COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

Reference: Immigration detention in Australia

FRIDAY, 24 OCTOBER 2008

SYDNEY

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JOINT STANDING

COMMITTEE ON MIGRATION

Friday, 24 October 2008

Members: Mr Danby *(Chair)*, Mrs Vale *(Deputy Chair)*, Senators Bilyk, Eggleston, Hanson-Young and McEwen and Mrs D'Ath, Mr Georgiou, Mr Randall and Mr Zappia

Members in attendance: Senator Hanson-Young and Mr Danby, Mrs Vale and Mr Zappia

Terms of reference for the inquiry:

To inquire into and report on:

- the criteria that should be applied in determining how long a person should be held in immigration detention
- the criteria that should be applied in determining when a person should be released from immigration detention following health and security checks
- options to expand the transparency and visibility of immigration detention centres
- the preferred infrastructure options for contemporary immigration detention
- options for the provision of detention services and detention health services across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention
- options for additional community-based alternatives to immigration detention by
  a) inquiring into international experience;
  b) considering the manner in which such alternatives may be utilised in Australia to broaden the options available within the current immigration detention framework;
  c) comparing the cost effectiveness of these alternatives with current options

WITNESSES

Committee met at 9.32 am

INNES, Mr Graeme, Human Rights Commissioner and Disability Discrimination Commissioner, Australian Human Rights Commission

NEWELL, Ms Susan, Acting Director, Human Rights Unit, Australian Human Rights Commission

MAYWALD, Ms Catherine, Policy Officer, Human Rights Unit, Australian Human Rights Commission

CHAIR (Mr Danby)—I declare open this public hearing of the inquiry into immigration detention in Australia. The committee takes great interest in the prospectus of our witnesses today. I welcome experience in legal, social work, community and human rights sectors in relation to immigration detention. We will table our first report at the end of the year, which will take into account evidence we hear today. This report will examine the criteria for release from detention under the reforms announced by the minister earlier this year. It will be making it a bit more specific what Senator Chris Evans announced as Minister for Immigration and Citizenship under the criteria.

After conclusion of the public program today the committee will also have the opportunity to speak with people currently in community detention in Sydney, and we acknowledge the Department of Immigration and Citizenship for facilitating this meeting, in particular the private meeting. For client privacy reasons we will ask members of the public and media to leave at 3.15 pm so that we can proceed with that private meeting with people who have been in detention. In the meantime we have a very full day of evidence ahead of us. Although the committee does not require witnesses to give evidence under oath, I remind everyone that this hearing is a legal proceeding of the parliament and warrants the same respect as the proceedings of the house itself.

Before beginning I would like us to constitute ourselves as a subcommittee of all of the members and senators present, with myself as chair, in the event that Mr Zappia and I have to go to the airport before we finish with people from detention that the deputy chair can take over. Let us begin with the Human Rights Commissioner and representatives of the Australian Human Rights Commission. Thank you for being here. Would you like to make an opening statement?

Mr Innes—Yes. Thank you for providing the Australian Human Rights Commission with an opportunity to appear before the committee today. As you are aware, the commission made a submission to the inquiry. We did this under our former name of the Human Rights and Equal Opportunity Commission.

Over the past 10 years the commission has conducted extensive work relating to the human rights of immigration detainees. Most recently my staff and I have just completed our annual inspections of Australia's immigration detention facilities and we are currently compiling a report of the inspections, which we will publish before the end of the year. In our inspections over the past few years we have noticed improvements in some aspects of the conditions in immigration detention. However, we still have some significant concerns about the infrastructure

and physical environment of Australia's immigration detention facilities, and the conditions experienced by detainees.

Our submission to the inquiry covers a wide range of issues related to immigration detention, drawn from our past and ongoing work. It condenses many of our concerns into 25 recommendations. These include: amending the Migration Act to ensure that detention occurs only when necessary; ensuring that the need to detain is subject to judicial review; repealing the provisions of the Migration Act relating to excised offshore places; reviewing the operation of section 501 of the act, and codifying in legislation minimum standards of treatment in immigration detention.

Australia's system of mandatory detention has led to prolonged and indefinite detention for many people and we have consistently called for an end to the system of mandatory detention because it breaches Australia's obligations under the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child to ensure that no one is arbitrarily detained and to ensure that children are only detained as a matter of last resort and for the shortest appropriate period of time.

While immigration detention may be acceptable for a short period in order to conduct security, identity and health checks, currently Australia's mandatory detention law goes well beyond that. The Migration Act requires detention for more than these purposes, for unlimited periods of time, and in the absence of independent review. The commission has consistently called for major reforms to this system and will continue to do so.

As we were completing our submission to the inquiry the Minister for Immigration and Citizenship, Chris Evans, announced the government's new policy directions for immigration detention. The commission welcomes this shift in policy and applauds the minister's intention to move towards a system that better upholds Australia's international human rights obligations. We particularly welcome the shift away from detention as a mandatory requirement for all unlawful non-citizens towards an approach where detention takes place only in a limited set of circumstances. However, the commission has not yet been provided with details setting out how this new policy will be implemented. We are especially interested in how the changes will be enforced or guaranteed, which will be vital to our consideration of whether the new approach protects fundamental human rights.

Some of our initial questions about the new policy include issues such as: how risk assessments will be conducted to determine who is held in detention; how periodic reviews of detention will be conducted, by whom and what status those reviews will have; whether the Commonwealth Ombudsman will be given power to conduct six monthly reviews of all detainees, and whether the Ombudsman's recommendations will be enforceable; how the refugee status determination system will be conducted on Christmas Island; and most importantly, whether the announced changes will be embedded in the Migration Act.

Our submission also covers some of our concerns for particular groups of detainees, for example long-term residents whose visas have been cancelled under section 501. It is unclear, as yet, how the announced policy changes will affect this group. I will not go into any further detail now, but I would refer you to our submission for a more comprehensive summary of our specific

concerns and recommendations. We would be happy to answer any questions that the committee may have. I will again say thank you for the opportunity to appear before you this morning.

CHAIR—Thank you. It has been good to meet you in Melbourne and Canberra, and now in beautiful sunny downtown Newtown. Before I turn over to my colleagues, can you remind me of how often you, as HREOC or in your new formation with your new title, carry out these inspections?

Mr Innes—We have inspected detention centres for a number of years. We visited detention centres as part of our work on previous reports, such as the report on keeping children in immigration detention, but since my commencement as commissioner we have inspected immigration detention centres once a year in 2006, 2007 and we have just completed our 2008 inspections.

CHAIR—Are you satisfied that, together with the group specially set up by the minister to monitor immigration detention centres, that is enough independent reviewing of these centres around the country?

Mr Innes—It is difficult to say that it is enough independent review. There is more independent review now than has occurred in the past. Ideally, if Australia were to sign the protocol on the convention against torture that would require the establishment of a national preventative mechanism, which would mean that inspections were organised for all places of detention, including immigration detention, and they would be done by a body which specifically focused on that, had the appropriate expertise, and one assumes would be done to certain standards or codes. That would be the ideal system for independent monitoring. This is a function that the commission carries out as one of its many functions and, whilst we devote a significant amount of resources to it, we are not in a position to do it perhaps as effectively as it might be done under such a mechanism.

CHAIR—I do not assume from what you have said that there is any criticism of the immigration detention inspection group that currently does inspections of immigration detention.

Mr Innes—I do not make any criticism of that group. All I am suggesting is that I think the ideal situation would be to have inspection by an organisation which was focused on that as its role and where inspections were carried out regularly across all places of detention in Australia.

CHAIR—Your submission calls for the demolition of Villawood stage 1. Can you explain the recommendation for the benefit of the public hearing?

Mr Innes—We have called for the demolition of stage 1 in our last two inspection reports. I would add that there are concerns about the management support unit. We feel that the facilities in stage 1 in Villawood are not appropriate. They are small, enclosed, not well lit and very prison like. We are particularly concerned by the fact that people who need SASH watch—suicide and self-harm watch—are taken to those sorts of areas. In the detention centre it is very much a disincentive to be taken to stage 1 or the management support unit. Effectively what that means is that it is a disincentive to be placed into separation for things such as SASH watch. That is absolutely the way it should not be. There should be an incentive to address mental health needs

of detainees, given the very much accepted wisdom now that detention over a period of time and with no clear end has a negative impact on people's mental health.

CHAIR—We have seen that connection when we have visited places. Is Villawood stage 1 the worst detention facility in Australia at the moment?

Mr Innes—It is hard to rate detention facilities in that sense because there are different factors which can vary the impact on detainees. In the sense of facilities alone, perhaps stage 1 Villawood is the worst facility that we have seen, although I have to say that the Perth Immigration Detention Centre is quite cramped and confined, and we have raised the problems with that in our previous reports, which are also set out in summary in our submission.

The detention facilities on Christmas Island are problematic for other reasons. The commission's position is that detainees should not be detained on Christmas Island. Firstly, that is because the island is so isolated. The nearest land to Christmas Island is 380 kilometres away, and that is Indonesia. The nearest Australian territory is something like 2,000 kilometres away. Secondly, because of the small size of the Christmas Island community, it is not able to adequately, in our view, support the needs of detainees in terms of legal advice, health needs and support from religious and other community organisations. When we went to Christmas Island recently we met with representatives of one of the churches there. They explained how small the congregation is there. They do not have a regular minister and it is difficult for them to provide that sort of pastoral support for detainees.

On top of all those issues on Christmas Island, the new detention facility is not only another half an hour away from the main settlement, so even further isolated, but it is a very prison-like facility, to the extent that you have got to go into a cage to borrow a library book. For all of those reasons I have great concerns about detention on Christmas Island. I would not like to rate one detention centre against another in a league table type approach.

Mrs VALE—One of the things that we have learnt during this time of the inquiry is the impact of detention costs that have been placed on detainees after they have been released into the community. Have you received any complaints regarding the cost of detention being passed on to ex-detainees?

Mr Innes—I am not sure that I can answer the question as to whether we have received complaints on that issue. My colleague might be able to. Certainly we are aware of the impact on detainees and their families, both in Australia and in countries to which they have returned, of the cost of detention being passed on. It has the effect for people who have either been deported or accepted return to their country that it has absolutely removed the chance of them ever coming back to Australia because there is no way that they will ever be able to repay that debt.

Ms Newell—I am not aware of any complaints of that; we do not have any information about whether there have been complaints about it or not.

Mr Innes—Under our legislation I am not quite sure how people would complain on that score. That is not to suggest that it is not an issue.

Mrs VALE—This has been presented to the committee. Do you have any views on it at all, and are you aware if that imposition is in breach of any conventions to which Australia would be a signatory? Also, are you aware if such an imposition has been placed by other countries? Does it have any reflection in any other country?

Mr Innes—That is not a matter that we have focused on.

Ms Newell—We do not have an analysis of that, but we can bend our mind to it and get back to you.

Mrs VALE—We just wanted to know if you had any view on it at all, because from some of the evidence we have had it appears to have been onerous.

Ms Newell—We have heard that as well, and we sympathise with that view.

Mr Innes—I am not sure what the capacity of the committee is to accept a further response, but we could turn our mind to that issue and come back to you.

Senator HANSON-YOUNG—I refer to a number of your recommendations relating directly to a more transparent approach to reviewing individual cases and allowing there to be a judicial process of appeal. There are a number of different recommendations that you allude to in your submission that talk about the fact that when something goes wrong or if there is a complaint, we need a proper process for dealing with that. At the moment it is not as transparent as it could be. Could you explain to me how you see the role of the Ombudsman at the moment fitting into that?

Mr Innes—The Ombudsman does two things. He accepts complaints from detainees and has also done broader reviews. The commission welcomes that involvement, but the ideal position that the commission has recommended is that there be independent judicial review of decisions for people to remain in detention. That is the ideal situation we would like to get to, but in no way do I question the role of the Ombudsman.

Ms Newell—Just to clarify that, are you talking about detention, so the ability to complain about being in detention or about the conditions of detention?

Senator HANSON-YOUNG—Both. The role of the Ombudsman at the moment is quite varied. He receives individual complaints but also does reviews of individual cases and detention facilities themselves. It is quite broad. The reason I ask is that this is an issue that is coming up time and time again through this inquiry that it is all very well and good to have processes of review in place and to have an Ombudsman, but if that person does not have the authority, or that position does not have the teeth to make decisions, then what is the purpose of it.

There have been a few different suggestions of what could happen. There is the idea of amending the Migration Act so that you can allow the courts to make decisions on things. There are some people who are suggesting that the powers of the minister actually need to be increased, yet some people are saying they need to be decreased. It is about finding out the best way of achieving a more transparent and independent process of review for individual cases, but also of oversight and watchdog in terms of the facilities as well.

Mr Innes—We have made a number of comments in our submission. We would very much share the minister's views that he has too much power and that his powers in this area need to be decreased and there should be independent judicial review of cases. It is fair to say that is a thread that runs right throughout our submission.

Ms Newell—The Ombudsman's role has been reasonably successful in terms of the two-year review. I note that a number of the recommendations have been eventually taken up that he has made. However, not every single recommendation can be enforced, and our view is that ultimately it is important to have an independent authority who can actually order the release if that detention is found not to be meeting the new criteria that might be happening.

Senator HANSON-YOUNG—One of the suggestions from someone else who is going to appear today is that in relation to the minister's powers that they should have the right of review in very unique situations. Perhaps in the case of a stateless asylum seeker where the criteria for trying to determine identity is too difficult to determine, yet the minister is able to come in and say, 'We may not be able to confirm their identity, but they have been able to prove they are not a risk to the community, so I will put them on hopefully something like a complementary protection', if that is what he decides to do.

In some cases people are arguing that we still need the minister to be able to come in for those situations where it is particularly unique. To be honest, I am confused as to whether that is best way forward or not. In the past my view has always been that politicians are not the best people to be making these decisions. We are about implementing policies. When you are talking about an individual case it needs to be a bit more transparent and independent than that. I can see the argument that if there is a very unique situation then should that be in the hands of the courts.

Mr Innes—The minister does have those powers in a range of areas already under the act. I have to say that, as a principle, I would tend to share what you have set out, in that those sorts of decisions should be made by an independent judicial function and that the broad policies are set by the minister and the parliament. Then individual decisions are left to independent judicial review.

Senator HANSON-YOUNG—In that context we definitely need to see legislative change and amendments to the Migration Act to give that any weight?

Mr Innes—I do not think that could be done without legislative change.

CHAIR—I am concerned that will lead to costly involvement of lawyers in the whole process, and then perhaps the minister and the Ombudsman are not going down the road of making decisive recommendations with the minister taking most of the recommendations of the Ombudsman. I take the senator's point, but in taking it out of the hands of politicians would it not depend on who the particular government is? Is there a difference between one government and another? Surely, we have had the proof of it in the last 12 months.

Mr Innes—I will not comment on that.

Senator HANSON-YOUNG—Wait for the legislation.

Mr Innes—We do say in our submission that it is important to reinforce changes that are proposed to be made in legislation so that they do not become the whim of any minister or any government. We make that point quite strongly. Lawyers are involved in these processes anyway, and I share the minister's view or concerns and the concerns of previous ministers about the amount and length of time of reviews. It is important for the decisions to be made more quickly. I think that would be best facilitated by an independent judicial process. I do not think it would be more costly. In fact, if the processes under the act were changed to become less complex, it could be less problematic.

Senator HANSON-YOUNG—Your answer almost took me to my next question, but it was not quite there. How do we ensure that these people who are in a situation where they need to have their case appealed actually have access to the services and the support to do that, that we are not just relying on the goodwill of perhaps church groups and pro bono lawyers, because they are carrying the brunt of things at the moment? In the case of Christmas Island they are just not there.

Mr Innes—That is one of the problems in terms of the comparison between asylum seekers and complementary protection for people who do not fall under the definition of refugees. There are differences and contrasts. The government needs to commit to ensure that such services are available. It is my understanding that there are legal services being made available to detainees currently on Christmas Island.

Ms Newell—Through the IAAAS.

Mr Innes—That is a change. That has not been the case in the past. I understand that IAAAS people have been taken to Christmas Island recently to support people in the last two vessels that have arrived but, yes, it is a concern.

Senator HANSON-YOUNG—Can you advise us of who would be detained and where they would be detained? There is a concern that it is inappropriate to be detaining asylum seekers in the same facilities and locations as those who are being deported on criminal grounds or overstayers. The needs of asylum seekers are quite different to those people who are being detained because they are pending deportation. What is your opinion on that?

