot of Kosovars as well.

Ms Piper—On a per capita basis it is in the order of 12 times the arrival rate that we have in Australia.

Mrs ELSON—Do they give them the same financial assistance then?

Ms Piper—They give them greater financial assistance and support through the reception centres that exist in Germany. So they are giving them accommodation.

Mrs ELSON—But we give them accommodation in Australia too. So what is the difference between a reception centre and remand?

Ms Piper—They are free to move around in the particular province in which the reception centre is placed.

Mrs ELSON—And are they allowed to work as well?

Ms Piper—I believe so; I cannot be certain on that.

Senator LUDWIG—This is my last question because I realise that we are pressed for time. Assuming that we take the Alternative Detention Model as a good model to use, what happens when a person is unsuccessful going through the system to become a refugee and they are then specified for refoulement—in other words, they fail in their various actions that they might otherwise pursue? What is the likelihood of the person then becoming difficult to find and return, given that we already have—I would not use the word problem—a significant number of overstay visa people who are out there as well? What do we do to ensure that, under your alternative detention model, once a person fails in their case we can then identify them and refoule them?

Mr Hogan—You would not want to refoule them because that is sending them back to persecution—

Senator LUDWIG—Yes, sorry.

Mr Hogan—Just to send them back. I imagine that, at the stage it comes to the Refugee Review Tribunal, where a decision will be made on review, you could be looking at some sort of system—or even if it goes to the Federal Court, with the minister afterwards—where the authorities feel satisfied that they can contact and locate the person. In some countries you report to the police once or twice a week—that sort of thing. We have not proposed the Alternative Detention Model ourselves but we know there are ways in which these things can be addressed. Where we are coming from is the right to liberty, which is a fundamental human right. Although there are restrictions on that, they have to be necessary, they have to be proportionate and they have to be justified. At that stage certainly there would be difficulties but if you look at the number of overstayers at the moment—the 95 per cent that Margaret spoke of—we do not have any evidence that they have—

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Ms Piper—You need to bear in mind that the majority of asylum seekers are in the community anyway. What we are suggesting with the Alternative Detention Model is an opportunity for far greater control over people and the provision, if it is deemed that a person is likely to abscond, to take them back into detention or to impose tighter reporting requirements or to take them into open detention. So there is a great deal of flexibility contained in the model. It is also very important to note that the vast majority of the overstayers in the community that

we are talking about are people from the United States and the United Kingdom, not asylum seekers.

Senator LUDWIG—I appreciate that. Thank you very much.

Senator COONEY—You have talked about human rights, but I wonder whether there is another element in this issue of keeping people detained no matter what. I will just explain that: when I was coming up this morning on the plane there was a news item about somebody charged with murder who has been let out on bail, so put back into the community. If you look across the board, people charged with crimes are released into the public at the instance of a judge and what have you. From what you tell us in this table, people around the world who are asylum seekers are released. I think that if you are going to have a release system you need to have a competent body to look after it. I wonder whether one of the problems in all this is that competence is lacking in the Department of Immigration and Multicultural Affairs. Have you had a thought about that?

CHAIR—I think that is a bit unfair.

Ms Piper—I would like to decline to answer that question, Senator.

Senator COONEY—The second point I want to raise is this: I think Australia, like any country, wants to hold the moral high ground in terms of refugees. But, if it became too much of a problem, would Australia be able to denounce the Geneva convention and just stop acting under it?

Mr Hogan—I do not think that would be foreseeable—

Senator COONEY—No, but can it?

Mr Hogan—Perhaps the Attorney-General's Department could answer that one, but I think most treaties can be denounced. Of course, it would be very disturbing if that were to happen. International law is quite clear in situations of mass influx where there are provisions for speeding up procedures or for operating de facto systems. But in a mass influx you are talking about tens, if not hundreds, of thousands of refugees; you are talking about a significant number of people crossing the international frontier.

Senator COONEY—That is all.

Mr ADAMS—I just wanted to run over these costs. We seem to tie up in this country a lot of money in court costs with people seeking to use the courts as a way of staying. Your costing of $140 a day for our detention I guess comes out of the department—

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Mr Hogan—I took that from the Australian National Audit Office's report on immigration detention centres of February 1998.

Mr ADAMS—Okay. Looking at other countries we seem to be the odd person out in relation to detention, though I understand the Canadians are looking at something like it—but I think that could be under domestic political pressure. The concern that Senator Ludwig raised about people going into the community without any support is also a bit frightening for those individuals. I was talking to a group last week that had been set up in Adelaide to try to monitor and look at the needs of refugees in the community on their own. Do you have any experience about these other countries, such as the European countries, about how people survive when they are put out there without much support?

Ms Piper—I think we have a lot of experience from what happens here. As I said, the vast majority of asylum seekers are in the community without support, and church groups, the Red Cross, various other mainstream welfare agencies have had to roll up their sleeves and provide support, particularly for families—

Mr ADAMS—In a voluntary sense.

Ms Piper—in a way that is not directly costing the taxpayer. The provisions in most European countries are far more supportive for asylum seekers. There is widespread use of reception centres that are open centres. The asylum seekers can come and go from those centres but they are provided with accommodation and, in many instances, they are also provided with some sort of coupons or food vouchers so that they can support themselves during the determination process.

Mr ADAMS—So it is more of a hostel situation?

Ms Piper—Yes, it is a hostel situation.

Mr ADAMS—Looking at our immigration department, is the bureaucracy more inclined to exist in Australia than in other countries? Do we have more bureaucratic structures than in other countries?

Mr Hogan—I do not want to be unfair to the department, but I think there is an element of control in the treatment of undocumented arrivals. This also goes to the pre-screening that happens at detention centres when we are trying to get in contact with people who arrive. I think that is a difficulty in Australia. In comparison with other countries, I have to say the United States is quite immigration conscious as well, and other countries like Austria are. But I would have to say that Europe, as a whole, is trying to close down on refugees and asylum seekers by bringing up barriers to push people back further and further to the first country by which they entered Europe. The whole issue of detention there is not the one that it is in Australia.