Mr Innes—We would say that the least possible number of people should be detained anywhere. We would support the indications in the new approach by the minister that the decision should be focused on whether people need to be detained, rather than the mandatory detention system that we have now. Our submission encourages the minister to put that into effect and to put it into legislative effect, because we would say that most people do not need to be detained once health, identity and security checks have been carried out. That would address the problem that you are raising to a large degree.

There are issues in detention centres at the moment between different populations. I do not think it is appropriate to make judgements about people based on why they are in detention, apart from assessing risk, but people who are in detention under section 501 have all completed the sentence which they have been given. In other words, they have paid for their crimes. It is very important to bear that in mind when assessing those considerations. But I am not dismissing the risks involved in a mix of those populations in some cases.

Mr ZAPPIA—I noted your comments in respect to the new policy announcements made by the minister in July and also your questions about the implementation of that policy. Putting aside the questions you raise about implementation of the policy, was there anything else that you believe should have been in that policy that was not?

Mr Innes—That is a hard question to answer, because the policy includes seven broad statements. Our concern is that we need to see the detail behind those statements. We are not doubting the direction that the minister wishes to take, but rather needing to see all of the detail and encouraging that detail to be legislative rather than policy. The one thing I would say is that the policy should have a legislative basis. In terms of anything that was left out, we would note that the independent judicial review is not included in that policy. If you take our submission in context, that has been a major focus throughout our submission. That is one thing that I would list.

Ms Newell—Talking about that policy, the judicial review is the most important aspect of it from our point of view in terms of it being left off. We are yet to see what the plans are for enforceability of those plans.

Mr ZAPPIA—I also note in your submission you make no comment at all about the current operators of the detention facilities. Do you have any opinion in respect to the current operators of the detention facilities?

Mr Innes—Do you mean GSL?

Mr ZAPPIA—Yes, I do.

Mr Innes—We express those opinions each year in our inspection reports and we will do that again this year. From recollection, we have not expressed a broad view of GSL in the last couple of years, but we have certainly raised specific issues which fall under their area of responsibility. The one thing that we do say in our submission is that there should be codification of standards for the running of detention centres so that whoever is operating the detention centres is monitored against those standards. In our submission we encourage that to occur when the new contract is implemented.

We do not express a view about whether or not the IDC should be run by independent contractors or whether it is a function that should go back to the responsibility of government, because we do not feel that is a matter within our purview. The issue for us is more the way that they are conducted rather than the logistical issue of who carries that out.

Ms Newell—This is a bit of historical information. When the 1998 *Those who've come across the seas* report was done by the commission various things were said about the services within detention centres that were being run by the Australian government of the time.

Mrs VALE—When it comes to detention for health, security or identity checks, do you have any comments on the kind of criteria that could be applied, so when the criteria have been adequately fulfilled it would allow the department to release those detainees?

Mr Innes—I am sorry, I am not sure that I quite understand.

Mrs VALE—When it comes to detaining detainees on the basis of identify, health checks or security checks, do you have any idea about the kind of criteria that the department could apply so that they know that they have adequately reached the level of information they need so they can then release those detainees? Would you have any thoughts on that at all?

Ms Newell—No, not really. It is about determining a threshold.

Mr Innes—Apart from the broad issues of health, identity and security, you are asking how would you know when those standards or requirements have been met?

Mrs VALE—Yes. Do you have any idea of the level of standards—on health you could probably understand; that is common sense—that can be supported in the community, but when it comes to identity or the level of security I was wondering if the commission had formed any opinion on that at all?

Mr Innes—Not much more than to that extent. Identity is something that in most cases is determined relatively easily. There are some people who, for whatever reason, may have lost their identity documents and that is more of an issue, but that can usually be tracked back. In terms of security that is coming down to the risk assessments that have to be made in relation to each individual if they are not to remain in detention. There are processes for doing that, but we have not turned our minds to them to that level of detail.

CHAIR—If the secretariat needs to contact you they will do that as appropriate. I assume that you will be getting a draft transcript of your presentation. If you have any corrections please advise Hansard. Thank you very much for coming today.

[10.08 am]

GAUTHIER, Ms Kate, National Coordinator, A Just Australia

CHAIR—Thank you very much for being here, Ms Gauthier. Would you like to make an introductory comment?

Ms Gauthier—Yes. I would like to thank the parliament for holding this inquiry and I would like to thank the committee for inviting A Just Australia to present today. A Just Australia is a national campaign group focusing on asylum seeker issues with over 120 organisational supporters and over 12,000 individual supporters or members. Both the ALP and the coalition have touted mandatory detention as a deterrent. Both parties are in grievous breach of the spirit of the Australian Constitution. The separation of powers of the parliament, the executive and the judiciary is outlined in the Australian Constitution and is a fundamental principle of our democracy to protect the rights of the people. Under our Constitution only a court defined in chapter 3 can inflict punishment on a person. Locking up a person is generally regarded as a punishment. If the policy of mandatory detention is used to punish and deter, it is a breach of the separation of powers and is therefore constitutionally invalid. Both the ALP and the coalition argue that we need prolonged detention in order to have people on hand for processing and to achieve greater efficiency, all for the safety of the community, but no one bothers to do any security checks to see who is a safety concern and can we really justify removing a person's liberty for three, four or seven years because it is more convenient for the bureaucracy.

Clearly, detention in its current prolonged, unreviewable and arbitrary form cannot be justified for those two purposes and should not be done for its deterrent value outside of the court system, particularly when no actual laws have been broken by unauthorised entrant asylum seekers. What we, as the advocacy community, are asking for is very simple and quite moderate. Bring immigration detention back into the mainstream accepted Australian legal systems. Other forms of detention in Australia have clear guidelines, external reviews and enforceable remedies when detention is either unlawful or unjustifiable. Mainstreaming immigration detention does not take away the power of the department to detain suspected unlawful non-citizens or people who are a compliance or safety threat, but it does remove their ability to prolong the detention of people who do not need to be detained. Let us not forget that this is the department that brought up the Cornelia Rau and the Vivian Alvarez Solon cases. Are we really going to continue to allow them unfettered powers on their promise that they have gone through some vague cultural change?

The current detention reform process started in 2005 with the Howard government policies to remove children from detention and create community detention pilot programs. It has been continued under the ALP with the recent 'seven values for detention' speech given by Minister Chris Evans. Pilot programs, cultural change and stated values are a good start, but what we need is legislation. Without that it is all too easy to return to the recent years when we kept people locked up in appalling conditions for years on end for no good reason and at an enormous financial cost to the taxpayer. I have visited all the onshore detention centres. What I have seen has left me shocked and ashamed, as it has for many thousands of Australians. I ask this committee today to start to renew our faith in Australia as a humane country that does not punish those who come to us for our protection. Thank you.

CHAIR—I noted in your verbal submission the constant bracketing of the previous government and the ALP. You do not detect any change in attitude on these issues since the election?

Ms Gauthier—I have detected a change, but I would say that it appears to me to be a continuation of the reform to the detention process that was started in 2005 by the Howard government. I do congratulate—although they were very small changes—the previous government on starting that process. Again, all of the changes that happened under the previous government and are currently happening so far are non-enforceable, non-reviewable and relatively vague changes that rely on the goodwill of the department or the minister to behave in certain ways. I do not believe that is acceptable under our legal systems; what we need is actual legislative change or the political wind could shift at any moment and we are going to go back to the conditions that we had of children and various other vulnerable people being kept in places like Curtin and Woomera.

CHAIR—Do you really see the current government putting children back into detention under certain circumstances?

Ms Gauthier—No, I do not see that. What I am saying is that without legislative change it remains a possibility in the future. Whether or not you have a situation like now where the current parliamentarians of both parties say they do not wish to do that, do we still want to retain the ability that it could happen in the future? If everyone says, 'No, we absolutely do not want to do it', then what is the problem of having legislation that says it cannot be done?

CHAIR—Is it not possible that under a future government, even if you had legislative change during the current government, that they could legislate to change it back to the system prior to 2005? Another way of looking at it is that Australia and other groups have done a fantastic job in changing public opinion and the political culture and that that is the way to proceed, rather than looking at black letter law changes?

Ms Gauthier—That is one way to proceed. I see both of those things working hand in hand. Certainly to change legislation again in the future requires the government to have the legislation pass through both houses of parliament, which is something that does not happen very often in Australia.

Senator HANSON-YOUNG—Do you consider residential housing to be a form of detention?

Ms Gauthier—Yes, I do. It is certainly a more compassionate form of detention. What happens at the moment is that residential housing is used as the most mild form of detention, but I would say that residential housing could be used as what I would refer to as medium-security level, because they really are still within a detention environment and they do not have access to come and go as they please. It was a great step forward for the families, particularly ones who were held in Woomera and Baxter. It was a great improvement, but it is still a detention environment.

Senator HANSON-YOUNG—In relation to independence and ensuring that we can have transparency in reviewing an individual case or a batch of cases if there are issues in a particular facility, how do you see that the role of the Ombudsman could be strengthened?

Ms Gauthier—The Ombudsman does not have enforceability powers and that is where the whole problem lies. For a start, the Ombudsman is only going to review cases at six months. I would say that reviewing whether or not someone's detention is lawful at six months is probably a little too long to wait for that to happen. I think the Ombudsman should come in a little earlier. On the other hand, if we have enforceable remedy review, then six months would be okay, but I think that the Ombudsman should review all cases of detention at that point as a final check on how the system is going. As I said, the whole problem with the Ombudsman is that it is not enforceable. One of the things that we have is the Refugee Review Tribunal. There are already tribunals there who could be mandated to look at these kinds of things.

Another issue I want to raise with the review is that part of the new policy that has been announced will be an internal three-month review conducted by the department, which is a great step forward, but it is not where we need to end up. One of the things I would suggest to the department is that they either hire somebody who has the expertise in making those kinds of detention decisions where you have to weigh up security and compliance risks and the safety of the community versus the inherent right to liberty. There has been some view by the minister's office, which I tend to agree with, that they want to ensure that the department retains ownership of decisions to detain, rather than what we have had in the past where detention officers willy-nilly whack somebody into detention because there is no review. I would recommend that they seek training from outside bodies, particularly from people within judicial review and mental health review boards, to give them the training to adequately make that a robust internal review.

Senator HANSON-YOUNG—We have heard from the Ombudsman himself that he does not have the ability to assess somebody's mental health condition. I take your point that it is a position without much teeth, because there is really no authority there. You can review whether somebody is being held lawfully or not, but that is not necessarily reviewing that individual's case in terms of their own safety, as well as the community's.

Ms Gauthier—The problem is that the law says if somebody does not have a visa you have to keep them in detention. Reviewing whether or not someone is held lawfully really does not catch everything. A merits review is what we need of whether there is a need to detain somebody—just on a cost basis, for a start. It is incredibly expensive when you take into account the amount of money we have spent on this.

Senator HANSON-YOUNG—What is your opinion on the detention facilities on Christmas Island remaining a core platform of the current government?

Ms Gauthier—We disagree strongly with excision and remote detention. That being said, under the parameters of remote detention and excision I believe the department is doing the very best that they can to provide a good service for people currently on Christmas Island, but it is completely impossible to provide the level of service on Christmas Island, as a detention facility, as it is on the mainland. You do not have the NGOs and the oversight bodies out there that you have here. You have to fly everything in.

Senator HANSON-YOUNG—Apparently there is only one flight a week.

Ms Gauthier—Yes. It also creates a lot of difficulty, because it is not just the mandated and paid-for bodies who create oversight. There are small church groups, individual advocacy groups like A Just Australia and many others who constantly visit detention and provide a lot of social support to people in detention. That simply cannot happen in Christmas Island where it costs more to get a plane ticket to Christmas Island than it does to Paris. Quite frankly, who wouldn't rather go to Paris? It is really beyond our capacity to be able to provide the level of service there.

Again, while the department is doing their very best to be open and treat people humanely there, we never know what is going to happen in the future. Our experience with remote detention, where you create a system where you do not have that oversight by community groups and the media, means there is the opportunity for extremely inhumane treatment of people, because you do not have that community oversight.

Senator HANSON-YOUNG—You have said in your submission that you do not think it is appropriate to be housing asylum seekers in the same facilities as other types of deportees. Can you flesh that out a little bit for me?

Ms Gauthier—Yes. Again, I have some sympathy, as the Human Rights Commission outlined, with the issue of section 501 and criminal deportee cases being held in detention. That being said, that is the current policy. I know in the past in Villawood that young Afghan male asylum seekers were held in the same compounds as those criminal deportee cases and were subject to serious assault and harassment. You have completely different populations with differing levels of compliance and different socio-psycho needs, and the result is it creates a lot of difficulties for the service providers as well to be able to provide the different levels of services for everybody. Even though now they are holding people in different compounds—

Senator HANSON-YOUNG—They are still getting service by the same people.

Ms Gauthier—Exactly, within the health and education units and things like that, you have got a lot of crossover. I think it is highly inappropriate. For a start with asylum seekers, how long do you need to be keeping someone in there anyway, and how deep is the level of security that you need for those people? I would say that as we have not had any asylum seekers who have ever been a security problem for Australia, who have never been found to have an adverse security assessment, shouldn't we be using that experience within Australia to say, 'If we have never had a problem, are we being a little heavy handed in requiring that they remain in a high security facility in order to do these health, character and identity checks?'

Mrs VALE—I refer back to part of your submission when you stated that you felt there was a need to place these new policy changes in legislation. After hearing your comments on Christmas Island and the fact that it is so far away and therefore hard for the many NGOs and other organisations to monitor what is happening, I think I really understand what you are saying. You would like to see them enshrined in legislation and reflect the new policy changes so there is less chance of reverting at some stage in the future.

Ms Gauthier—Yes.

Mrs VALE—In your submission you also talk about media access, which is on the same line. DIAC has informed the committee that detainees may call journalists at any time. Have you found that in your experience? Have you received any complaints otherwise?

Ms Gauthier—That may be a new policy. That certainly has not been the case in the past. I would not be able to comment on anything that they have put in place in recent months.

Mrs VALE—In the past has it been your experience that media access has been restricted?

Ms Gauthier—Absolutely. You may recall about the time that *Four Corners* did the story on Shayan Badria, all of those photos had to be smuggled out. Cameras had to be smuggled in. There was the story about Port Hedland Detention Centre. I know the video cameras for that story had to be smuggled in and smuggled out of the detention centre. It used to be that when they did photos for the *Sydney Morning Herald* the journalist would go in as a visitor and very furtively write their notes and as they were leaving the car park the photographer would have to lean out of the car and take a quick snap of the person as they were just walking past the fence. In the past there has not been any permission for people to talk to journalists or have any media video or photography taken. If they have changed that policy then that is good but, again, it really needs to be documented somewhere. The conditions of detention are also something that needs codification because we have the immigration detention standards, but there is no codification of the conditions of detention as there is in the state prison system, so we have the situation where a convicted criminal has more protection for the conditions in which he is kept than a vulnerable asylum seeker.

Mrs VALE—I note your submission required further codification.

Ms Gauthier—The Migration Act was written for that to occur in the regulations, but the regulations were never written and put into effect.

Mrs VALE—For the record, do you want to expand on that? Are you happy with that comment?

Ms Gauthier—I am happy with that comment, that I recommend that there have to be minimum standards of conditions codified in the regulations as originally intended by the Migration Act.

Mrs VALE—That puts a good full stop on it.

CHAIR—I would like to come back to judicial review. If the powers of the three-monthly review that are being conducted, or the Ombudsman's review every six months, were beefed up, particularly to take your suggestion that three-monthly reviewers should have more training and perhaps people on the outside attending to this on behalf of the department, would that be a satisfactory alternative to having judicial review?

Ms Gauthier—No, I do not believe it would be. I believe those are great steps. Whether or not we have external judicial review, I believe you may actually want external merits review and then judicial review. Those internal steps are great to make the department take ownership of their own decisions to detain but, like any other form of detention we have in Australia, you need

to have external review with enforceable remedies, otherwise we still have the system where we have an extraordinary extension of executive powers being conducted by immigration officers and immigration officials. As outlined in the Palmer and Comrie reports, they are being executed with inadequate training and in extraordinary ways when you compare them to other systems of detention in Australia. That really needs to be rectified.

There is a whole range of ways to do it. A very simple way to have both merits review and judicial review of immigration detention is to have a bridging visa available to anybody, with the criteria for applying for that bridging visa to be that you have been in detention for longer than 30 days or whatever the time limit is that they want to set. Part of the criteria of that, of course, is that a person has passed their health and character identity checks and appears to be making a bona fide claim for asylum. By having that bridging visa in existence, which would be very simple; it is just a change to the regulations, that automatically confers merits review at the RIT stage or MRT stage, and then judicial review. What you would have to do is streamline that process a little bit so you do not have any de facto prolonged detention. That is a very simple way of bringing in merits and judicial review without having to set up a new external body and legislate the powers of that body.

CHAIR—Thank you for appearing, for your submission and for the very comprehensive answers to questions that you gave to us. If you have any questions or comments for the committee or you need to correct your *Hansard* transcript, please do that.

Ms Gauthier—I would like to make one other point. When Mrs Vale asked earlier about the criteria to release people, I should say we already have standards and criteria in other areas. For example, with health checks, we already have quarantine laws for community release. We can look to judicial review and those areas to determine whatever levels of security checks that you need and, for issues of identity and security, shouldn't we simply be asking those people to meet the same standards of any other visa applicants who are granted a visa and allowed into the Australian community already? We already do this with tens of thousands of people who come here every year. Why do we make these people meet such an incredibly higher standard than other people who we allow into the community? Thank you.

CHAIR—Thank you.

[10.34 am]

BIOK, Ms Elizabeth, Solicitor, Legal Aid New South Wales

GEROGIANNIS, Mr Bill, Solicitor, Legal Aid New South Wales

KIRKLAND, Mr Alan, Chief Executive Officer, Legal Aid New South Wales

CHAIR—I welcome the representatives of National Legal Aid and thank you for your submission. Would you like to make an opening statement?

Mr Kirkland—I will make a few brief opening remarks and then check to see if my colleagues would like to add anything. We are representing National Legal Aid, which is a body that represents the directors of the eight state and territory Legal Aid Commissions in Australia. Those commissions are independent statutory authorities established under state and territory legislation with a role of providing legal assistance in various forms to people who are socially and/or economically disadvantaged. We are funded by both federal and state and territory levels of government and most of our commissions do work in relation to migration matters.

In making an opening statement, we would recognise the policy shift announced by the government in July and would like to say that we welcome that shift. We feel it is a significant change and it accords with policy positions that we have been advancing as an organisation for some years. In particular, the announcement that mandatory detention will only continue as a last resort and that, where possible, asylum seekers will live in the community until permanent protection visa applications have been determined.

Our comments in this submission and today are in light of recognising and supporting that policy shift, but also suggesting some areas where we believe it could be strengthened. I would like to highlight a few of the key recommendations. I will not go through all of them. We would argue that Australia's response to migration matters should be based on the International Covenant on Civil and Political Rights, and that that should be the basis on which legislation and policy are determined. We would argue that the abolition of indefinite mandatory detention should be established on a legislative basis. It should be more than just a policy shift; it requires legislation to underpin that change. We would suggest that detainees should be immediately assessed for mental health risks, then subject to ongoing assessment, and ideally with other health checks to be completed within a month or as soon as practicable.

We would suggest that delegates of the minister should have the power to make residence determinations, allowing detention in the community, and that this should be subject to an independent review process. Children and their family members should not be placed in immigration detention and children should not be separated from parents or older siblings. Detention for greater than a month require an application by the department to the Federal Magistrates Court or to another appropriate court or tribunal, and that the onus should be on the department to show why continued detention is justified.

We would suggest that offshore processing be abolished and that detention centres onshore be located close to public transport and other services, accessible to visitors and not sighted in remote locations. Time limits for detainees to lodge visa applications should be extended to allow reasonable time for detainees to make arrangements to lodge valid visa applications. A free legal advice scheme should be funded to provide timely and independent advice to detainees, so that valid applications can be made within time. Legal Aid funding guidelines, which restrict the types of assistance that we are able to provide, should be amended so that we are able to represent people subject to means and merits tests for applications to DIAC to merits review tribunals in relation to applications for protection visas and other visas where there are humanitarian and/or compassionate circumstances. That would also be for visa cancellation and deportation cases.

I would also highlight that we would argue that funding to Legal Aid Commissions should be increased to allow us to do that and that the funding should be through the Attorney-General's Department. Currently some of our funding comes through DIAC; we consider that to be inappropriate given that DIAC would generally be a party in any of those matters. They are the key recommendations that I wanted to highlight. I will check if my colleagues would like to add anything?

Ms Biok—I would like to make two short comments. I also welcome the government's new key immigration values relating to detention and think it is wonderful that we are now going to have detention used only as a last resort. If that is going to be the basic value then it is important that there is going to be a legislative presumption in favour of release. As it stands at the moment, to say that detention is a matter of last resort is very vague and very nebulous and it does not give the case officer or the person who is determining the grounds of detention a clear guideline. As with bail, we need to have a presumption in favour of release and the onus is then to be on the department to argue why a person should be kept in detention.

The second point I would like to make is that it is really important that we have a variety of detention options. One size does not fit all in matters of immigration detention. The experiences across Legal Aid Commissions from Perth to Sydney to Darwin are very different. The detainee communities that are there, and even in Villawood in Sydney, have quite a wide range of detention options for detainees. It is really important that there is a variety of methods and places where people can go. It is not enough just to get one model and hope that everybody can fit into it.

CHAIR—Thank you. In the context of the reforms that have been announced your submission raises some concerns about the security check criteria. Can you comment first of all on the experiences of some of your clients with security checking? How long has this has taken in their particular cases? Can you comment on whether processing times improved, if you have evidence of a change, and what do you think should happen when a person who satisfies all the criteria for release is still awaiting security checking? We are taking this issue very seriously. While I cannot go into details because I might be shot, we did have the director general of ASIO appear before the committee and he gave a very comprehensive presentation as well.

Ms Biok—It is a key issue not only for detainees but for all immigration applicants. For people in detention it is a problem that they go through a very positive interview, they explain their fears, the feedback that they get from the case officer is that they are going to be approved,

and then they may wait in detention for months. As a lawyer it is really difficult because you talk to the case officer and all the case officer can say to you is, 'It has gone to the other agency.' We all know what that means. It has gone to ASIO.

We have no idea of what checks are being made and who they are being made with, so it is very hard to advise the clients. From my experience it is a key problem for the temporary protection visa holders and the secondary movement holders from Nauru and Indonesia who were overjoyed at the thought that they would get permanent residence and could reunite their families. I have some clients who are really very seriously mentally ill. They are sweating on this ASIO check, but there is no way of finding out what is happening.

A matter that I would like to raise with the committee is that it is not always a problem with ASIO. I had a client last year where we waited on a security check and I kept going back to the department saying, 'What is happening?' I complained to the inspector-general of intelligence and he eventually found out that the security check had been sent back to the department four months before, but there was a computer error and it was not put onto the record. This man waited unnecessarily for five months to get his visa. He was in the community, but the fact that he was waiting and was not a permanent resident had a major impact on the health services that were provided to his children, one of whom was very ill. These sorts of things are happening with security checks. It has got to be a more transparent system. If the hold-up is in ASIO—and I can understand the need for security checks—we need more staffing there.

Mr Gerogiannis—I support what Ms Biok said regarding security checks. I do think it is a more significant problem with asylum seekers that are awaiting their visa who are in the community. It does arise in detention as well but, as Ms Biok has said, it is a serious problem for community matters.

CHAIR—Is that because there are more of them than those that are in detention? We are at a very low point with the number of people that are being held in detention.

Mr Gerogiannis—Yes. Part of the problem, as has been indicated, is that the system is not transparent so we really do not know the reasons why these delays occur.

CHAIR—That is an interesting point that you make, that people in the community have a longer wait than people in detention and you do not have so much problems with that.

Mr Gerogiannis—From my personal caseload I have had fewer problems with people in detention than people in the community. I am not sure why that is. I have had delays with people in detention, but it does arise more often in the community. One of the curious things is that for temporary protection visa holders who previously have already gone through a security check in order to get the temporary protection visa, now we are in the new regime of getting resolution of status visa for those people because the temporary protection visas have been abolished. I have a client who underwent a security check for her temporary protection visa about 18 months ago and now it has been nearly three months for a further security check for her resolution of status visa, which frankly I do not understand. There may be reasons, but it is not a transparent system where we can find out what is going on and why it is taking so long, et cetera.

Going back to your question regarding people in detention once everything else is cleared and the only thing that they are waiting on is the security check, I do think in those cases if a security check cannot be done within a reasonable period of time then that person should be released into the community pending the finalisation of the security check. It seems to me that it is perverse in many ways to keep somebody in detention when they have met the refugee criteria and the health criteria. If the security check cannot be done within a reasonable period of time then to keep them detained does not stand. There are ways that people can be released pending the outcome of the security review, if that is necessary.

CHAIR—Do you have any evidence that people who are kept under those circumstances and are not able to get the security check are having a problem with the country that they come from in being antagonistic to them and therefore not releasing security information to ASIO to enable them to pass that security check?

Ms Biok—This is the whole point. We do not know where the security checks are being made. We do not know if they are going back to Iraq to try to find out if they know anything about this person. We do not know if they are going to countries that they have passed through.

A similar issue is people who have lived for some time in other countries. For example, a lot of Iraqis have lived in Iran or have lived in Greece and then they make their way to Australia and end up in detention. They have to get a penal clearance from the countries where they have spent some time. The Greek bureaucracy is, let me say, slightly worse than the Australian bureaucracy. I have had a young Christian Iraqi waiting in detention for a couple of months until we managed to get something from the Greek authorities. That does not seem to be just to me. If the person has been accepted as a refugee, the Australian authorities have no problem, and the person says, 'I have not got any problems', and they appear to be credible, then we should be able to release them into the community on an undertaking that they do not get their permanent resident's visa until they actually get that penal clearance. There are certain countries where we know the penal clearance is going to take a long time and there should be account made of that. People should not be kept there waiting and getting more stressed as they see everybody else leave the detention centre.

CHAIR—Is there a one-size-fits-all time by when people should be subject to a security clearance? Is there a time frame that you have in mind?

Mr Kirkland—In relation to people in detention it should require a court order beyond a period of one month. At that point we are not proposing a lengthy, costly or complicated court process. It could be dealt with relatively simply. In those cases if the department has valid reasons to have concerns about a potential security risk then that can be raised. Equally, if the department has been making reasonable efforts to obtain a security check and there is evidence that may be forthcoming soon, then that can also be put before the court. In the absence of any indication that there is a reason to see a security risk, then there should be a presumption in favour of release.

Ms Biok—I would like the committee to investigate what happens when somebody's application for refugee status with the form 80, which is the basis of the security check, goes into the department. How long does that form take to get to the relevant person in ASIO to start the checking? Is there a lag?

CHAIR—I think we have already got that. That will be incorporated into our report. It is more complicated than people think. It is not simply a matter of it being delayed in the second agency. There are problems in the first agency and then there are other issues of lack of matching of electronic databases and the fact that there are sometimes no databases. These are things that have to be looked into, straightened out, and probably more expenditure in some areas might lead to a change and an improvement in these areas. I do not want to pre-empt any findings or any improvements; we hope that in asking these kinds of questions is taking us towards that end.

Mrs VALE—You mentioned in your submission that you are partly funded by DIAC and you feel that there is a perceived conflict of interest here. Has that perceived conflict of interest impacted on your work in any way? Has it been your experience that it has been a problem, or is it for perhaps more legal purity and transparency that you prefer not to see it that way?

Mr Kirkland—I cannot comment on whether it has had an impact on our work. It is very difficult for us to, for example, make arguments about what is the appropriate level of funding for us to be doing that sort of work with the body against whom we would be effectively taking legal action. It is very difficult to put DIAC in the position where on one hand it is administering the system and on the other hand funding the bodies that provide advice to people who wish to challenge decisions within the system.

Mr Gerogiannis—As a lawyer dealing with asylum seekers, because the funding is through the IAAAS, the Immigration Advice and Application Assistance Scheme, you are explaining to a client—and we have to do this—that, 'By the way, I am providing you with free assistance through this contact that we have with the department of immigration', and given the country of origin of some of our clients, they look at you and say, 'You are getting money from the department, but you are helping me put my application to the department.' In most cases we get over those difficulties, but it is an unnecessary thing to have.

Mrs VALE—It is an unnecessary confusion.

Mr Gerogiannis—Yes, absolutely.

Mrs VALE—I gather from you that you feel there may even be an apprehension on behalf of your client?

Mr Gerogiannis—At least initially. We overcome those difficulties, but those difficulties are unnecessary. It is an unnecessary thing to have.

Mrs VALE—You also called for the amendment of Legal Aid funding guidelines in relation to migration matters. Would you like to outline or expand on your concerns in that regard for the record?

Ms Biok—Our concern is that the areas that we can act in under our contract with the Department of Immigration are really very limited. We can assist people with protection visa applications and some family migration applications for people in the community, such as spouse visas or child visas. The big hole felt nationally by all Legal Aid Commissions is once somebody gets to be a refugee the first thing they want to do is reunite their family, and we cannot help with those offshore refugee applications. They are very complex applications now.

We are dealing with families that have been split by maybe 20 years of war like in Afghanistan. We have got families where some children have died and other families which are the children of siblings who have died and have been incorporated into the families. It is not just mum and the kids now. There are family groups where there are questions of dependency and of where have these people have been. They are very complex applications and they need a lot of follow up in the overseas posts. We cannot do those under the contract. It is a real problem for our clients in that they are very happy when they get their visa and then they come back and say, 'You said I can bring my family now. It says this on the letter with my visa.' We say, 'Yes, you can. Here are the forms. We cannot do it.' That is the really big hole. Some Legal Aid Commissions have managed to get additional funding through their law societies and so they do some assistance that way. It is an area that the Commonwealth needs to address because it is one thing to allow one family member to stay, but when they want to especially bring their children here, it is a real problem.

CHAIR—Is that a problem in that other people who are applying for a family reunion have to do it commercially, as in engaging lawyers or immigration agents and go through the whole difficulty? They do not have Commonwealth assistance. Wouldn't we be setting up a system where we would favour refugee families who want reunion as against other people who are seeking family reunion?

Ms Biok—These are not family reunion visas, they are refugee visas. They are coming under the offshore refugee program. It is the principle of family unity, so you are applying for a split refugee family visa, which is a 200 or a 202 visa.

CHAIR—Which visa is it?

Ms Biok—It is the 200 if they are a refugee. Let us say a woman who has fled Iraq and might be in Jordan. She could be found to be a refugee by UNHCR. She could be under the women at risk category, or it might be a 202 offshore humanitarian visa. They are the visas that people need help with.

CHAIR—Is an offshore humanitarian visa a 202?

Ms Biok—Yes. There is a little bit of assistance through the IAAAS scheme for family reunion where the other family member is here, such as a spouse or a child.

CHAIR—What was the other scheme it is available under?

Ms Biok—It is all one scheme. We have some refugee and the other is family migration, but only onshore.

CHAIR—I would like to divert you slightly further as a side bar to this. Have any of you had applications under either of those two visas from people from Dafur, from Sudan?

Mr Gerogiannis—Which visas?

CHAIR—Either the 200 or the 202?

Ms Biok—It is an area that fits my comments exactly. We do not do it, but I go out to Blacktown Migrant Resource Centre and do community education maybe once every year or once every two years and run a clinic for people from West Africa and from the Sudan. They are always asking for legal assistance with those. They are the families that are quite difficult because they are blended families now, and so there can be real issues raised.

They are people who have had no experience in dealing with the legal process. The form might look quite simple, but you have got to have a lot of supporting information. The overseas posts will ask for things such as death certificates. They will ask for some formal adoption certificate or a statement that indicates that it is a customary adoption when a sibling's child has been incorporated into the family. There is a huge gap for this and certainly the people from Dafur are really missing out with legal assistance.

CHAIR—Do all people who have refugee status have to be classified by the UNHCR? For instance, in Cairo there are 50,000 Dafuri refugees. In order to qualify to immigrate to Australia under a refugee visa, would they have to be classified as refugees by the UNHCR?

Ms Biok—Not only that, but my understanding is that they need to be put forward by UNHCR as a person who is appropriate for resettlement in that year.