Ms Piper—I think it is also fair to point out that the department of immigration is simply charged with administering the laws that are set down by parliament.

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Mr Hogan—From 1994, when the law changed from mandatory and non-reviewable detention, the department has had an obligation under the law to enforce that. It has also had an obligation to detain anyone, such as the Kosovars, who remain without a valid visa and to

remove, as quickly as possible, anyone from the country who does not have a proper visa. So the department in many ways is just implementing the policies and laws that are passed by the parliament.

Senator BARTLETT—You have mentioned the seven-day rule that has come in under the border protection bill or act. I know that is fairly new, but do you have any idea of how that is being administered, what impact it is having and how it is operating?

Mr Hogan—It has not been implemented yet, and the department could probably clarify that. But when it has been implemented there will be difficulties because anybody who has spent seven days or more in another country, if that country has been declared safe, will be sent back to that country without the merits of their case being examined here. We are afraid that this might result in something called 'refugees in orbit'. That is where no country takes responsibility for the determination of a case. That could lead to serious problems for the individual concerned and, in some circumstances, it also could lead to constructive refoulement.

Senator BARTLETT—In the Refugee Council's opening remarks, mention was made that, on the UNHCR's figures, Australia is a long way down the ladder in terms of the number of people to whom it offers protection or refugee visas.

Ms Piper—They were asylum seekers, not people who are granted refugee status.

Senator BARTLETT—So, even though other countries have much larger numbers of asylum seekers per capita and in total, we accept more people as actual refugees than most other countries. Is that right?

Mr Hogan—We are speaking of recognition rates. I think figures vary. I think Canada recognises more asylum seekers as refugees. Some European countries recognise fewer, and some about the same.

Ms Piper—It is very difficult to provide comparisons here because you are looking at different source countries. Also, in a number of European countries, you have alternative forms of status. Essentially, Australia has just refugee status that it awards, with a very small number of humanitarian grants. Within European countries, it is common to see some alternative form of status. The British have 'exceptional leave to remain' and there is refugee B status. In the Netherlands, there are two alternative forms of status. So to do a straight across comparison is hard, but these figures are available. I can send some figures—albeit that they are two years old—to the committee, if you are interested.

Senator BARTLETT—That would be good. Finally, there is the convention itself that we are looking at today. The Minister for Immigration and Multicultural Affairs, when he was over in Europe doing a range of things—I think around the same time that the Irish Prime Minister was over here—called for the convention itself to be reviewed and potentially toughened. He said that the convention was being manipulated easily by people who were not genuine refugees. Firstly, do you think the convention itself should be reviewed; and, secondly, do you think it is being easily manipulated?

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Mr Hogan—We were disappointed with the minister's comments in that regard. Often, talking about abuse in the system is coda for restriction on obligations. In our view, the refugee convention is an imperfect instrument. But, if it is to be reopened, there will be a grading down of responsibilities and obligations in favour of state sovereignty vis-a-vis the human rights of the individual. We believe that it should be upgraded to include recognition of persons who would face torture or death for any reason if they were sent back, not just for a refugee convention definition reason. So we think it should be upgraded, not downgraded. Another difficulty is that, when other states are thinking about ratifying or signing the convention, seeing these sorts of statements is not very helpful in some circumstances.

Senator MASON—Perhaps I can summarise some of the discussion thus far. Like Mr Baird and Mrs Elson, I think most Australians would consider this discussion as being a debate about, on the one hand, seeing Australia having to pursue its role of being a good international citizen fulfilling all its international obligations and, on the other hand, what is best for Australia. Secondly, you might give the benefit of the doubt to asylum seekers, but most Australians, I think, would not give the benefit of the doubt to asylum seekers. Getting back to Mrs Elson's question: do you think it unfair that many Australians do not think of asylum seekers as deserving the benefit of the doubt when they arrive on the shores of this country, with their arrival not being authorised and their voyage having been organised by a criminal racket in their country of origin?

Mr Hogan—That is a difficult question.

Senator MASON—That is how people see it.

Mr Hogan—Yes, of course. There is a certain perception in the community. As Margaret has said, the media coverage, particularly last year, and also some statements by the government were unfortunate because they raised the prospect of abuse. They said that here were these people coming in, abusing our system, breaking our laws, and taking the places of those offshore. So, yes, there is this perception. But I would say that it depends on what proposition you put to people. If you were to ask, 'Should we send somebody back to face torture or death?' the answer would be no. If you were to ask, 'Should we allow more of these illegals in?' the answer would probably be no also. So it depends on how you term the whole question.

But at the same time I think there will always be asylum seekers who come to Australia; that has to be accepted. UK this year is looking at 100,000 coming in. Every developed country has asylum seekers. Every developing country has asylum seekers. We have to deal with that. The question then is: how do we balance state and individual human rights responsibilities; and how do we deal with fundamental human rights, such as the right to liberty, in this circumstance where there are restrictions on them but they have to be clearly prescribed? How do you balance up those two things?

Senator MASON—How do we sell it to our electorate? Mr Baird was right when he said before that this issue is perhaps one of the most contentious politically. Like him, I receive more calls about this issue than nearly anything else. I am sure that you know what most people say towards asylum seekers, and it is not favourable. People certainly would say that they do not

deserve the benefit of the doubt; but you are saying that, subject to identity and national security, they should receive it. Most Australians do not accept that; they would say that they should be detained until they can show they deserve asylum status. That is what most people think.

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Mr Hogan—I think perceptions in the community are certainly flavoured by the media but also, I think, by political parties. I have to say that Labor introduced mandatory detention in 1994, this government continued it—and so it is not just the coalition. But, in terms of the question 'Are there queue jumpers?' we think that whole terminology is very unfortunate.

Recently in London, Minister Ruddock said to Amnesty International that he agreed with the views of Justice Einfeld when he said that there were no refugee queues overseas. He then went on to say that he thought there were UNHCR queues. But he had never said that before. If you start going down that path and say that there are no refugee queues and explain why there are no such things as queue jumpers—and you are dealing with different categories of refugees and humanitarian cases—suddenly you take the inflammation out of the debate. Suddenly you start talking in a reasoned way, which long term will be beneficial for both parties, and for the minor parties. Suddenly you are saying that we are dealing with fact here; we are not dealing with things that will incite, inflame or divide.