CHAIR—It is just as I suspected. Because the Egyptian government has a very pro-Sudanese political perspective, UNHCR in Cairo is forbidden to classify these people as refugees and therefore any of them applying to the Australian Embassy in Cairo cannot get in because they cannot be classified.

Ms Biok—This is a problem when approaching UNHCR officers in so many countries. I visit the UNHCR office in Kuala Lumpur quite regularly and the Burmese refugees find it very hard to get in there. Often the Malaysian police will block the road going to UNHCR. It is the gateway by which everybody comes to Australia.

CHAIR—It is particularly egregious for the Dafuris at the moment. There is no way of them getting to an Australian Embassy that can process them, so we are looking into people from southern Sudan who are in less precarious circumstances, but these people are really out there who should be considered amongst our 14,000 humanitarian category. There does not seem to be a way of getting them unless the Australian Embassy in Cairo is to actually process them as refugees themselves without UNHCR.

Ms Biok—Or the people would not be given a refugee visa, they would be given a humanitarian visa, where they do not have to meet the refugee convention or be determined by UNHCR. So where the family member could write what they know of their circumstances and the person could be interviewed by the Australian official and look at humanitarian grounds.

CHAIR—We would have to have capacity and the will to do that in Cairo. That would be under the 202 visa and not under 200. Thank you. I have some clues for some friends of mine.

Mrs VALE—Are you aware of the impact of a detention debt that might be placed upon detainees upon their release and how it impacts upon them? Have you had any opportunity to act for people in that position against such an imposition of a debt?

Mr Gerogiannis—My client's case is still ongoing. He was in detention for a very long time. He was released on a bridging visa. His case is still before the Refugee Review Tribunal. He has no permission to work, by the way, on his bridging visa, so this is another related issue.

Senator HANSON-YOUNG—What category of bridging visa?

Mr Gerogiannis—This is bridging visa E. He was in detention for some time. He was granted a bridging visa E with no permission to work. He is in the community. He received a letter from the department's debt recovery area seeking repayment in the vicinity of $50,000 or to make appropriate arrangements to repay by instalments. I wrote a letter to the office saying he has been released with no permission to work, so obviously he has no capacity to repay. The letter that came back said, 'We understand that you need to make arrangements as soon as you are able.' The impact on my client was that I got a telephone call saying, 'What do they want from me? They have released me with no permission to work. I am not allowed to work. I am slowly going crazy because I have nothing to do and then they send me this bill.' These are the sorts of things that come up.

In the longer term, it is fair to say that if a detainee is found to be a refugee then the detention costs will not be followed up with the applicant. With others who are not found to be refugees but can make an offshore application or even an onshore application after ministerial intervention, the department will insist on that person making appropriate repayment or arrangements to make the repayments, which adds another level of difficulty to the visa application process, whether it be offshore or onshore.

Mrs VALE—Has Legal Aid had an opportunity to challenge such an imposition of a debt?

Mr Gerogiannis—No, we have not at this stage.

Mrs VALE—Has it been something that you have thought about?

Mr Gerogiannis—The letter that I have just described to the committee was received about three or four weeks ago so that is something that we can give some consideration to. At this stage we have not run any cases to challenge those sorts of debts. We do think that there ought to be some consideration given to wiping detention debts but, to be fair, with people who are found to be refugees the detention costs are not sought from the refugee.

Mrs VALE—Thank you very much.

Mr ZAPPIA—I am sorry I could not hear your verbal presentation, but I have had a look at your submission. I would like to follow up the question of the debts. I understand Legal Aid is funded by the Australian government. At the time that someone is found or not found to be a refugee, if you have provided service, are you asked to provide an account of your services as well in dollar terms? Is that included in the debt?

Ms Biok—No. We have a contract with the department of immigration and we get paid a set figure for every refugee application that we do. We may expend a little bit less than that, especially if somebody is an English speaker, or we may expend more, but there is no additional debt that gets passed on to the applicant.

Mr ZAPPIA—I just wanted to clarify that. Firstly, do you have any difficulty getting to see any of your clients at any time in order to provide your service? Secondly, having dealt with the client, if you have come to the conclusion that the client you are dealing with does not fit into a refugee category, are you obliged to bring that to the attention of the department?

Mr Gerogiannis—There are two categories there. If we are talking about clients in detention, the detention contract and the community contract work in slightly different ways. With the detention contract it has been a policy for a few years now that every asylum seeker in detention will have a migration agent or lawyer preparing their application. Those cases are referred to us directly from the department of immigration through their detention coordination unit. We have to do those cases pursuant to the contract irrespective of perceived merit. Irrespective of whether or not we think the claim has a strong case, we prepare the application and present the best possible case we can to the department and to the Refugee Review Tribunal on review if that is necessary. As part of our professional obligation we would not pass on any of our opinions or concerns to the department, given that is a matter of client-solicitor privilege. With community matters the asylum seekers will approach us and those cases are subject to merits test. We will only take a case on and prepare the case after assessing the client's case and we determine that the case has got a reasonable prospect.

Ms Biok—In relation to the first part of your question on whether we have any difficulties in getting to see our clients, our only experience—because we are both from New South Wales Legal Aid—is with Villawood Detention Centre. There are major problems in getting appropriate legal interviewing rooms in Villawood Detention Centre. There are four small rooms that are not soundproofed so you can easily hear what is going on in the next room. You have to go through the process of booking a room, but you may get to the detention centre and find that compliance has been very active in the day or two beforehand and they are using those rooms. Then you have to see your client outside in the grounds. That can be good on a day like today, but in the middle of winter it can be really quite unpleasant. It can be very disruptive and unnecessarily noisy when they are having a church service in the grounds. We have no security that when we go to Villawood we will actually get an interview room and be able to see our clients. We certainly cannot interview them with any privacy in the rooms that are there.

Senator HANSON-YOUNG—Your submission alluded to some of the concerns in relation to bridging visas and in particular category E. Could you explain the effect that particular category has had on your individual clients?

Mr Gerogiannis—With bridging visa E, again if we are talking about detainees who are released into the community, the fact that they have no permission to work in most cases causes major problems for support. Sometimes they are given assistance through the Asylum Seekers Assistance Scheme through the Red Cross. Sometimes they are given different types of assistance through other community agencies, and some housing. Overall, the fact that they do not have permission to work while they are waiting for their application to be processed does cause major psychological concerns.

No permission to work also causes problems on bridging visas for community asylum seekers. People who have not applied for a protection visa within 45 days of arriving in Australia will get a bridging visa, but with no permission to work, and that has major impacts on people, particularly asylum seekers with young children. Again, the Asylum Seekers Assistance Scheme

can provide some financial assistance but, as the committee could imagine, having no permission to work and being reliant on welfare and other support networks that may or may not be easily accessible does cause substantial alienation and psychological concerns.

Senator HANSON-YOUNG—I am interested in your legal perspective in terms of the way we treat children. The detention process and the current management of refugee children seems to be the one place where we do not give children the special status that they perhaps get under every other part of law, including juvenile criminal processing and juvenile detention. It seems that there is very little status given to children above and beyond that of an adult. From a legal perspective, is that your opinion as well?

Ms Biok—I would agree completely with that, because children in all other court processes have certain protections and they also have people who look after their social and legal needs. That does not happen in the immigration process at all. You have got to put it into the perspective of the number of people who are young Tamil boys or young Iraqi children who are brought to Australian, often unaccompanied by anybody, maybe with an older sibling or with some distant family member who has been in Australia for a while. They are very vulnerable people, often from very turbulent countries, who have come somehow to Australia through illicit means and are totally confused by what is happening to them, and they really need a lot of support.

The situation in detention was disastrous for them in the past. Now they go out of detention, but they still need to have a special status. I agree completely with that. I think there is a real conflict of interest there, in that the minister for immigration is their guardian as well as the person who is responsible for the decision which is made on their protection visa application. There needs to be some way that another agency, another minister, actually gets to be the guardian of these children.

There can also be real problems practically. I have had the case of a child who came here and sought asylum, was found to be a refugee, and had an older sibling who had been found to be a refugee who was a resident in another state. We could not transfer him easily to the care of his brother because the two equivalents of the department of community service could not mesh their needs for who could be a suitable guardian. Even though New South Wales was happy for him to go to the brother, the Victorians said the brother was not old enough. It needs to be some Commonwealth body that has the authority to look after these kids and, after release, to get them placed appropriately.

Senator HANSON-YOUNG—If Australia was a signatory to the rights of the child and we were to implement those things in federal law, we would have to be giving children a special status in these cases. That would be my understanding from reading the convention.

Ms Biok—I agree, and special guardians and special legal assistance.

Senator HANSON-YOUNG—Yes. Still on the topic of children, we know that the general rule is at the moment that we do not put children into the detention centre, but we still put children and their families into residential housing facilities. We have heard from a number of witnesses that that is still considered detention. Is that the opinion of your organisation?

Ms Biok—Yes. In Sydney it is on the detention centre grounds. They are not behind the barbed wire, they are looking onto the barbed wire. It is really a moot point.

Senator HANSON-YOUNG—That indicates that, despite the fact that people in the community seem to have this idea that we do not have children in detention, in fact we actually still do.

Ms Biok—There is also the additional problem of where family members are separated, where the father might still be going through his security check and so he is kept in detention, and the mother and the children would be released, or the older sibling and the younger sibling are separated. It is Legal Aid's contention that that should never happen; it should be an extraordinary situation that the department has to justify where a family is broken and the head of the family is kept in detention.

Senator HANSON-YOUNG—Could you flesh out for me the recommendation? You talk about when the detention is longer than a month it would need an independent judicial application lodged and agreement. That, to me, seems to be a good way of ensuring that there is some independence and transparency. Would that need to be an amendment to the Migration Act?

Ms Biok—It would have to be an amendment because you would have to expand the grounds of the Federal Magistrates Court to look at certain issues under the Migration Act. Our idea is that if somebody is going to be kept in detention for longer than one month, the department has to go to a judicial authority and state the reasons why. The onus is on the department to make the explanation. There may be very good reasons and the whole process may be a very brief one. I do not think we are opening a can of worms here where we are going to have half-day proceedings about deciding whether Mr X can stay in detention. It may be something that can be done quite briefly. Certainly we need an independent authority to look at those. Nobody else would be kept in detention purely under administrative detention with no reasons being given. It is an aberration in our system.

Senator HANSON-YOUNG—How would we ensure that would happen? How would we ensure that once we got to that one-month trigger point the applications were lodged? If it is still being under the guise of the minister to ensure that oversight of the department is happening, from my perspective that is probably what got us into this mess in the first place.

Ms Biok—That is why you need independent legal advice and everybody has the right to have their cases assisted by a lawyer who can say, 'You have been here now for three weeks. You have got the right to go to the Federal Magistrates Court and to have this detention reviewed.'

Senator HANSON-YOUNG—I would imagine that would make it difficult for those people who are being housed on Christmas Island?

Ms Biok—That would go to our contention that we should not have people on Christmas Island.

Senator HANSON-YOUNG—Thank you.

CHAIR—Do you represent clients with visas that have been cancelled under section 501?

Mr Gerogiannis—In this last year the commission has been able to do that, but not under Commonwealth funding. Section 501 cancellations cannot be done under the IAAAS program. There is no funding for 501 cancellations under that scheme. There is no funding for section 501 cancellation cases under general Commonwealth Legal Aid guidelines. There is no mention of those cases there. The Legal Aid Commission of New South Wales has relatively recently received some extra funding for a human rights committee and the human rights committee has been funding some section 501 cancellation cases. However, the Commonwealth funding is non-existent or extremely limited. I think I am correct in saying it is non-existent, but I am not 100 per cent sure about that.

Ms Biok—In detention there is the community care program, and occasionally we get people referred who are facing visa cancellation who are in the community. Again, that is very rare.

CHAIR—I would like to drill down a bit further. Under the criteria released by the minister we are not sure whether the 501s would be kept in ongoing detention on the basis of risk to the community or whether they would be individually assessed. Do you have any views on that?

Ms Biok—Under the basic rule of law principles it has to be an individual assessment. You could not say anybody who has been imprisoned for more than 12 months immediately goes to stage 1 in Villawood and then has their visa cancelled. Each case would need to be looked at individually. There is a process by which people can actually contest the visa cancellation, so there should be an equivalent process by which people can contest the fact that they are being kept in detention.

CHAIR—I am also interested in your recommendation that the minister have the power to make residence determinations. Is this a recommendation mainly to save time in the consideration of such applications?

Mr Kirkland—It is a recommendation that it is not just be the minister but that delegates within the department would have the power to make those determinations.

CHAIR—What is the rationale behind that? Is it so that decisions can be made quickly?

Mr Kirkland—Quickly, and it is an appropriate administrative decision. Given the considerations involved, we would think it inappropriate that it be retained at ministerial level. We would say, consistent with many other decisions under the act, it should be able to be made by a delegate of the minister working within the department and it should then be subject to the relevant merits review process.

Ms Biok—The problem with this at the moment is the lack of transparency. Under section 197(a)(b), it is the minister who makes the decision, if it is under the public interest, that he can allow one or more persons to reside at a specified place. How is that decision made? How does the minister decide it is in the public interest? What information is put before him? We do not know. This is something, if we had more Legal Aid going into detention centres, we could assist people in putting forward some documentation. We could assist them in finding out if they have got a relative who would be able to take them on, or if there was a community group that would

allow them to reside with them. At the moment this is all done in the minister's office. It is too much work for the minister and it is really such an opaque process. It is not at all clear who gets released and why.

CHAIR—Before I thank you formally, you emailed your submission to the secretariat, which has been included in the briefing papers and needs to be authorised.

Resolved (on motion by **Senator Hanson-Young**):

That the submission received from National Legal Aid on 17 October be accepted as evidence to the inquiry into immigration detention in Australia and authorised for publication.

CHAIR—Thank you very much for your appearance here. If you have any questions with the transcript you are welcome to make corrections, or if you have questions for the secretariat, please come back to us.

Proceedings suspended from 11.19 am to 11.41 am

OZDOWSKI, Dr Sev, Director, Equity and Diversity, University of Western Sydney

CHAIR—We are very pleased to have here the Director, Equity and Diversity, University of Western Sydney and the Australian Human Rights Commissioner from 2000 to 2005. We appreciate your submission. Would you like to make an introductory comment?

Dr Ozdowski—First, allow me to say thank you very much for inviting me. In terms of an opening statement, I would like to say that my involvement with detention dates back some 25 years to the first Human Rights Commission. I was then the secretary of the 1985 inquiry into human rights and the Immigration Act 1958, which made 99 recommendations. Then, of course, as the Human Rights Commissioner I produced two reports, the first one shortly after I was appointed by parliament. It was a report on my visits to eight immigration detention centres, including Cocos Island and Christmas Island. Then the most significant report, which is the *A last resort?* report, was presented in 2004. The *A last resort?* report methodology was very comprehensive. It included visits to all detention centres. It included 300 written submissions. It included hearings, both in public and in camera, subpoenas of whole classes of immigration department documents. Importantly, when it was presented in the parliament no information provided in this report was challenged. The then minister for immigration said, 'Well, it's a bit backward looking and a bit unfair to the immigration department', but no facts were challenged in this report. I think it is important to remember—

CHAIR—Which minister for immigration said that?

Dr Ozdowski—Senator Amanda Vanstone then, and Tony Abbott I think as the Leader of Government in the House, not the Attorney-General, presented the report to parliament. Since then I have kept my interest in immigration and detention issues but on a much more casual basis. The *A last resort?* report had only five recommendations, because we dealt with a totally different situation to that of 1985 and the recommendations dealt with statutory issues. The first one was just to release the children. The second one was to change the Migration Act to comply with the International Convention on the Rights of the Child and codify it in legislation for children in immigration detention. Then the review made a recommendation about excised offshore places and the so-called Pacific solution. We also asked for an independent guardian to be appointed for every child who is in immigration detention.

I think that the report documented particularly well the mental health issues associated in particular with the length of time in immigration detention and also other factors. As a matter of fact, that report led to my next report on mental health and services for mental health patients called *Not for service*. The most serious finding in *A last resort?* relates to mental health. It was that the failure to release mentally ill children who were assessed to be sick amounts to cruel and inhuman treatment under article 37 of the convention. Mental health was really the important issue.