When you have, as Margaret said, the offshore program weighed against the onshore program, you have different ethnic communities that are saying, 'How come my sister can't get over here when this bugger can come over here in a boat?' But, if you look at the issues, you will know that that is not exactly the case. In 1996 the two programs were tied; they were not tied before. If you say that here we have an international human rights obligation not to send anyone back to face torture and death, and here we have a very generous humanitarian gesture to resettle refugees in humanitarian cases from overseas, you will not have that tension. Once you get rid of that tension, you will find that people's treatment of asylum seekers is that we really do not like people coming here but we have international human rights obligations and we are going to meet them and we can do it. Australia has demonstrated many, many times, particularly in East Timor, what it is willing to do when the community is behind it. Margaret can tell you about the Kosovar experience over the last year.

Senator MASON—I am sure you are right, and I do not dispute what you are saying. But, politically, Mrs Elson is right. The public perception is that not to detain people mandatorily when they arrive in this country as asylum seekers gives a green light to criminals operating overseas to bring people in. That is how they see it. That is enormously difficult to overcome politically.

Mr Hogan—I think it would be. But perhaps Australia can show that it is a shared experience with other countries, particularly other developed countries, Western countries. We have always had people smugglers. The Jews could not have got out of Germany in the 1930s if it were not for people smugglers. We have always had them. But we must make sure that we do not, as Margaret said, blame the victims for the people who make money out of it. We must also ensure that we separate the concept of 'people smuggling' from 'people trafficking'. They are two different things again. So, with the trafficking, the illegal smuggling of people and the

people making great sums of money out of it being in the public consciousness on the front pages of Australian papers and in the media, people suddenly see this as a criminal issue and think that these people should be locked up, detained.

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Senator MASON—You have mentioned monitoring requirements, provisions of guarantors, release on bail and open centres. Who in this country would be a likely guarantor for an asylum seeker?

Ms Piper—The alternative detention model does not provide for guarantors; it provides for individual responsibility. If a person is deemed not to be likely to present any risk, it provides that they could be obliged to reside in a particular place or report on a regular basis to a police station or DIMA office, or whichever is deemed most appropriate. So the responsibility rests with the individual, once it has been considered that that person is not posing a risk.

Perhaps I may just go back one step to the question of public perceptions. It is very much a role of the press and, I would say, also a factor that has been driven by a number of statements by people in various political parties that have created this sense of xenophobia in the community. What it requires of parliament, I believe, is to take a lead in looking at the legality and morality of this issue and to ensure that the public are better informed to draw on the same level of sympathy and support that we saw with the Kosovars. If we did not have a refugee program, our country would not have received people such as the Australian of the Year, Sir Gustav Nossal, or Young Australian of the Year two years ago, Tan Lee, nor would we have 25-plus per cent of the *BRW*'s richest 200 list.

Senator MASON—But that is immigration as well.

Ms Piper—No, refugees. We are talking about refugees who make an enormous contribution to this country. You spoke about what is best for Australia, and I would argue that refugees are, by definition, survivors. They are people whose courage, creativity and ingenuity have got them thus far. These are values that we give a great deal of weight to in the Australian community, but the press and other statements are not necessarily attributing these to refugees.

Senator MASON—As long as the process is fair, Ms Piper.

Senator TCHEN—In the last hearing in March, DIMA told the committee that administratively—and I cannot remember the exact words now—Australia's refugee policy is regarded by many countries as best practice. I take it that you came along here with this list to demonstrate that other European countries do not have much better practice than we have. I have just looked through it and there is no mandatory detention or anything like that. I take it that you have provided this as a counter to DIMA's claim?

Mr Hogan—Yes.

Senator TCHEN—Do any of these 18 countries not have a universal national ID system?

Mr Hogan—The UK does not. Who else does not?

Ms Piper—I do not know.

Senator TCHEN—So all these countries, except for the UK, are able to attract persons—

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Mr Hogan—Usually, foreign nationals, for example, travelling within Europe would have a passport with them. But, otherwise, in a lot of European countries there is some form of ID.

Senator TCHEN—My understanding is that, in practically all continental European countries, you are a non-person if you do not have an ID; you are ostracised.

Mr Hogan—If you did not have any documentation, you would be detained in some countries. But there are such things as temporary permits, temporary Ids, that asylum seekers can get when they are living in places like reception centres.

Ms Piper—I think the key point is that each of these countries listed has provision for release from detention. Obviously the people who are released from detention would be given necessary documentation to make them legal in the community.

Senator TCHEN—But they have the ability within the community to track strangers whereas we do not.

Ms Piper—We have a bridging visa system.

Senator TCHEN—Yes, I know, but there is no provision to check them. In Europe, I understand that in most countries, if you are not a resident, you are obliged to report to the police on arrival.

Ms Piper—The alternative detention model does provide, if it is deemed necessary, for people to report to the police on a regular basis.

Mr Hogan—That is one of the things that you would do to track people who arrive undocumented in the country.

Senator TCHEN—In that case, let me go on to the question of the alternative model that you have suggested. Looking at it quickly, I note that it requires regular monitoring. I think a number of questions have been asked and comments made about the likely costs and so on of this additional monitoring that is required. I think Senator Cooney used the words ‘competence of DIMA’ in relation to the department’s ability to administer such an arrangement. I think you avoided answering that question, but I think Senator Cooney meant whether DIMA has the capacity to do it, not competence. He is using that word in its legal sense. If we are to introduce a system like this, additional resources are needed to monitor these asylum seekers who are non-detention asylum seekers. Could not those same resources be better used to process other asylum seekers?

Ms Piper—At the moment, we are spending in the order of half a million dollars per day on immigration detention, not the processing. I would argue that these are resources that could far

better be used and probably far more cheaply be used to provide the monitoring of release rather than keeping people in an extremely expensive detention regime.

Senator TCHEN—Have you done any costing on that or just estimates?

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Ms Piper—The costing of the alternative model?

Senator TCHEN—The alternative model, yes.

Ms Piper—No, it is not possible to do that. It would need to be done in consultation with the Department of Immigration and Multicultural Affairs. Thus far, neither our requests to discuss this matter with DIMA nor our approaches to government in relation to this model have been successful.

Senator TCHEN—If it can be established or proved that, in fact, it would probably be more costly to have asylum seekers not in detention but in the community but with a sufficiently rigorous monitoring system to keep track of their movements and activities, would you then rethink your model?

Mr Hogan—Amnesty International would not. We are coming from the position of fundamental human rights and the right to liberty, subject to certain restrictions.

Senator TCHEN—So it is not the cost?

Mr Hogan—The cost issue is something that can be factored in, certainly. We would imagine that there is a reallocation of cost issue that could be looked at here. But, as Margaret has said, we have not really progressed the discussion with the department.

Senator TCHEN—As you are speaking of moral issues, let me go back to the question of 'queue jumping'—whether you like that term or not. I think in answer to a question from one of the other members Ms Piper said that this is not a case of queue jumping because the refugee's claim is perhaps morally more important than the claims of the aunties and uncles and other migrants who are waiting. Was that your comment? I cannot recall.

Ms Piper—I said that, if we are looking at family reunion, we are talking about somebody coming under an entirely different component of the humanitarian program where there is no numerical linkage.

Senator TCHEN—But the queue jumping in this case referred to queue jumping within the humanitarian program, did it not? Basically, you are saying that someone arriving on shore unauthorised, most times undocumented, is actually taking the place of someone who has probably a greater right or equal right—

Mr Hogan—It is a government decision to link the two programs and make that link. Where we come from is that international human rights obligations say that you cannot send anyone back to face torture or death. Any asylum seeker who comes here needs to be tested against the

persecution definition in the refugee convention; and, if they are a refugee, you need to recognise them as a refugee. Apart from that, Australia very generously takes in refugee resettlement and humanitarian cases. But that is separate.

Senator TCHEN—So you are advocating that we have two different programs: one for processing onshore unauthorised arrivals; and another for processing those people coming from an offshore country.

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Ms Piper—Advocating a return to the situation that existed before 1996. This is an issue that is taken up in the paper I made reference to at the beginning of my presentation, looking at the linkages between the onshore and offshore programs and the various problems that have developed as a result of those linkages.

Senator TCHEN—In that case, isn't the Refugee Council effectively taking up a philosophical point that the closer they are the more important they are? You are saying that those people, say, in a refugee camp in Europe have to be considered less in due course, whereas those who make their way to Australia should be considered immediately?

Ms Piper—We are not saying that at all.

Senator TCHEN—But that is what you are saying.

Ms Piper—No, I am sorry, you are misinterpreting what I am saying here. What I am saying is virtually the opposite: it is the linkage of the programs that has resulted in a reduction of the number of places for the offshore resettlement program. We are arguing that the two programs should be separate so that Australia can continue to provide resettlement places to people in countries of first asylum who need it and, at the same time, meet our obligations under international law to asylum seekers who come here determined to be refugees.

Senator TCHEN—Are you arguing therefore that we should have no limits at all on our intake of refugees?

Mr Hogan—In terms of asylum seekers being recognised as refugees, there can be no upper limit because, basically, that is non-refoulement. You cannot send anyone back to face torture or death. So, in terms of asylum seekers who are recognised as refugees, the offshore program is something separate again.

Ms Piper—In this regard, from the Refugee Council's perspective, I think it is important to note that the numbers of people seeking asylum in Australia have been comparatively small; we spoke about those numbers earlier. Because of our distance and the cost of getting here, that is unlikely to change dramatically. In fact, even with the boat arrivals, the total numbers that we have seen are not appreciably larger than last year.

But here too I think it is very important that we do not lose sight, where you have a particular group of people coming, as we have seen in the last six months, of the reasons for their coming at this time. In this instance, we are seeing large numbers of Iraqis and Afghans coming because

of a breakdown of conditions in countries of first asylum. If Australia is to respond responsibly to the boat arrivals we are seeing, we need to be focussing very heavily on ensuring that there is appropriate adequate protection for these people in countries of first asylum, working bilaterally and multilaterally to remove the need for people to move on rather than making it increasingly difficult for the people who get here.

Senator TCHEN—So, if we suddenly get a large influx of asylum seekers, would the Refugee Council then consider changing its position?

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Ms Piper—No.

Senator TCHEN—But you said earlier that your position was related to the fact that not too many people were coming. But, if many people were to come, would you consider changing your position?

Ms Piper—Where a country experiences very large numbers of arrivals—

Senator TCHEN—No, Ms Piper. You said earlier that it should not be a concern because we do not get too many anyway.

Ms Piper—Sorry, may I finish?

Senator TCHEN—Yes, sure.

Ms Piper—Where a country experiences large numbers of arrivals, there is provision under international precedent to look at alternative forms of protection, such as temporary protection for a period of time, until such time as conditions may have changed in the country of first asylum. But this is only in a situation where the country does not have the capacity to do case-by-case determination of individuals. We have not got to that point, nor would I argue are we likely to get to that point in the foreseeable future.

Senator TCHEN—I was going to ask another question about the legality of those totally undocumented arrivals, but I might skip it. I also had one comment to make in relation to the end of your submission where you quoted from an editorial of the Irish *Examiner*—

Ms Piper—Yes, of 21 March.

Senator TCHEN—in giving an example of Australia's international standing, but I will also refrain from making that comment.

CHAIR—Border control country: do you think that is a valid policy; do you agree that governments should be allowed to control their borders?

Mr Hogan—Of course, absolutely.

CHAIR—How many illegal immigrants are at large in Australia now?

Mr Hogan—I do not have figures on that. There are 3,700 in detention, but I am sure that the department would—

Ms Piper—I think here too the distinction has to be made between the—

CHAIR—No, Ms Piper. How many illegal migrants are at large in Australia now?

Ms Piper—Asylum seekers are not illegal migrants.