The second thing which is of relevance is apparent conflict between state and Commonwealth laws when dealing with children, which was further undermining human rights of the mentally ill detainee children. Looking at it in retrospect, my regret is that I did not report more on the culture of the Department of Immigration, but I think Mick Palmer, who followed, did it very

adequately. Looking at implementation of recommendations, firstly, children are no longer in immigration detention, and let us hope it stays this way. Changes to the law were made, but they are only partial. The previous government introduced a principle that minors should be detained only as a measure of last resort, which is most welcome, and gave ministers some discretion to remove unlawful non-citizens from detention to a specified place.

Labor also abolished the Pacific solution and closed Nauru and is using what I call a policy of minimum detention. I believe that further changes are needed. I would like to identify six areas. The first one I would suggest is to repeal the excision legislation, which involves some 4,000 islands; otherwise my view is that the Pacific solution disappeared but we will be dealing sooner or later with the Indian Ocean solution with Christmas Island being the headquarters. Of course that also means that two sets of laws are applicable, one for those reaching Australian shores and one applying to those who did not manage to reach Australian shores.

The second is to remove from legislation the vestiges of indefinite non-reviewable and mandatory detention so that the system is in line with international human rights obligations that Australia entered. Australia has signed and ratified conventions and now needs to try to adjust domestic law so that it complies with international law. Third, I think we need to continue on with the cultural shift in the Department of Immigration. To be only talking about good behaviour is not enough. I think one would need to look back and one would need to require assessment of the role of the Australian Public Service in the human rights violations of the past, and perhaps the Human Rights Commission would need to look at verification of some individual officers who played a particular role in the system and who benefited out of it—

CHAIR—Did you say 'benefited out of it'?

Dr Ozdowski—Yes, in terms of promotions and other things. Fourth, I think the issue that needs to be considered is the issue of compensation to the victims. At the moment it is happening on a case-by-case basis, but I believe that it is in the best tradition of Australia's fair go to compensate those who were wronged by officials. Yesterday the Department of Defence has bitten the bullet and gave an apology and compensation to soldiers who were bullied.

Fifth, I think you need to educate the public about refugees. We need to have more government leadership and learn that it is okay to be a refugee. The final thing is a practical suggestion. I would suggest that we establish refugee accommodation centres. Some time ago—a long time ago when I was a refugee in Germany—such centres did exist. They provided basic accommodation. They were open facilities so refugees who had difficulties in finding accommodation and finding support could use them until their status was determined. I think this would remove a whole range of issues from the system, because it would allow people to have a place where they can wait with dignity until they are either removed or they get the full rights of living in our society. Thank you. That is what I wanted to say in terms of the introductory comments.

CHAIR—That was a very interesting and very provocative introductory comment. Can I just go back to your comment about the culture of the department and how you regretted that your report did not do what Palmer did. Then you said that certain officials have benefited from the policies that they put in place. Do you have any evidence that in the current administration of the department people who may have participated in what are now regarded as wrongs might

continue to perpetuate those wrongs and what purpose would be served by going back and identifying these people and, as you said, dealing with them in some way?

Dr Ozdowski—Going back would serve to change the culture of the department; otherwise you have no sanction. The people who created the biggest, if I could call them, stuff-ups in how the department operated left; the secretary of the department went to Indonesia. I, as writer of that report, was summarily dismissed, or retired, from the department and after writing the *A last resort?* report. I was 10 months unemployed. When you look at human rights abuses in other countries, you usually get some kind of reconciliation commissions, tribunals, or other things. What I am proposing is very limited. What I am proposing is that it would be useful, for example, for the Public Service Commission or a parliamentary committee to look at the role of the Public Service in implementation of that policy which led to human rights abuses. In the role of Human Rights Commissioner I was meeting departmental officials in all the immigration detention centres. I was speaking with them. I had to repeat my subpoena for documents when I was doing the inquiry on the department a number of times, because the documents were not delivered as they should be delivered under the subpoena. There was a culture such that the minister would say, 'Do this,' or 'Jump' and they would ask, 'How high?' and they were saying, 'Of course.'

I was invited to the department in August. I think I visited the department on 15 August after I criticised the department in the media. The deputy secretary invited me to learn more about the changes that had taken place in the department. I was quite impressed with all of the extra training being provided which was not in place before. However, when I was going to a meeting a large photo/diploma hanging on the wall caught my attention. I went closer and read it. It was a diploma congratulating officers for a swift establishment of Baxter detention centre signed by Bill Farmer. I would not necessarily say that the culture changed that much.

CHAIR—Are you saying that was still on the wall despite—

Dr Ozdowski—It was still on the wall. Then I was promised by the department, at least by four senior officers of the department, that various documents would be provided to me, especially documents dealing with the training. I was interested in what areas of training were being covered. Since 15 August till now I have not received anything and I did not receive a telephone call saying, 'Sorry, mate, we are late because the photocopier is broken', or something like that. It just did not arrive. What I would suggest to you is that it simply shows a lack of respect for people as they are not following through various undertakings given.

CHAIR—Were these documents volunteered to you?

Dr Ozdowski—They were volunteered to me when we were discussing all of these new staff education things.

CHAIR—They were not offered to you in terms of any inquiry or any official role that you have now?

Dr Ozdowski—No. It was in terms of making me a friend of the department. As I said, I was impressed by what I was told is being done, but my impression faded a bit when there was simply no follow-up.

CHAIR—You understand that we do not have any powers over the department on this committee except moral persuasion. I think the comments that you have raised here will increase the pressure for you to get those documents and probably quite quickly.

Dr Ozdowski—I am aware that they will be reading the *Hansard*.

Senator HANSON-YOUNG—In relation to looking at what has happened in the past in order for us to move forward, we have heard various evidence in the last few months throughout this inquiry that even though sentiments from the minister and the government may have changed we need to obviously see the legislative changes. What is your opinion on the call for a royal commission to look at what has happened in the past in order to ensure that we never see those types of human rights abuses happen again?

Dr Ozdowski—I did not form a judgement on that. I know a royal commission is a very serious step. I think what has happened in the past is very well documented by a range of parliamentary and other reports. I think also that the federal Ombudsman is doing quite good work in this area. I am not sure that I would go that way, because the expense of a royal commission goes into millions of dollars and I am not sure that it will deliver new information. I would prefer that any funds for a royal commission would be allocated to providing some kind of compensation to the victims of the system.

Senator HANSON-YOUNG—Our report will obviously be read by the minister and we as individual members of the parliament can use it however we can. But as elected representatives, in terms of particularly children who have been held in detention and who are now being seen by the department as a genuine refugee—and that is the language used—who are still suffering from the time that they spent in detention, how do we ensure that we, firstly, acknowledge what has happened but also ensure that we provide support and services to deal with the issues that are much more long term than the five years they have spent behind razor wire?

Dr Ozdowski—In terms of long-term support, unfortunately there is very little we can do, because our mental health service system does not work very well for average Australians. If you were to select a particular group of Australians for privileged treatment I think it would not go well with other Australians. And anyhow most of the 2000 to 2003 boat people are already living in our society. Most of the refugees who came here do have access to all the services other Australians are entitled to, so I am not sure that I would be opening a special system of delivery of services to them which could be accessed through the mainstream mental health services. Perhaps the groups dealing with trauma and torture could be provided a special grant to deal with particularly difficult cases of people who went to detention centres who remain in Australia. I would argue that it would be better to provide financial compensation in order to close the issue rather than to allow for individual people to take individual actions from time to time. You know how difficult it is and you know how long it takes.

Senator HANSON-YOUNG—You are suggesting that the government look at the people who have actually been through that process, come up with a package of compensation and do it that way as opposed to relying on those people to bring forward their individual cases? They are probably the people who almost, I would imagine, have the support to do that as opposed to those who are still feeling quite isolated in their community.

Dr Ozdowski—Possibly what I would ask is that people who allege that they suffered as a result of prolonged immigration detention lodge a claim with a body appointed by the government together with supporting documentation, for example, a doctor's certificate. Then I would possibly provide a deadline that this opportunity is open for—say, a year—and then I would try to deal with a class of cases and close the issue.

Senator HANSON-YOUNG—How many people do you think we are talking about?

Dr Ozdowski—I am not sure. We had going through the detention centre during that time about 12,000, with about 2,000 to 2,500 children. Of course, many people spent a short period of time in immigration detention, and it is unlikely that they have suffered any damage. Of course it is individual. It is difficult to give you the numbers. But just doing a very rough guesstimate I would say it would possibly be less than 1,000 people.

Senator HANSON-YOUNG—Can you expand on your concerns in relation to bridging visas? Reading through your submission, my understanding is that you would like to see them abolished. Is that for particular categories or is that the idea of the bridging visa? Could you just expand on that for me?

Dr Ozdowski—I think bridging visa E was my particular concern. My key concern is lack of access to work. It relates to a case I know of a man who has been in Australian for some 10 years. At the beginning he spent about a year in a detention centre, but he is still on that particular visa. He went three times to the immigration review tribunal and he won three times. I know him on a personal level. It is just ridiculous that you can allow a person to live in Australia and not give him access to legitimate work or to any services. It is beyond comprehension. What is wrong with allowing people who are waiting for the determination of their refugee status to work here? If they work at least they are contributing to our society financially.

CHAIR—Would you support the abolition of bridging visas only for asylum seekers—

Dr Ozdowski—TPV visas were already abolished. It is most welcome.

CHAIR—You are not talking about abolishing them altogether but for asylum seekers and refugees?

Dr Ozdowski—I am talking about asylum seekers and refugees and my particular concern is about access to work.

Senator HANSON-YOUNG—In relation to the residential housing facilities where children and their families are currently taken as opposed to the detention centres, do you still consider the residential housing facility to be a form of detention?

Dr Ozdowski—The residential housing which I visited were not—

Senator HANSON-YOUNG—Which one was this?

Dr Ozdowski—In Woomera there was residential housing for women. I visited another one. I do not recall just now where it was. I need to refresh my memory. But the centres I have seen

were certainly as bad as detention. In terms of that particular housing project for women and children in Woomera I would suggest to you it was worse than detention because it was splitting families. I was there a few times. I still have in my mind vivid images of one family. I met that family three or four times in immigration detention. The woman decided to go to this special housing in Woomera with her child. Three months later she decided to return to a mainstream detention centre because her husband, who had been on his own, acquired a mental illness. The last interview I did with them was because of their child, who was not going to school and was self-harming. Five minutes into the interview the man started shaking and crying and he had to be sedated and taken away. If you split up families, it breaks families. What is also quite interesting is that men are quite often the weaker party in a detention situation because they are denied all the traditional roles of family provider, of protector and so on. They are without a role and quite often the rest of the family blames them for the situation they find themselves in.

CHAIR—You have not seen any of the new family accommodation in Villawood or Maribyrnong?

Dr Ozdowski—No. I visited Villawood but only the part that holds detainees. I lived in Villawood back in 1975 when it was a reception centre. When I came to Australia as a refugee it was really fantastic as there existed Australian institutions which helped us to settle here.

Mr ZAPPIA—In your submission you raise the question of human rights and a bill of rights quite frequently. Have you given any consideration to this proposition: should people who come to Australia as asylum seekers be dealt with by the Department of Immigration as opposed to perhaps one of the other portfolios? It might be, for example, the Minister for Home Affairs, who essentially deals with other justice-type matters? Or perhaps for that matter even the Attorney-General?

Dr Ozdowski—There are two issues. The bill of rights is mentioned because I really regard that it would be a very strong educational instrument and the kind of bill that is from to time proposed, whether it is in Victoria or in the UK, would set up parliamentary standards for bureaucracies on how to operate. You possibly will not be able to take matters to court and so on, but at least it would set up standards for bureaucracy and legislation and it would have an educational role.

In terms of whether the department of immigration is able to handle asylum seekers in the long term, some time ago I was making proposals that perhaps Attorney-General's or the minister of state could handle it better. Now I would need to give it much more thought. But the issues are that dealing with asylum seekers is seen as closely linked to the defence of our borders and that the culture of the department of immigration is oriented more that way and much less towards the real situation most refugees found themselves in or why they came here.

Mr ZAPPIA—You also mentioned the establishment of specific housing for refugees. You may recall in Adelaide there used to be the migrant settlement hostels. I assume you envisage something similar to that? Do you have any opinion or comment to make about refugees under those scenarios that have also been, you might say, segregated as opposed to being integrated into the community, which is quite often the case now?

Dr Ozdowski—Hostels worked very well. I spent half a year in a hostel in Sydney. Hostels were also different over in Germany, where I spent two years as a refugee. It is a halfway measure. The key difference between a detention centre and a hostel is that you are a free person. You go in when you want; you go out when you want. Where you find English language classes or where you find friends or when you decide to work and find work, you still have some security and stability—more mental stability—but you can engage with broader society. It does not isolate you whatsoever. It provides you with local friendships of people who are in a similar category as you are. Earlier hostels were available to much broader categories of people who were migrating to Australia, and I understand that now our immigration system is different.

We want people with skills who can help themselves, but I think we could still make an exception for refugees who arrive here and allow them to stay in a place like a hostel. It would also be a place which could deliver health services and provide some assistance with finding jobs and also provide some English language training. Because services would be concentrated in one place the costs would be less. It would reduce the migrants' dependence on, for example, non-government organisations. Quite often non-government organisations do issue sponsorships. 'Yes, we will look after this family,' they say, but they are non-government organisations and quite often they run out of money or they do not have appropriate knowledge. I quite often saw conflict developing between the people who were trying to do good, who were trying to deliver the best, and the beneficiaries; it just did not work well.

Mrs VALE—Have you looked at the process by which Australia actually charges detainees for being in detention and have you any thoughts on that that you would like to share with the committee?

Dr Ozdowski—I did not examine it in detail, but I know what it is all about. I know that many people, including a person who spent 10 years here, carry bills from the detention centres for a long time afterwards. We issue bills to people who are deported from Australia. That creates at least an obligation on them should they try to come back. That serves as a warning on our books, because I think it would be highly doubtful that we would recover the money. I have doubt, however, about expected people who are allowed to stay in Australia to carry these bills. They are very difficult to settle, to pay back. It costs plenty of money. If they genuinely make an attempt to repay this kind of a bill it would set them back in comparison with other Australians, and I think it is unfair.

CHAIR—We will be including in our inquiries some information as a submission that you can look at, and anyone looking at this inquiry, about the total debt broken down year by year that people have incurred and then the amount recovered. People can make their own objective assessments about this. But it is good to have that information so that at least people can look at it. A previous submission suggested that children not have the minister for immigration as their guardian but it should be another—

Dr Ozdowski—It is conflict of interest. You cannot have it. You cannot have the minister being a judge and also being the guardian.

CHAIR—You answered my question before I finished it. That is good. Thank you very much for your appearance here today. Thank you for your submission. If you have any questions about

the transcript, please address those to Hansard. If you have any questions of the secretariat, please come back to us. We are happy to help. Thank you very much for your presentation today.

Dr Ozdowski—Thank you.

[12.16 pm]

GOULD, Ms Deborah, Clinical Psychologist, Service for the Treatment and Rehabilitation of Torture and Trauma Survivors

HOL-RADICIC, Ms Gordana, Clinical Psychologist, Acting Clinical Services and Research Coordinator, Service for the Treatment and Rehabilitation of Torture and Trauma Survivors

CHAIR—Thank you for your appearance here today and for your submission.

Ms Gould—I am here to represent some of the clinical implications of the detention system and to make comment on any further changes that are, hopefully, going to be made.

Ms Hol-Radicic—I am one of the clinical psychologists/team leaders doing assessment of clients that have been detained in a detention centre and brought to STARTTS. My main focus is going to be on their psychological status and the difficulties they are facing.

CHAIR—It is not compulsory but if you have some additional comments you wanted to make apart from your submission you are welcome to do that now.

Ms Gould—We actually would because I do not think either of us were involved in the actual initial submission, which is quite lengthy and perhaps a bit more technical. We assume you have read it and that you might be interested in a different perspective perhaps. In fact, what will probably happen is Ms Hol-Radicic will present the more clinical material, because that is more her expertise, and I will perhaps present more of an overview of the research and so on.

CHAIR—Do you want to give us some opening comments?

Ms Gould—Yes. STARTTS is basically a refugee treatment centre. We are a Department of Health, New South Wales, service. Hopefully we will come back to that later in regard to the previous person's question that you had asked. We provide services hoping to meet the needs of refugee torture and trauma survivors. We assume asylum seekers fall within that category, having experienced significant trauma incidents, including torture. The difference obviously is with the kind of visa that they are accessing us through. We provide individual and family based clinical treatments of psychotherapy, physiotherapy, psychiatry and so on as well as a range of other supportive management services, for example, community development, advocacy, training of other service providers, including the past detention centre staff, health assessments and referral and the provision of information to both refugee clients and community organisations.