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CHAIR—How many illegal arrivals, if you like, migrants, whatever status they would be—

Mr ADAMS—53,000.

Ms Piper—Yes.

CHAIR—With these UNHCR guidelines, the UNHCR has purported to advise us—we who support the UNHCR—on how to interpret this convention. Is that the purpose of these guidelines?

Mr Hogan—They are for state parties' interpretation of article 31.

CHAIR—So the UNHCR has been created by the convention, and it is now telling us how to—

Mr Hogan—Again, you would have to ask the UNHCR for the exact one, but the General Assembly of the UN created it back in 1949, I think.

CHAIR—It is a creature of the United Nations?

Mr Hogan—Yes.

CHAIR—So although we subscribe to this treaty—and that is what this committee is very concerned about, treaties and the interpretation of them—we now have a supranational body telling us how we interpret it—well, not us.

Mr Hogan—You have had this for over 50 years. The UNHCR has been the primary international body or organisation that is responsible. Again, the UNHCR can advise on this better, but its mandate is to provide protection and solution for refugees and to assist governments.

CHAIR—So it can advise us better on how to interpret this?

Mr Hogan—Most international human rights treaties do have some supervisory body—you would be very aware of that. UNHCR would be the body to advise on the interpretation of the refugee convention.

Ms Piper—I think, though, that it is relevant to note that the conclusions that come from UNHCR—and DIMA will surely expand on this—are developed by signatory states to the convention through an exhaustive drafting process and are adopted by unanimity, say, where we are looking at something such as Excom conclusion 44.

CHAIR—I should point out to you that the people who get involved in these things are generally civil servants, not elected legislators. So, in a sense, if the department of immigration started to issue guidelines to us as members of parliament on how we were to interpret Australian acts of parliament, we would spew; we would not put up with it. You cannot have, if you like, the executive arm of the government passing laws and then suddenly turning around and purporting to assert some kind of paramountcy over us. Is this necessary? That is at the core of this detention thing, is it not?

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Mr Hogan—Yes.

CHAIR—Clause 2 of article 31; what is necessary? This state, Australia, both parties—let us be blunt, as you have said—have interpreted 'necessary' to mean that they go in; they go in those detention centres until they are dealt with judicially. Now we have this body—blessed be its name; it does terrific work and all that—telling us how to interpret a law we have signed up to.

Mr Hogan—But it is not only the UNHCR; it is also the Human Rights Committee.

CHAIR—Exactly. Who are they to tell a state, to tell elected legislators of any party, how to interpret? We have a common law system.

Mr Hogan—I appreciate that, Chair.

CHAIR—We have judicial bodies and all that sort of thing.

Senator COONEY—Mr Hogan, I think what is being put to you and what the answer might be is that, insofar as this convention applies in Australia, the interpretation is that which ultimately is given by the High Court. In other words, it is the courts in this country that interpret the laws that apply to us. I think that is what is being asked of you.

Mr Hogan—Yes.

CHAIR—We should not debate this too much anyway. Many thanks for your appearances. This has been tough questioning and you have done well—you have batted well, as they would say.

Mr ADAMS—In relation to Australia's affairs in the world and its responsibilities and the number of refugees and asylum seekers who are taken in by other countries—and I know that the Americans, the Canadians and the Germans do; and the German figure was interesting in that you said it was something like 90,000—are those figures easily available? Could you get them to us?

Ms Piper—I undertook to provide them to the committee, albeit that they are two years old, and I will do that. Those figures do give a very clear picture of the relative trends.

Mr ADAMS—Thank you, and thank you both for your evidence.

CHAIR—Thank you for your evidence this morning.

Resolved (on motion by **Senator Bartlett**, seconded by **Mr Baird**):

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That the following documents presented by Ms Piper be received as evidence:

Exhibit No. 1, discussion paper on the response to the 1999-2000 boat arrivals

Exhibit No. 2, *Detention of asylum seekers in Europe*

[11.40 a.m.]

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BEDLINGTON, Ms Jenny, First Assistant Secretary, Refugee and Humanitarian Division, Department of Immigration and Multicultural Affairs

GODWIN, Ms Philippa Margaret, First Assistant Secretary, Border Control and Compliance Division, Department of Immigration and Multicultural Affairs

ILLINGWORTH, Mr Robert, Assistant Secretary, Onshore Protection and Review Branch, Department of Immigration and Multicultural Affairs

METCALFE, Mr Andrew Edgar Francis, Deputy Secretary, Department of Immigration and Multicultural Affairs

VARDOS, Mr Peter, Assistant Secretary, Compliance Strategy and Detention Branch, Border Control and Compliance Division, Department of Immigration and Multicultural Affairs

FROST, Ms Robyn Louise, Principal Legal Officer, Office of International Law, Attorney-General's Department

LEON, Ms Renee, Assistant Secretary, Office of International Law, Attorney-General's Department

ROWE, Mr Richard, Legal Adviser, Department of Foreign Affairs and Trade

CHAIR—I welcome representatives of the Department of Immigration and Multicultural Affairs, the Department of Foreign Affairs and Trade and the Attorney-General's Department. We will start with Senator Tchen and go around that way.

Senator TCHEN—I have no questions.

Senator BARTLETT—The previous witness said that the provisions under the border protection act had not come into operation yet; is that correct? If that is correct, do you know when and how it is going to come into operation?

Mr Metcalfe—The border protection act has in fact commenced, but I think the question you are asking is whether some of the provisions relating to effective protection—

Senator BARTLETT—The seven-day rule and that sort of thing.

Mr Metcalfe—Yes. Essentially, those requirements can only be activated once agreements are in place with countries of effective protection and, as at the moment, there are no such agreements in place.

Senator BARTLETT—Are there likely to be some appearing soon?

Mr Metcalfe—As the committee would be aware, the minister has travelled overseas to some of the countries in question in recent times, and there are discussions and investigations under way with those countries. But I think I am correct in saying there is nothing close to finalisation at this stage. Ms Bedlington might be able to elaborate on that point.