Our submission really reflects our role as providers of a service to refugees and asylum seekers. We have also been fortunate to be involved in significant research relating to asylum seekers in detention, and we will reflect a little bit on that now. That research that we are obviously primarily interested in has been on the negative impacts of detention. We have not had

much opportunity to look at the kinds of clinical treatment appropriate for detained asylum seekers; rather at this stage we have looked at the negative impacts of detention.

In summary, this is mainly national research but also some international published research. Obviously asylum seekers have been through significant pre-migration trauma experiences and those will impact negatively on mental health. But controlling for the effects of previous torture and trauma, detention seems—and the length of detention particularly—to be the major variable in determining negative mental health impacts of their refugee asylum experience. Torture and trauma aside, their mental health was most negatively impacted by detention and then again by length of detention. If you like, we can go into detail about those research studies. But in summary, when clients who are asylum seekers were assessed or evaluated, between 85 per cent and 100 per cent were found to have significant symptoms of depression—so not necessarily diagnosed with depression from a strict diagnostic point of view but with significant symptoms nonetheless. Between 62 per cent and 100 per cent had post traumatic stress disorder, and 45 per cent to 65 per cent reported suicidality. Those figures, in the range as well as the top figures, are in fact quite a lot higher than for other refugees. That supports the idea that detention was one of the significant variables in this.

Those reports confirm the impressions of counsellors at STARTTS, and those impressions we gleaned from file reviews and from counsellor interviews. We have done discourse analysis of people's file notes and discussed with counsellors how their work with clients proceeded. There seemed to be a range, perhaps 20 particulars, about the detention experience that impacted most negatively. Do you mind if I just go through those fairly quickly? I think some of them are self-evident but it is worth just being reminded of what happened. We are acknowledging that this scenario is probably never going to happen again. This scenario probably will not exist, but just to make sure that it does not it is worth noting what the aspects of it were. Also, this is in the context of hopefully no longer having mandatory detention, but the terms of reference are all about, if we have to do it, how we can best do it. These are the things we think need to be best managed.

One of the most important but perhaps subtle ones is that the person entering detention is immediately removed from a healing environment. All trauma recovery theory states that a post-trauma healing environment, not necessarily psychotherapy, is fundamental to recovery. So there is an environment, not just an individual therapeutic relationship. A detention environment is not a healing one. In fact, it is retraumatising, as one can imagine. The opportunities for being retraumatised emerge both from the particular context here, which is where people have been detained or incarcerated in prison-like environments and usually with either detainees who have been accused of or at least allegedly have committed serious criminal offences. That context for anyone would be retraumatising. It is necessarily a more violent, aggressive and tense or stressful environment.

In addition, as you are aware, allegations have been made about violence committed by guards in detention centres. There is just an increased possibility of experiencing violence again. In addition, the prison-like environment with the razor wire and the prison guards and custodial staff, the nature of the cells or rooms, the nature of the nutritional environment and so on, is prison-like. For many asylum seekers who have experience of being incarcerated and tortured this is just too familiar. Previous trauma is frequently retriggered. People then have flashbacks and so on to previous traumas and then have no containing environment within which to deal

with those. People might have a panic attack, and nobody knows how to calm them down or bring them down.

They experience difficulties maintaining contact with family overseas, knowing anything about them. People in the community, as you know, do have contacts through other community members, are able to use other kinds of communication just to catch up with family overseas but, most importantly, to find out what is happening with them. Many refugees and asylum seekers come from places where conflict, war and so on are evident from the news, but they have no way of working out where their family sits in relation to the current crises.

Going back to the so-called criminal aspect of this, in an effort to maintain social contact, which is obviously a human thing, but particularly for people who are traumatised, obviously some asylum seekers will be associating or connecting with people who have committed serious criminal offences and there have been allegations quite frequently that illegal substances are quite freely available in detention centres. Clients who have been highly traumatised as a result of any trauma across the spectrum, non-refugee as well, can sometimes in an effort to control their symptoms use illegal substances just to calm some of those symptoms in the absence of medication. We do know that some clients have not been able to access medication while in detention and have used illegal substances instead. You get stuck on them once they start to work.

The big one probably is about the length of detention, and this responds to the terms of reference, namely, the question about how long people should be detained for. I am sure you would realise that our comment would be that it should not occur at all and, if it has to occur, it should be as short as possible. The main reason for that is clear; length of detention was such a huge predictor of mental ill health. It should be for as short a time as possible. The obvious factors there are that people have a sense of uncertainty about their futures. If the certainty of the past has been that it is pretty certain that bad things are going to happen, that space created by the uncertainty is usually filled by negativity/pessimism. A client, for example, says, 'If I don't know what is going to happen, how can I assume it is going to be good? I can only assume that I am going to be sent home. If I wasn't, they'd let me out now.' The determining process also feels quite mysterious. People do not know what they have to do to be heard properly or to have their full story told. As to the terms of reference, are there any that you want to ask specifically?

CHAIR—Do this quickly and then we will come back to questions.

Ms Gould—The first two are as to the length of detention. As I said, it should be minimal because of the associated morbidity. Then on the criteria applied determining the health and security checks, the comment we really have is that health checks should be done by normally professionally qualified medical practitioners, not necessarily anybody—

Senator HANSON-YOUNG—Can I just clarify something there? Do you believe that the health checks should include a mental health risk assessment?

Ms Gould—Yes, particularly a suicide assessment. If a person is going to be in detention then, yes, absolutely. The third point is about transparency, obviously, given the number of allegations about mistreatment, including passive mistreatment, in detention. It is important that staff are held accountable and monitoring happens outside of and in addition to the department.

As to infrastructure options, that is probably where we would address most of our submission. There should be access to health, increased communication with the world outside, separation of asylum seekers from criminals, and clear information about what to expect. There should be very clear information: 'You have landed in Australia. You do not have the papers that we expect you to have. This is what is going to happen. This is the predicted time frame. This is what you can do to get some clarity.' This will enhance safety and maintain privacy while enhancing safety. For staffing not to be not only by custodial staff or security trained staff. That there can be a range of staff members to look after or to monitor or whatever has to be done in detention. They do not have to be security folk. And that it basically should not be a prison environment.

As to the options for community based alternatives—and perhaps you will ask more questions about that—we fully support community based residence for all asylum seekers. We are not sure about the logistics of that or how it would look, but we would be supporting that. The comment on cost effectiveness is it just seems reasonable to say that it would be a lot cheaper to have people not living in detention, looking at the figures. We would rather that the department spend the $215 a day somewhere else, in mental health services, et cetera.

Ms Hol-Radicic—Regarding what I heard from torture and trauma survivors that ended up in the detention centre, I would like to say that the majority of people who came here to Australia hoped for the best. They came to a safe country and they looked for democracy in our country, and in coming here they faced absolutely the opposite. What they are saying to us is that they ran away from prison. Many of them sold all they had. I have a client whose mother sold her kidney in order for her son, a 22-year-old young person, as the only man from Iraq to be saved and to continue a life ahead. People are not selling just their property. People are selling organs in order for them or their family members, especially children, to leave the country and to look for safety.

Once they came here it came to the point that they do not feel safe; they end up in a prison very similar to the one they experienced before. Luckily these days I have not heard any of the comments such as I heard two, three, four or five years ago that some people had been sexually abused—children being sexually abused in detention centres. Women had gone through a very similar situation in the prison as in the detention centre, and basically the whole condition of detention retraumatised them and made them more psychologically vulnerable.

The only comment in this regard is that all those people that came alone do feel guilty, as Ms Gould said. They do have survival guilt, which means they feel members of their family are unsafe. Many members of their family overseas are again persecuted, and some of them executed, because they had left the country. The variety of symptoms that they present is increased because of the torture and trauma back in the country of origin or in the process of transition from the country of origin to the refugee camps before they came to Australia. Looking at all of their symptoms—although we do not need to diagnose them—they are presenting symptoms of major depressive disorder and anxiety disorder and having situations with psychotic episodes. During the time of their detention, although the mental health team there is really looking after them well that is not enough because it is not a 24-hour service and many people end up having psychotic episodes or panic attacks. Some of them try to commit suicide and some of them had been noticed with a high level of harm. Some of these clients had come urgently to be referred to STARTTS. We basically provided a second opinion on their psychological status and tried to see what would be the best option for detainees. STARTTS as a service is basically providing like a second opinion for people referred to our service clarifying

the symptoms and why the person is experiencing symptoms and what suggestions we might have for certain clients that come in to our service.

Ms Gould—The difference between people presenting with mental illnesses and then the general asylum seeking population is that obviously people who present with symptoms need treatment, but the general population is at an increased risk, anyway, and so do need preventive services as well.

CHAIR—Do you know whether in the health checks that they do have a psychological assessment at the moment?

Ms Gould—They have a bit of a tick-box thing.

Ms Hol-Radicic—At the moment they do.

CHAIR—A 'tick-box thing' does not sound like you think it is an adequate check?

Ms Gould—I do not know enough about it currently, but certainly a few years ago it was very much, 'How do you sleep?'

CHAIR—In your submissions you talk about changing the protocols of the watch on suicide that you would have on people in detention. What are the changes to the protocols that you would specifically recommend?

Ms Gould—We would be recommending that they be in line with the usual Department of Health guidelines followed by any mental health team, which are to provide a background supportive environment. There is not just a monitoring but also a supportive thing, and that there are people present as much as possible but the presence is not intrusive. In terms of how many times a day, I am not sure. I think we would prefer that monitoring would happen in a hospital environment. I do not know whether we were clear about that here.

CHAIR—I think you were here when Dr Ozdowski was talking about the supportive environment in a migrant hostel even in the 1970s. I was not even sure that they existed in the 1970s. I read about them in the 1940s and 1950s and 1960s. It was a very interesting contrast to detention centres. As to the way that government policy and this committee is thinking, if there are more people released into the general community and people are not held in detention is there going to be support for them? Are we solving one problem and making another problem?

Ms Gould—No, I do not think so. It is going to be a problem as much as it is for asylum seekers who are in the community, anyway. And there are a group at higher risk for suicide because of the uncertainty and just their general pessimism, and so on. But I think that the negative mental health impacts of detention contribute significantly to the suicidality, so there would be a drop already in that.

Ms Hol-Radicic—Research is highlighting that the length of the detention correlates very highly with the suicidality, which needs prolonged treatment in order to settle symptoms over three to five years. I think for all of us it would be better to treat those people in different mental health systems and services earlier rather than later after a certain period of prolonged detention.

We would definitely argue for this for people after the health check and probably legal checking as well. We are not talking about everyone who is entering into detention. We are arguing for torture and trauma survivors; those people who are not criminals need to go into a society and community. They need to be treated out of the detention centre environment.

Senator HANSON-YOUNG—That is why you are calling specifically for a new class of bridging visa to cover those survivors of torture and trauma, people seeking asylum as opposed to people who are being deported because they are overstayers?

Ms Gould—Yes.

Ms Hol-Radicic—Yes.

Mrs VALE—I am happy to let the senator continue. There were some queries I had, but you answered them in your very comprehensive introduction, especially about the prevalence about post-traumatic stress disorder. I had no idea it was so great.

CHAIR—Could you give us those figures again?

Ms Gould—The suicide diagnosis, as much as it is significant symptoms, is 62 per cent to 100 per cent. Depression was more prevalent. It was quite a bit more prevalent. That is very high. Obviously any trauma survivor has an increased risk for PTSD.

Senator HANSON-YOUNG—Do you have the breakdowns of the level of self-harm among children?

Ms Gould—No, I do not.

Ms Hol-Radicic—No, sorry. It is a positive element that children are not in detention at this stage. But what worries us as well is a separation in the families where families arrive together and an adult, usually the father, is separated from the family and children. Due to the symptoms and due to the previous trauma and lengthy time of detention, the behavioural changes are great. The parents, usually fathers, are behaving inappropriately—being more aggressive, being very violent and not being patient, not coping with their own traumas, which definitely has a huge impact on the children and their development. In addition, we are creating dysfunctional families down the track.

Senator HANSON-YOUNG—I saw some disturbing figures around the level of domestic violence amongst people who are on temporary protection visas. It was absolutely off the scale in comparison.

Ms Hol-Radicic—DOCS is always included, the Department of Community Services, because we definitely needed their support, and we are mandatory reporters. But their involvement into the system needs help.

Senator HANSON-YOUNG—I am thinking of one particular case where a young girl was separated from her mother because her mother was suffering severe depression, was hospitalised, and the child was put into foster care. She is seven or eight and the impact of that

now means that she cannot speak. She cannot communicate. She is back with her mother and it is an awful situation. How can we deal with those situations better?

Ms Hol-Radicic—I definitely think that as long as parents are not affecting children's security they should be involved. If there is a clinical reason why a mother has to be isolated from the child, and if she is violent and the security of the child is impacted, that definitely might be one of the reasons for separation. But separation is a huge contraindication for adjustment. All children with adjustment difficulties and attachment difficulties are having similar experiences like that little child. What we need to do is we probably need to have a more systemic approach involving a multidisciplinary team of professionals who work on the case overall helping the mother to improve her own health and helping better with connection between the mother and the child. And the foster family can be included in that part, with the aim of having a connection between the child and mother and a bond continuing to develop in the future.

Ms Gould—Our framework is an attachment based treatment for children, which would mean that you would prioritise the primary attachment in whatever way you can. This more systemic approach would be appropriate. Mum cannot parent right now, but the child has to be kept in contact in that attachment.

Mr ZAPPIA—My question relates to the incidence of mental disorder among the people who come here. I am not clear if you said that as part of the assessment when people come in there is a mental assessment carried out. In any event, what I am trying to ascertain is: how many of the people in detention or under some sort of detention program already had a mental health issue prior to their coming to Australia, in other words, at the time that they arrived?

Ms Gould—We do not know, but one study was looking at pre-asylum morbidity. The conclusion was that it is higher on arrival here. As you would imagine, that is not easily verified. We have two main academics who provide us with research information. Derek Silove I think presented here, or Zachary Steele. They are from the Psychiatry Research and Teaching Unit in New South Wales. They collate it and we have done research together. So, it was from him. But I did not read the finer details. I am sorry. Not to undermine the question, but it would be the same profile as for any other asylum seeker. The pre-flight mental illness profile would be the same presumably. The only variable differing would be detention or not. Five per cent of Tamil asylum seekers have PTSD before they leave. It is 10 per cent for detainees, but community members are five per cent.

Mr ZAPPIA—If that is the case, are you drawing the conclusion that the journey from wherever they left to this country has not contributed to any mental—

Ms Gould—Of those variables I mentioned the journey itself would be one. But the detention was the stronger predictor.

Mr ZAPPIA—I accept that.

Ms Hol-Radicic—The problem with torture and trauma experience back in the country of origin is one of the predictors as well.

Mr ZAPPIA—I was trying to ascertain what ratio of those very high statistics that you gave us pre-date their arrival here.

Mrs VALE—You have identified that there is very little constructive activity for detainees to do. Also, would you consider that any skill based vocational activity would be helpful, perhaps even the learning of English as a language?

CHAIR—This is whilst in detention?

Mrs VALE—In detention, and also perhaps in community based detention. I understand that there are limited learning facilities available for people even when they are allowed training in community based detention. Would you have any comment that you can make to the committee on that?

Ms Hol-Radicic—We would support community detention—outside from the detention centre—because there is a better recovery opportunity. With a better recovery opportunity people have a greater chance to learn and to comprehend new knowledge. Many torture and trauma survivors and many detainees, due to symptoms, are facing memory and concentration problems. If we even offer them the facility to learn English in detention, that is just our goodwill. But on the other side, it does not have to be very successful for them. It is much better if they are outside detention and we do offer a support system for them.

CHAIR—Thank you very much for your presentation today and the very detailed submission you gave us. All of these submissions, as we said at the beginning, are very helpful in forming the committee's recommendations to the government and the parliament. You will be getting a transcript of what you said. If you have any corrections to that, give those to Hansard. If you have any further questions, please contact our very competent secretariat and they will be of assistance to you.

[12.47 pm]

COPER, Mr Edward, Campaigns Director, GetUp!