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Ms Bedlington—We have had preliminary discussions with some of the likely countries that might be declared, but they are at an early stage. It will be some time off.

Senator BARTLETT—I ask representatives from the Attorney-General's Department this question: in relation to the treaty itself, do you believe that the convention as it stands is being easily manipulated by people who are not genuine refugees?

Ms Bedlington—You mean the refugees convention?

Senator BARTLETT—Yes. I was wanting an opinion from the Attorney-General's Department.

Ms Bedlington—Sorry.

Ms Leon—In a sense, my answer really depends on the department of immigration's view of the facts, so I will make a few preliminary comments about it and then refer back to Ms Bedlington. My understanding of the implementation of the convention in Australia is that it is implemented quite rigorously and that our determination system has been recognised by the UNHCR as a very comprehensive and fair system. The system that we have in place in Australia is very well geared to ensuring that the refugee convention is appropriately implemented.

Senator BARTLETT—Sorry to interrupt, but if we are talking about potentially reviewing the actual treaty document itself who initiates that and which department has carriage of that—is that your department?

Ms Leon—Were the government to make a decision that we should embark on an international process of reviewing the convention, I imagine that would involve both the Department of Foreign Affairs and Trade and the Attorney-General's Department. I am not aware that any such decision has been made or any such directive has been issued to the relevant departments. But perhaps I can say in general terms what would happen if a treaty were to be negotiated or renegotiated. It would be implemented by a process under article 45 of the refugee convention, which entitles 'any state party to the convention to request a revision of the convention by notifying the Secretary-General of the United Nations'. That would be the initial step that would have to be taken. Then the General Assembly of the United Nations would consider the matter, and it could recommend any further action.

Senator BARTLETT—But that process is not in the wings, as far as you are aware?

Ms Leon—Not that I am aware of.

Senator BARTLETT—That is probably enough on that issue. On the role of the UNHCR, you have said in evidence to a previous committee that the minister is not obliged to act on advice from the UN Committee Against Torture when they have requested the minister not to send someone while they have a case being considered by that committee. Does that same situation apply in terms of any requests from the UNHCR when the minister is not obliged to act on it, if he chooses not to, in relation to any action?

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Mr Metcalfe—I might try to answer and others may provide some detail. I think you are talking about a request from a UN treaty body, such as the Committee Against Torture or the Committee on Human Rights, asking that a failed asylum seeker not be removed from Australia until that committee has had the opportunity to consider an application that person may have brought to the committee. It is my understanding—and Ms Leon may be able to expand on this—that those international processes exist because Australia is a signatory to various protocols to those conventions. I am not aware that there is any similar mechanism for the United Nations High Commissioner for Refugees to make such a request. The UNHCR has many roles, and we work closely with it. But, as far as I am aware, it does not entertain individual applications from failed asylum seekers and seek to act as some sort of review process; rather, it seeks to satisfy itself and assist countries to ensure that they have robust processes to determine refugee status. I think that the evidence is clear that Australia is regarded very well in that aspect.

Senator BARTLETT—Using the UNHCR and the current example of Kosovo, the Australian government has spoken a lot about working closely with the UNHCR on the ground in Kosovo and acting on their advice or being guided by their advice not to return people until it is safe and sustainable. The Australian government obviously interprets that advice and makes its own judgment. In a circumstance where the UNHCR says, 'Don't send people back to this area,' while the Australian government obviously takes on that board, we are not legally obliged to follow that advice, are we?

Mr Metcalfe—The situation in that particular instance is that the government has worked closely with the UNHCR through the entire issue of providing temporary protection to the Kosovars who were evacuated here. The minister made it clear that, in considering whether he would exercise his personal power to allow applications for refugee status or whether further safe haven visas should be granted, he would consider advice from the UNHCR. There has been a series of meetings and discussions and other advice in relation to that. As I think UNHCR have indicated in a press release of a few weeks ago, essentially, for the vast majority of people, conditions are such that it is safe to return. Almost 900,000 Kosovars have returned to Kosovo in the last few months, including 3,500 from Australia—until the last few days.

The UNHCR, however, pointed to a series of types of people where circumstances may be such that their particular situation required close attention. It did not say they cannot go back; it simply said that the minister, in considering any claims from the people, should pay close attention if they fall into those categories. That is exactly what has happened. The minister has exhaustively and very carefully looked at people's claims, considered information they have provided to the department at interview and considered information that was provided by their

legal representatives, where that has occurred. Then, over the space of the last couple of weeks, he has made decisions that are now being put into effect.

Senator BARTLETT—That process has been followed by the minister and the department to prevent refoulement and to ensure we do not breach our convention obligations under the treaty; is that correct?

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Mr Metcalfe—It is to ensure that people are not sent back to conditions that would be unsafe for that particular individual. It is not an issue so much as refoulement because the people are not entitled to enter a refugee process in Australia pursuant to the laws passed by this parliament last year. But it is to ensure that there is not a humanitarian need that needs to be addressed better in Australia.

Senator BARTLETT—But surely, regardless of that legislation, they are entitled to protection under the convention if they are in Australia?

Mr Metcalfe—Australian law makes it clear that their status in Australia is determined according to their safe haven visa and that, if there are issues that in the view of the minister are such that should be tested through a refugee determination process, the minister has the opportunity to allow that process to occur. He has done so with a large number of cases in the last few days.

Senator BARTLETT—But you are saying the safe haven legislation exempts us from—

CHAIR—Don't answer that. We will come back around the circle again so keep it for then. We do not have much time and we have to give everyone a chance to ask questions.

Mr ADAMS—I wanted to follow up on that: the minister has used UNHCR as the body to send the Kosovars back and he has said in press releases that he is abiding by that. So in that case he is using the United Nations body but, in the interpretation of the detention situation, he is rejecting the argument from them in that regard.

Mr Metcalfe—I do not necessarily accept that, Mr Adams. Certainly he has sought to rely upon advice from UNHCR as to the conditions on the ground in Kosovo, and UNHCR has very helpfully provided advice because they are as well placed as any agency given that they are well represented on the ground in Kosovo. He has taken great care in considering those particular circumstances where people may have an issue were they to return. I am not aware of UNHCR having made any particular points in terms of detention. There are conclusions of the executive committee and various other issues. But Australian law is very settled on that particular point, and this parliament has looked at the matter of detention of unauthorised arrivals on a number of occasions.