SAULWICK, Ms Anna, Rights, Justice and Democracy Campaigner, GetUp!

CHAIR—Welcome. Do you have an opening statement that you would like to give us?

Mr Coper—We welcome the formation of this committee. We would like to thank the committee for the opportunity to appear on behalf of GetUp! members. GetUp! is an independent community campaigning organisation that campaigns on a range of issues. We currently have almost 300,000 members nationwide. One of the issues that we have campaigned on over the last couple of years is the issue of inquiry here—immigration detention. The issue of immigration detention, and more broadly of asylum seekers in general, is one that is very dear to the hearts of many GetUp! members and we are very proud to have been actively involved in helping them voice their concerns on the matter.

To give you a brief history of some of the main aspects of that campaign, in 2006 when amendments to the Migration Act were before parliament we formed GetUp!'s largest ever petition, of over 100,000 signatures, against those amendments that would have seen children being put back into detention, which culminated in us skywriting 'vote no' over Parliament House on the day that the bill was due to go through, and the bill was subsequently withdrawn.

More recently, at the start of this year GetUp! members were asked to put forward their priorities to the new parliament. Thirty-two and a half thousand Australians participated in that survey, which we think creates quite an authoritative picture among our community of their priorities. Refugee issues rated quite highly within that. In fact, over 95 per cent of those 32,000 people rated the issue as important, with over 70 per cent of them rating it as very important. Earlier this year we started another petition aimed at ending mandatory detention, which gathered in a very short time 32,000 signatures. Ten thousand of those members who signed the petition also provided detailed comments to us in the form of their submission to GetUp! Those 10,000 submissions to us informed our submission to the inquiry, and we appear here today to act as a conduit to the broader community's thoughts about the issue and to represent our members' concerns over the last period of the issue and where they would like to go to from here.

Ms Saulwick—As Mr Coper said, our project was to consult with the community and gather their views on the regime and their vision for the future. We believe that in the formation of public policy community values are often relegated to a bit of a subsidiary role. It is assumed that they are incorporated into decision making as a matter of course, but we would respectfully submit that this approach is insufficient to safeguard some of our most dearly held values, and that abuses inflicted upon asylum seekers over the past decade are proof of the need for a clear and considered articulation of values when we are making decisions and formulating policy. To this end, our submission, which you have had the chance to read, or you certainly will have the chance to read, presents a set of principles according to which immigration detention reform

should proceed. We call it our charter of responsibilities for the reform of immigration detention, straight from the community to you.

The first thing to note from the comments made by our community is a profound sense of shame regarding the immigration detention regime. Thousands of people expressed the idea that the regime has made them feel ashamed to be Australian. Australians are a patriotic bunch, but we have a clear indication that they refuse to be blindly patriotic. This system has for an overwhelming amount of people called their collective values and national character into question. This striking feature of the submissions points to the magnitude of the task that lies before the committee in ensuring the harsh treatment of asylum seekers does not happen again, and also the task of restoring community faith in the immigration detention system. We would argue that community confidence cannot be restored if we maintain a dual system for processing asylum seekers via the excision of territory. This was a common concern among the member comments. We have signed up to the 1951 Convention on Refugees and should in good faith seek to uphold our obligations under that convention throughout Australia. This attempt to exclude certain parts of Australian territory is an implicit acknowledgement that we are either unable to settle upon a system of values for the treatment of asylum seekers or that, having settled upon such an approach, we are unable to stick to it.

My next point is about the review of the decision to detain. GetUp! and the broader community welcome the announcement that detention of asylum seekers will be as brief as possible and that it is to be applied only for the purposes of health, security and identity checks. We hope the committee will recommend the introduction of indicative time periods for that detention. Review of detention was one of the most frequent concerns amongst our members. It was part of the petition text and it also featured very heavily in the comments that were put forward by the 10,000 members who chose to submit. However, we are concerned that the proposed systems of review of the decision to detain are insufficient to satisfy the community that the system will be fair, transparent and accountable.

The final point I will make in this introductory statement is that there is a need for legislative change to drive this reform process. Once again, this was a very, very common theme among the comments that we received. We at GetUp! welcome the minister's statement on 29 July that the current system of immigration detention is fundamentally overturned, but we would urge the committee to recognise that the way we treat asylum seekers who cross the seas to seek our help should not be allowed to ebb and flow depending on who sits in the minister's chair or upon whether our horizons are clear and empty. The rule of law is premised on a calm and dignified consideration of the issues, especially the tough issues, and the formulation of a set of rules that will guide us to good decision making is incredibly important. This model of governance is what militates against abuses in our system and should not be cast aside in this important area. As many thousands of our members told us, real reform in this area will take a legislative form. That concludes my introductory remarks. We are both very happy to answer any questions that the committee might have.

CHAIR—I am pleased to hear that you welcome the changes to the criteria suggested by Senator Chris Evans, the new minister. Obviously from your presentation one of the two differences that you would suggest are no excision of any Australian territory, and judicial review, or certainly legislation that would mean that these criteria were put into black letter law. Are there any circumstances under which GetUp! supports people being in detention?

Ms Saulwick—We have to ask ourselves what do we hope to achieve by placing restrictions upon the liberty of asylum seekers. I think that the aims, as I understand them, are keeping that person under the attention of the department for the purposes of gathering further information for possible deportation and to ensure that those health, security and identity checks are conducted. GetUp! believes—and I think that our membership strongly believes—that there is a range of measures that will achieve those outcomes and that prolonged detention for the entire period of the assessment of an application for asylum is going too far. There are far more humane ways of going about it. For example, a preliminary checking process followed by release into the community with reporting requirements is one thing that we found to be a much more humane model.

CHAIR—So, you support brief detention to assess the initial health, security and identity checks, and then you want everyone released after that?

Ms Saulwick—I would agree with the statement that, yes, that is acceptable on the proviso that there were upper limits and also procedures that bring into effect a review mechanism on that detention. So, yes, a preliminary period of—call it detention, if you will—but perhaps restricted movement is probably necessary for the conduct of those health, security and identity checks, and we can accept that. Or perhaps we should limit it to health and security checks. But that beyond that detention must be justified. Certainly, the conduct of those initial checks should not be blowing out to months and years. It should be a matter of weeks, if that.

CHAIR—Your submission raises issues with media access to immigration detention centres, but the submission sources material from 2002 and before. Do you have any impression that this has changed? What do you think about the changes?

Ms Saulwick—I do not have updated information on that.

Mr Coper—We highlight it as an important principle to be upheld. As Ms Saulwick says, we do not have updated information since then to report back to the committee.

CHAIR—Do you think it is important for the media to have access to detention centres on mainland Australia? You would probably be aware that some media have been allowed to go to Christmas Island to see the unoccupied gargantuan stalag Australia built by the previous government—with apologies to the deputy chair.

Mrs VALE—From the information that you have got back from the members, what would be the most common issue that they raise? Is it the mandatory detention? Is it the mental health issues with migrants? Could you tell us what is the most common issue raised with you, if there is one?

Ms Saulwick—I think that as I indicated at the beginning, one of the most common things was just this profound sense of shame. Following that, leading to particular issues that were concerning to people, they found the fact that detention was indefinite to be abhorrent. They found the fact that there were no systems of adequate review befitting our democracy to be unacceptable. They did allude to the mental health implications. I thought it was really interesting to see the number of them that actually chose to identify personally with asylum seekers, to put themselves in the shoes of asylum seekers and say, 'How would I feel if it were

me?' I think that goes to a justification made in the political sphere that detention is necessary for either punishment or deterrence. That is not something that the community is any longer willing to accept. The extent to which they reject those illusions is reflected both in their frustration with what they view as rhetorical blurring or double-speak and also with the extent to which they have chosen to personally identify with asylum seekers themselves.

Mrs VALE—On the seven values that were articulated by the minister earlier, are there any values that you would like to have added to that list? Do you feel that covers the bases?

Ms Saulwick—That is an interesting question.

CHAIR—Your submission stated legislation and no excision?

Ms Saulwick—Yes, that is right. I think that we have review and we have review. We have detention and we have detention. It is important, when we are dealing with these values that were set out by the minister, to be able to apply this set of community principles to the interpretation of those values and to come out with a detailed legislative and regulatory response that ensures that the spirit of those reforms is carried through not only into practice now but well into the future as well.

Mr Coper—Our submission is aimed at ensuring that our response to this issue is framed by those values, and that is at the heart of it.

CHAIR—That is what your appearance today is part of. That is what this parliamentary inquiry is concerned with, and that is the implementation of the values set out in those criteria. Every submission is a help.

Senator HANSON-YOUNG—Do you think that your members in GetUp! would be shocked to find that we actually still have children in detention?

Ms Saulwick—Some of them would be less shocked than others. There is obviously varying amounts of knowledge on the part of different members. They probably would be, because the distinctions that are made between residential detention and detention in immigration detention centres have been glided over in the political sphere, I believe. It is an incredibly important issue. When the minister says as part of his principles that children should no longer be in detention I think it is really important that it be driven home that children should not be in any form of detention and those restrictions and that environment are toxic to children. That is borne out by the 100,000 people who signed our petition to ensure that no child is ever put back in detention. I think you hit upon a really important point.

Senator HANSON-YOUNG—In terms of articulating values that perhaps do not necessarily need to be articulated in the seven principles from the minister but in terms of articulating the values that we hold dear in terms of a fair go, treating people with compassion, humanity, upholding our international obligations, treating children with the special status that children deserve, do you think that a bill of rights would be a way of doing that?

Mr Coper—We look forward to the forthcoming public inquiry that the government has promised on a bill or a charter of rights. Certainly we feel that the discussions we are having

here arise partly from the lack of any formal statement of Australian values that the government or parliament can turn to in times when they are formulating policy. We know that GetUp! members strongly support Australia having a national charter or bill of rights, and we absolutely think it would impact in areas such as this very strongly.

Senator HANSON-YOUNG—What is GetUp!'s opinion on the topic of compensation for people who are now in the community but have suffered and are still suffering because of their wrongful detention or the impacts long-term detention has had on their mental and physical health and ability to settle in Australia like a refugee who came through a humanitarian exchange program?

Mr Coper—Firstly, we know that our members feel quite strongly about, before we get to the point of compensation, the bills that are being presented to those who have been in immigration detention and the stresses that that puts on the families—

Senator HANSON-YOUNG—Detention debt?

Mr Coper—Detention debt we know is an issue of priority for our members—granting amnesties from detention debt. On the issue of compensation itself, we certainly uphold the principles of the rule of law that where there is a wrong to be perceived it is remedied and, if that wrong has been committed on behalf of the government in part of its immigration detention system, we certainly would support there being remedies.

Senator HANSON-YOUNG—Moving forward, I know that you have stressed in your submission the need to ensure that any changes that are made are not just announcements relying on the goodwill of the minister or cultural change in the department; we actually need legislative change. Have you turned your mind to the idea of having enshrined in the Migration Act the need for a judicial review and perhaps even application and approval to hold people in detention?

Ms Saulwick—We have. We think that a proper system of review will improve the standard of decision making at first instance and that a proper system of review will also provide recourse for individuals who feel that they have been wronged by the system, and this is one of the primary demands, as I expressed earlier, in both the petition and the submissions. The system of review that is proposed at the moment whereby on the mainland review is conducted at three months by the department itself and at 12 months by the ombudsman and the system of review on Christmas Island whereby it is conducted by independent professionals, I think was the term that was used, is not going to satisfy our members in their calls for what they have called adequate review. I do not think that it is going in the long term in an absolute sense rectify some of the significant problems that we are confronting today and that we have an opportunity at this time to be able to address. I agree with your premise in the statement that perhaps a judicial review is the only way of ensuring adequate review. That is because, firstly, judicial review is independent, unlike having the decision maker review their own decision. Secondly, judicial review bodies, whether they be courts or tribunals, are empowered with sufficient powers to order people out of detention if they have been wrongfully detained. Unless you have that power it is formal review only, not substantive review. We think it is absolutely important that our review systems accord with the principles of our democracy so that review is not just in name only. That is one of the things that did come up a lot with members.

Mr ZAPPIA—On the issue of whether the policy announced by Senator Evans should be legislated, my question is this: if there were a bill of rights introduced and passed by our parliament and that bill of rights was consistent with the kinds of bills of rights we have seen in Europe and the USA would you then still say that the policy changes need to be legislated? That is the first question. The second one is: with respect to children, if there were reasonable cause to detain the parents, what would you then suggest should happen to the children?

Ms Saulwick—Addressing your first question first, the bill of rights that we have been talking about with our community is not one that is based on the US system but one that would be more closely aligned with the UK system, so it is a statutory charter, which is an important distinction to make for reasons that are not immediately relevant. We would argue that there should still be legislative change, because the laws need to have some stability in order to satisfy the community that real change is occurring. We cannot have—

Mr ZAPPIA—I just needed to know what—

Mr Coper—Yes, is the answer to the question, for the reason that a statutory bill of rights is an instrument to ensure that that legislative change is consistent with these sorts of values.

Ms Saulwick—I would also just make the comment that we have seen the problems and abuses that arise from a lack of regulation in this area and we can see what happens—

Mr ZAPPIA—Yes, but we do not have a bill of rights. That is why I specifically asked that question. The second question is: what would you suggest should happen to children if there were cause to detain the parents for a short-term purpose?

Ms Saulwick—I would argue that children should never be in an immigration detention centre but that they should still have access to their parents. I suppose in that situation alternative arrangements might be found. Whether they be community detention or residential detention I am not sure, and that is a matter for the committee.

Mr ZAPPIA—Can I ask you to express an opinion on community or residential detention facilities?

Ms Saulwick—That is not within my area of expertise.

Mr ZAPPIA—I raise the question because there were detention centres, there are transition facilities, there is residential accommodation, and there is detention whereby someone goes out into the community and has an officer of the department with them literally 24 hours a day. All of those could be described as having someone detained or under some kind of detention arrangement. Therefore, the question of the children is relevant inasmuch as I am trying to seek from you an opinion as to how you would deal with the children in the case where their parents need to be detained? Are any of the current arrangements that are in place, including the transition facilities or the community residential accommodations in your view appropriate?

Ms Saulwick—I would just reiterate that the specific solutions there are not within our area of expertise. What I am trying to bring to the committee is a set of values. Yes, they include the fact that children should never be detained, but they would also probably encompass the idea that

children should always have access to their parents, and that is a thorny problem but it is not my problem.

Mr ZAPPIA—Thank you. You have answered the question.

Mr Coper—Your question was based on the assumption, too, that the humanitarian thing to do is to keep children with their parents?

Mr ZAPPIA—Absolutely. That is also a child's right. I am trying to ask: how you would suggest you get over that?

CHAIR—It is a dilemma obviously.

Ms Saulwick—I suppose I would argue that the kinds of changes that we hope will come out of this process will mean that those situations will become more and more rare so that people are not in detention for all that long and we do not have these kinds of dilemmas coming up. I think that the examples in which we have real security or health risks that cannot be addressed quickly where a person needs to stay in detention are going to be very few.

CHAIR—There being no further questions, I thank both of you for representing GetUp! and for your submission. We appreciate your coming here. The transcript will be available to you for spelling corrections. If there is anything that you need from the secretariat you are welcome to contact us again. I am sure that you will look forward to seeing our report and some of the other interesting submissions that we have received.

Proceedings suspended from 1.14 pm to 2.00 pm

DOMICELJ, Ms Tamara, Director, Asylum Seekers Centre of NSW

CHAIR—I reopen this public hearing of the Joint Committee on Migration. I will not go through all the formalities that I spoke of previously when opening the inquiry, except to say that these are proceedings of the parliament; we do not expect people to give evidence on oath. We welcome Ms Domicelj from the Asylum Seekers Centre of New South Wales. We would welcome your giving us an opening statement, if you would like to do so.

Ms Domicelj—Yes, I would like to; thank you very much. I will start by thanking the committee for this opportunity to appear before it for a second time, following our roundtable discussions in May. I also acknowledge—and I apologise for it from the outset—that, as yet, we have not provided you with a written submission. We intend and undertake to do so. Our submission will outline matters of relevance to your third report regarding community alternatives to detention, as will my comments and recommendations now. As with all the policy work we do, my input is informed by the experiences and concerns of the asylum seekers with whom we work.