Mr ADAMS—I have heard the minister say on television that he is acting under the guidelines under which the UNHCR have said that it is safe to send people back to Kosovo. He has used that as a public argument in Australia.

Mr Metcalfe—I am not disagreeing with you on that point.

Mr ADAMS—What I am trying to say is that there is sometimes inconsistency in advice from United Nations agencies in that a minister can use it for one circumstance but will reject it in another.

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Mr Metcalfe—I do not necessarily concede the second point—that is where I was possibly disagreeing—and that is whether or not UNHCR have specifically provided opinions about the issue of detention. What I can say is that the advice that has been provided on Kosovo is very specific information about conditions in the country. It is a factual set of advice. Any advice that may be provided about the desirability or otherwise of Australian laws in relation to detention is clearly a policy issue. It is not a factual issue. It is an issue that the government is entitled to have regard to, should it so wish.

Mr ADAMS—That is all.

Senator COONEY—Can anybody at the table tell me about the law relating to people who are arrested and charged with a criminal offence and then discharged back into the community?

Mr Metcalfe—I am not an expert on criminal law, Senator Cooney.

Senator COONEY—I wanted to get some indication of what dangers there are in releasing people charged with criminal offences into the community and what checks are taken on that? Does anybody at all know?

Ms Leon—Unfortunately, I do not think anybody at the table is from a criminal law background.

Mr Metcalfe—We are not criminal lawyers or criminologists, but I see where you are going.

Ms Leon—If there are questions on notice that you want the Criminal Law Division of the department to answer, we can endeavour to assist you with those.

Senator COONEY—What would the quality of that answer be, Ms Leon?

Ms Leon—The quality of the answers from the Attorney-General's Department is always very high.

Senator COONEY—In those circumstances, can you advise me on whether the Geneva Convention can be denounced?

Ms Leon—In what circumstances the refugee convention can be denounced?

Senator COONEY—Yes, and can it—what is involved? If we want to get rid of the refugee problem, one way of doing it is to denounce the treaty.

Ms Leon—There is a provision in the refugee convention that allows for denunciation, and that is accomplished by notifying the Secretary-General of the United Nations. If a state were to do so, that would take effect one year after the date of notification. However, I should make two comments about that. The first is that it would be unprecedented to denounce the refugee convention. No state party to the convention has ever done so. Secondly, many of the obligations under the convention constitute customary international law and cannot be removed by denouncing the convention. Some of the more peripheral obligations under the convention would be removed in that manner, but the central obligations would not be.

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Senator COONEY—Would it take much trouble for you to tell us about customary law? I am sure that answer would be very competent.

Ms Leon—Yes. Customary international law in terms of refugees extends at least to the obligation not to refoule a person to a country where they would face persecution.

Mrs ELSON—I do not know whether anybody could answer this question: are illegal immigrants released into the community allowed to work while they are waiting to hear whether they can stay in the country?

Mr Metcalfe—I might spend one minute on terminology and then answer the question. 'Illegal immigrants' is a broad term that covers people who have a couple of different statuses. The most common type of illegal immigrant is a person who comes here on a visa and who then overstays that visa—a person who does not return home and who is here. At the moment, in response to a question that was asked by the chair earlier, I think around 51,000 to 52,000 statistically are illegal immigrants having overstayed their visa.

Mr BAIRD—Does that include those who are claiming refugee status or not?

Mr Metcalfe—That would include some people claiming refugee status, but there are some people who, having claimed refugee status, are given a visa and thus become lawful again. We also talk about illegal immigrants as people who arrive never having had a visa in the first place. The technical term for that is 'unauthorised arrivals'. They can arrive by aircraft without a visa or having had a false visa and destroyed it en route, or they arrive by boat, which is what we have been seeing in increasingly larger numbers in the last few months.

Illegal immigrants are not permitted in work in the community, whether they have overstayed their visa or whether they arrive without detection. We are very confident that people who arrive without a visa are detected by us—the boat arrivals are located and the people who arrive by air are located—and the law requires them to be taken into detention. So there is no prospect of a person who arrives here without a visa working because they are detained. But it is true that we think a large number of people here who have overstayed their visas are working illegally and, indeed, many people here with visas but without permission to work are working illegally. The government recently made some announcements about a scheme to be introduced later this year. It is a scheme requiring employers to satisfy themselves that a person has permission to work and attempts to make Australia less attractive to people who come here saying they are coming for a holiday but in fact have come to obtain work.

Mrs ELSON—So are the Kosovars and the East Timorese people that come here allowed to work?

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Mr Metcalfe—The Kosovars and the East Timorese who were evacuated here were provided with safe haven visas, so they have permission to work. The Kosovars in Australia now fall into three broad categories: there are those whom the minister has decided can apply for refugee status or, in the case of two individuals, for a spouse visa because they have married Australians. There are a number of others who are also here lawfully and where the minister has extended their safe haven visa for a temporary period because of medical or other reasons why they should not go home right now. There are about 167 Kosovars currently in detention at what was formerly Bandiana Safe Haven and which is now Bandiana Temporary Detention Centre as of midnight this morning. Those people are in immigration detention, and Australian law requires they be detained. Of course, Bandiana is not a detention facility, so we are securing their detention through appealing to their cooperation—largely. The third group of people are those who are here illegally and who are not detained. We think there are 15 or so people who have decamped literally and who are in the community illegally. Our compliance staff will undertake the usual investigations to try to locate those people and deal with them according to law.

Mrs ELSON—Can I ask one other question that could be in your documentation but I have not picked up: what would be the total cost on the taxpayer—from the department through to administration and then the cost of maintaining the illegal immigrants?

Mr Metcalfe—The total cost is very substantial. When you take into account the costs of detaining people who arrive here without a visa where we are required to place them in immigration detention—we will not have a final figure for this year until later in the year because the numbers of people arriving continue to occur—certainly immigration detention this year of itself will cost around $100 million and possibly more. That includes a substantial cost to develop the facilities at Curtin near Derby in Western Australia and at Woomera, because of the unprecedented growth that we have had in boat people in the last few months. But in relation to illegal immigration there are also the costs of the department's compliance activities. We have a core of staff who are involved in going out and working with people, working with communities and attempting to locate people. There are also costs associated with defending litigation brought by illegal immigrants who may seek to challenge their visa status, their detention and whatever.

Mrs ELSON—Do you have any costings on that?

Mr Metcalfe—So we are looking at a figure far in excess of $100 million and probably approaching $200 million. I could take on notice that.

Mrs ELSON—I would like to know the legal cost.

Mr Metcalfe—We could try to disaggregate that and include the legal costs for you.

Mrs ELSON—Thank you.

Mr BAIRD—This is a follow-on from the questions by Mrs Elson. When somebody applies for refugee status, are they then eligible for a dole payment? If not, what do they receive? If they are in a detention centre, what do they get? If they are out in the community, what are they entitled to?

Ms Bedlington—If someone is in a detention centre, they are not entitled to any separate support other than the fact that their care and maintenance is provided for under the detention arrangements. In some detention centres, there is an incentive scheme so that if people participate in light work around the centre they can get points to buy cigarettes and other goods. But, for people in the community, it varies depending on how long it has been since they arrived. The asylum seeker assistance, which Ms Piper referred to earlier this morning and which can be paid subject to financial hardship up to a maximum of 89 per cent of special benefit, is available if the primary decision has not been taken after six months from the date of application. Given the fact that we are deciding applications at the primary level in much shorter periods than that, most people would not become eligible for asylum seeker assistance.

Mr BAIRD—How long is the average length of stay—take someone who is unsuccessful, from what I understand it is often a four-year process by the time they have put in their application, their appeal has been considered and they then appeal that decision if they are unsuccessful? Is it right that can take up to four years?

Ms Bedlington—If someone goes through and uses the maximum period. There is the time taken in relation to the Refugee Review Tribunal decision, which can be a matter of quite some months, depending on whether they are in a priority category or not. Then if they go through every layer of judicial review—single judge Federal Court, full bench Federal Court, single judge High Court, full bench High Court—depending on the time taken by the courts, it certainly can be a number of years.

Mr BAIRD—Is there any merit in considering establishing a special refugee tribunal? I know the Refugee Review Tribunal is set up, but the length of time is obviously contributing to that very large amount that Mr Metcalfe referred to. Why wouldn't you then escalate the process by increasing the funding for such a body which could then go around to the various centres and expedite hearings so that the whole thing is wound up much more quickly in terms of applying for refugee status? If they are successful, that is fine—they are out there in the community being absorbed, getting jobs, et cetera—but, if they are not, they could have gone back much earlier and the costs would then be reduced substantially.

Ms Bedlington—The Refugee Review Tribunal does give first priority to cases in detention.

Mr BAIRD—How long on average does it take to be heard?

Ms Bedlington—I do not have with me the current time but I think it is only a few months. The Refugee Review Tribunal contribution to that four-year period you were talking about is a very small part of it, the bigger delays occur through the litigation. The government has taken a number of steps and has some legislation currently before the parliament that seeks to address the cost and delays inherent in the current system of judicial review.

Mr Metcalfe—Mr Baird, I might just add that another process which we are seeing more of—small numbers at the moment but we are seeing more of—are complaints from international tribunals. In that situation, a person may have been through the various processes we have described—the primary decision by the department which is refusal; the review by the Refugee Review Tribunal; a request or multiple requests to the minister to intervene on their behalf; and litigation, including the potential to take matters through both the Federal Court and the High Court. After that, people then approach UN bodies, such as the Committee Against Torture or the Human Rights Committee, whose processes then also add to the length of processing.

Mr ADAMS—Just a point of clarification: I know the government has some legislation in the parliament, but that period of four years is continuing to stretch out, isn't it? It has never been that long, I should imagine, in the history of Australia that sometimes we have had people out for four years before we have resolved their status?

Mr Metcalfe—I think those very long cases lasting several years are exceptions rather than the rules, and we have seen those cases through the last 10 years since we have seen a much larger growth in unauthorised arrivals coming to Australia. At the moment, we are dealing with the issue of an enormous increase in the last few months of unauthorised arrivals. Our processes to administer those people—many of whom have been granted visas— have been geared up to try to cope with that and other processes have been geared up as well. It is too simplistic to say that it is worse now than it was, because the issues now are somewhat different. But the ability for people to pursue multiple avenues of review sequentially has been an issue with us for some time.

Mr Chair, before you adjourn, I think there was a bit of unfinished business from last time, in that we undertook to table a paper and there were a couple of questions on notice that we had to deal with as well.

CHAIR—There were some questions from Mr Hardgrave. Can you leave behind what you have brought?

Ms Bedlington—Can I just make a comment. It came to my attention only this morning that we appear to have lodged an earlier draft of the answers to the questions on notice. We undertake today to replace the pages where there are bits missing and so on. I do not think it will change the great body of what you have, but that needs to be done. The other document we will table is the paper that we promised you on Australia's position on article 31.

CHAIR—Thank you.

Resolved (on motion by **Mr Baird**):

That the answers provided by the Department of Immigration and Multicultural Affairs, the Department of Foreign Affairs and Trade and the Attorney-General's Department to questions taken on notice on 6 March be accepted as evidence and authorised for publication when those answers are provided.

CHAIR—Perhaps members could put any further questions on notice in writing through Grant.

Mr Metcalfe—Mr Chair, there are a number of issues that we heard this morning where we would have a distinctly different view from some of the other witnesses, and because of the pressure of time we have not sought to respond to those here. But, with your agreement, we might see whether we could provide a supplementary submission to the committee and we would undertake to do that as quickly as possible.

CHAIR—Yes, sure. I have no objection to that. Thank you for appearing before the committee this morning.

Resolved (on motion by **Mr Adams**):

That this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 12.09 p.m.