I will give a brief introduction to our service. The Asylum Seekers Centre of New South Wales is a very small, not-for-profit and independent organisation that is run out of very modest premises in Surrey Hills—a donated house. We provide a range of practical supports to community based asylum seekers. I emphasise that we work exclusively with asylum seekers who are residing lawfully within the community, some of whom will have had periods of immigration detention; we do not work with people who are detained under community detention provisions. I would say that we work in the gaps of the mainstream services. Since our inception in 1993, we have assisted over 3,000 asylum seekers. In the last financial year, we welcomed 250 new clients to our service and, during that time, we also continued to assist those of our existing clients who had urgent needs. At the moment we have an overall active caseload of around 400 asylum seekers, which is comprised of adults and children. People in our last intake caseload derived from 46 different countries.

Our vision is that asylum seekers, pending the expeditious resolution of their claims, be welcomed to Australia and provided with the opportunities to have a dignified and fair existence. We administer a number of front-line services, the most notable of which are referrals for emergency accommodation and critical intervention in relation to suicidality, homelessness et cetera. We provide a healthcare program and a range of recreational activities and supports. We also provide hot meals for asylum seekers.

The vast majority of the people with whom we work hold bridging visas. Such visas do not allow paid or voluntary work to be undertaken; do not give access to Medicare; and, in some instances, do not provide the opportunity to undertake formal adult study. As a result, these people are destitute and are often in that situation for protracted periods of time; they are utterly reliant on community support and charities to meet their basic subsistence needs. Some of them will be eligible periodically for the Asylum Seeker Assistance Scheme or the Community Care Pilot. I am about to comment on the Community Care Pilot, should you have questions, as we are on the reference group for that initiative. Along with many of the others who have appeared

before you, we welcome many of the recent developments in relation to onshore determination; however, we understand that there is a considerable way to go.

I will make a couple of additional statements in relation to our organisation. One is that I have identified that we have an active caseload of around 400 people; however, in terms of our staffing and funding, we receive no government funding whatsoever and are entirely dependent on philanthropy and donations from the public to sustain our operations. Another is that we are staffed by two full-time caseworkers; a part-time healthcare coordinator; a one day per week volunteer coordinator; a network of about 100 volunteers who provide front-line primary health care, prepare meals, run English classes and assist in a variety of ways; and me as director. So the caseloads are inordinately high for our caseworkers, and the level of need of the people with whom we are working is quite extreme.

I have said that, much like others who have appeared before you, we welcome a lot of the recent developments. We also consider that there is some considerable way to go, in terms of fair and reasonable treatment for onshore asylum seekers. In relation to the minister's recent announcement around changes to immigration detention, we are particularly heartened by the values that underpin his statement, specifically the commitment to preserving the inherent dignity of the human being; Australia's honouring its international human rights commitments and treaty obligations; and the emphasis that the Minister has placed upon developing our system so that people receive a swift and fair substantive outcome of their immigration matters and the message being sent that, if people's claims do not invoke our protection obligations, they will need to leave Australia. The human aspect of that often can be very difficult, but it is a principle that we support: where people do not invoke our protection obligations and do not have other compelling compassionate reasons to remain in Australia, the integrity of our onshore determination system depends upon their departure from Australia.

We are very pleased to have had some new opportunities in the area of working closely with the department on the design, implementation and monitoring of the Community Care Pilot, including the case management framework that underpins it. We sit on the reference group for the Community Care Pilot and we have referred a number of the asylum seekers with whom we work to that initiative. Some notable measurable improvements have flowed from the Community Care Pilot and the case management framework, including the alleviation of some of the extreme destitution and suffering that we as an organisation often see and also some assisted voluntary departures. For people who may have been here for some time and who have exhausted a lot of the avenues available for their claims to be reassessed, the opportunity to depart can be very welcome and useful. Nonetheless, it remains the case that, under current government policy, some asylum seekers at some or all stages of the determination process, despite their lawful status within the community, are destitute by either design or the system's deficiencies; that is sometimes for a protracted period of time, but it is always for an unknown period of time.

We wish to underscore that, in our opinion, critical to the success of the Community Care Pilot is the integration of four constituent components: health and welfare support; access to free, independent, comprehensive and credible migration advice; options for assisted voluntary return; and case management tracking of the progress of people's immigration matters, which is with the department of immigration. We have a number of recommendations that we will put more fully in a written submission. One is that, in light of the minister's announcement, mechanisms

be developed by the department, as a priority, to ensure that people are not released from detention into situations of destitution in the community. The easiest mechanism for that to occur would be to ensure that people are released on bridging visas that provide them with work rights, Medicare and, at the same time, opportunities for welfare and healthcare support. Close monitoring of those supports being available to people is needed.

We would strongly recommend that all detention debts be waived. We see the impact of that repeatedly, with people emerging from a detention experience with debts of $30,000, $80,000 or $120,000 and receiving letters to that effect shortly afterwards. We also recommend more broadly that the Community Care Pilot be seen as a key mechanism for providing fair and reasonable treatment to asylum seekers in a community environment; that provides a very real alternative to detention, as we have seen it. We recommend that all asylum seekers be deemed eligible for all aspects of the Community Care Pilot.

So we suggest that all asylum seekers be provided with work rights, from the point of lodgement of their protection visa application through to a substantive immigration outcome, whether it is a visa or a departure from Australia. Medicare should come with those work rights. Those work rights should be made available to people, irrespective of their mode of arrival in Australia, the time frame of the lodgement of their claim for protection and the stage of the immigration process at which they find themselves at that point.

We recommend that all asylum seekers, from the earliest opportunity, be given access to free, independent, credible and comprehensive migration advice. We believe that will help with the swift processing of people's matters. It will also assist the department to mitigate the likelihood of refoulement. We recommend that people be able to make their claims under a system of complementary protection so that, in the first instance, people can have matters that fall outside the scope of the refugee convention assessed administratively by the department. We have various other recommendations, but we will make them in due course.

CHAIR—Thank you very much for that presentation. I understand that you do not deal with people in detention; the people you are dealing with are asylum seekers. However, you must deal with some people who have come out of detention, bringing their bridging visas with them, so you do have some sort of interaction with the detention system. What proportion of your 400 people are on bridging visas that they have brought with them from the detention system?

Ms Domicelj—I have to come back to you with an accurate figure on that, so I will seek advice on that. But we certainly do see people who have had periods of time in immigration detention and who have been released on bridging visas. It would be the minority of the experience, but the consequences of being released on bridging visas without entitlements are really very severe and extreme.

One of the things that we have seen a lot of in the past is people being released on a bond or with a surety, where they require a guarantor. In those instances, we have often seen situations where people then are not eligible for any other form of support. The thinking has tended to go, 'Well, if they have been able to mount the bond, they must have access to alternative means of support. From what we have seen, that is very rarely the case. People will have gone to extraordinary lengths to raise that bond and, in fact, the bond is not their money. So often they

are released into situations where they are indebted to a person who has acted as a guarantor and provided surety and often they finds themselves in situations of homelessness and destitution.

CHAIR—I will drill down more into your 400 people. What proportion is on bridging visas and what are the types of those bridging visas? Do you have any clients on a removal pending bridging visa?

Ms Domicelj—Virtually all of our clients are on bridging visas. The exception would be people who arrived on another visa and are still on it. So they have lodged or intend to lodge a protection visa application, but they might still hold a tourist visa, for instance. But all of the people that we work with are on a visa and in the community, so they are lawfully in the community. The majority of people would be on a bridging visa E, the vast majority of which would not have work rights. The key reason for people not getting work rights, as you would be aware, is that they have lodged their PV application more than 45 days after arrival in Australia or they have sought ministerial intervention in their matter and the minister is not yet considering it.

CHAIR—Are there bridging visa Es that have work rights?

Ms Domicelj—Yes, sometimes work rights will be provided on a bridging visa E as well.

CHAIR—It would depend on the individual circumstances.

Ms Domicelj—Yes. We often see that where people are making their departure preparations at the end of the process. You asked about removal pending bridging visas. We have had some limited experience in the past of working with people who have been on removal pending bridging visas. We do not see many of those now. There were three people on our books at some stage who held removal pending bridging visas. Those visas, in themselves, are a form of limbo. Removal pending bridging visas give people access to Centrelink and permission to work, but those people are in a state of constant uncertainty and are not able to reunite with family members. Essentially, they are waiting for the time when they are going to be required to leave.

CHAIR—I am sorry to ask you a whole lot of factual pedestrian questions. There is no philosophy or metaphysics involved in this; we just need some of this for our records in order to build up a case. What is the incidence of homelessness amongst people on bridging visas without work rights, and what is the availability of accommodation in Sydney for people in those circumstances?

Ms Domicelj—The incidence is extremely high. There are two answers to that question. There is the answer that speaks to the people that we are aware of who are literally sleeping in a car or on a park bench. At any given time, we would probably be working with four, five or 10 people in that situation. But there are also the instances of people who do not have secure, stable and viable accommodation. They can be staying with friends or they can be staying in a short-term backpacker set-up, where their stay perhaps is being financed by a supporter in the community. But the instance of people who are on a bridging visa E without work rights not having viable accommodation is very, very high. People who receive support through the Red Cross will receive some assistance in relation to obtaining housing. But, for the people that we

work with who do not have that kind of support, most if not all would be in an extremely precarious housing situation.

CHAIR—Do some of those people who are homeless and on those bridging visas have children with them? Let us broaden the category to being in backpacker accommodation as well as homeless. Do they have children with them?

Ms Domicelj—We certainly see children in situations of untenable housing, yes; absolutely.

Mrs VALE—Do some of those people have mental health issues?

Ms Domicelj—Yes. Within our client group, the incidence of mental health issues is very high. Many of the people we work with are actively suicidal. Many of the people we work with have complex psychological conditions that require ongoing medication and, in many instances, they are not able to afford to finance that medication for themselves. We will always underwrite people's pharmaceuticals for life-threatening or serious conditions if they cannot afford it. But, yes, the incidence of mental health issues is very high. Often that is post-traumatic stress, and often there are a whole range of other factors as well.

CHAIR—What effect does being in those kinds of circumstances have on the children's education and mental health?

Ms Domicelj—Utterly debilitating; there is no other way to describe it. The sheer experience of living in circumstances where the entire family is placed under inordinate pressure as a result of destitution and uncertainty is devastating to a child's development. I would say that it is also devastating to adults. Obviously, in Australia, we tend to hold particular concerns in relation to children's wellbeing, but the adults with whom we work also suffer extreme consequences as a result of protracted destitution.

CHAIR—What happens, say, to a child in a public school? Does the school know that they are going back to live in a car or backpacker accommodation? What do they do?

Ms Domicelj—I am sorry; I will clarify that point. We are not aware of children with whom we work being in that situation at the moment; we are aware of children with whom we work being in untenable and unstable accommodation. In many instances, the children with whom we work are supported within a school environment. But, because we have two caseworkers and 400 clients, the nature of our casework is really very much about triaging. We do not often have the opportunity to develop close and ongoing relationships in the longer term with individual families and their supporters. In terms of the children we are seeing at the moment who are in schools, I would say that many of them would be in a supportive school environment, but there are limitations on what a school will do to assist a family directly. Sometimes there will be concessions made by schools in assisting with excursions and costs around schooling.

CHAIR—That is reassuring to some extent.

Mr ZAPPIA—Tamara, thank you for your submission. I have two questions. Firstly, how do people get to know of your service? Is it strictly by referrals or by other means? Secondly, on the question of people with work rights on their bridging visas, can you give me an example of

where someone has been given permission to work and what the circumstances were that led to that permission being granted?

Ms Domicelj—Yes, absolutely. In answer to the first question in terms of referrals, it is completely informal; it is largely word of mouth. Our statistics show that mostly people come to us through the community; friends or family refer them. We do occasionally receive referrals from the department of immigration as well. In terms of circumstances where people receive work rights, there will be a range of instances why that might happen. It might be at the end stage of the process. It might be because people have sought a ministerial intervention in their matter and the matter has been referred by the department to the minister for consideration, so the matter is being personally considered by the minister. At that point, if people can demonstrate a compelling need to work, they will often be provided with work rights.

Mr ZAPPIA—Perhaps I can interrupt you here. Are you implying that only the minister can grant that approval?

Ms Domicelj—No; I am sorry. The grant of work rights is departmental, but it is triggered by the minister giving personal consideration to the matter. Essentially, that means that the department has assessed the materials and decided that it is worthy of the minister's consideration. There are other points at which people might receive work rights. I mentioned previously the one based on their making preparations to depart Australia. People might receive work rights because they lodged their protection visa applications within 45 days of arrival and were lawful at the time. They may have lost those rights because they sought ministerial intervention; but then, when the minister considers their matter, it comes off. But it is quite erratic. There are times when nobody will receive work rights, there are times when there is departmental discretion to provide work rights and there are times when people will always receive work rights.

Mrs VALE—I might have missed this, but do you have any clients that might be participating in the Community Care Pilot?

Ms Domicelj—Yes, we do.

Mrs VALE—How have you found that to be working?

Ms Domicelj—On the whole, we are very supportive of the pilot. We think a very worthy proposition is that highly vulnerable people who are provided with a range of supports will be better equipped to make informed decisions about their immigration future. To date, we have seen that many of the people we have referred into the pilot have been provided access to only one stream of the pilot. In some instances they have only been referred, for instance, to the IOM for discussion about the possibility of assisted voluntary return. In instances such as that, we would be very concerned about the lack of a referral to other elements of the pilot—specifically the welfare and health component administered by the Red Cross and the migration advice administered by IAAAS as the provider. In some instances we have found that it achieves enormous results: once people's most extreme experiences are ameliorated—they are housed, provided with the medication they require and are supported in a range of other ways—they then are in a much better position to attend to the matters related to their immigration future. We consider it overall to be an immensely positive initiative. We have concerns about issues to do

with its implementation and the discretionary component of referrals within the pilot, but we do think that pilot has provided enormous benefit to the clients that we have had accepted into it.

Mrs VALE—Would you like to see it expanded?

Ms Domicelj—Absolutely. We would like to see its capacity expanded and it being endorsed as an ongoing program initiative. In fact, we think it is the mechanism to be used to effect the values set out in the minister's statement around detention in a community context. It provides the opportunity to ensure that people are not destitute, they are receiving appropriate migration advice and their claims are being prepared in ways that can be readily assessed by the department, the Refugee Review Tribunal, the minister and, should the matters go there, the courts. It also provides people with the opportunity to leave Australia in conditions of dignity and safety, if they themselves decide that is what they want to do. Another very important aspect of the pilot is that it engages the department in people's whole situation. That means that case managers within the department have the opportunity to consider all aspects of the person's case and to see them as a person—their 'people: our business'.

Mrs VALE—That brings me back to some of the comments you were making before in answer to a question from the chair. Do you see the government and the department having a duty of care to detainees that are released into the community? Do you have any view on that?

Ms Domicelj—I can only answer that from a lay or non-legal perspective. From a lay or non-legal perspective, I would say absolutely. It would appear illogical to have a duty of care in relation to people who are being detained and not to people who are residing lawfully in the community. We have seen over many years that people's situations in the community are very difficult as a direct consequence of the conditions of their visa. So it sort of steps beyond a duty of care. I suppose I would say that we have a duty of care not to place people in situations of enforced destitution.

Mrs VALE—Yes, in poverty.

Ms Domicelj—Yes.

Mrs VALE—If an increasing number of detainees is to be released into the community after a short time in detention, how would that impact on your resources and on your being able to support those people now? Do you understand what I am asking?

Ms Domicelj—Yes, I do understand the question. What we would see as a future is really a situation where an organisation such as ours was not required. One of the key services that we provide is triaging, so we refer people for emergency support elsewhere. We do not have the capacity to provide financial assistance to people. We engage volunteers to deliver services that are often life saving, but we do not have the capacity to provide a comprehensive service attending to people's needs. We would imagine that in the future, as an organisation, we would revert to being a small-community place of welcome that would receive people into the centre and refer them to organisations where they would be able to get assistance, but we would not do the kind of emergency interventions that we often are called upon to do now.

Mrs VALE—Ideally, the increase and extension of community care packages might fill the gap somewhat.

Ms Domicelj—Absolutely. We would recommend that the government adopt an overarching approach that sees all asylum seekers in situations where they are either given permission to work or provided with health and welfare supports if, for whatever reason, they are unable to work. Such reasons might be due to their pre-arrival experiences, their physical or psychological health matters or that they cannot find work. But we would recommend that anyone unable to self-support be provided with health and welfare supports while their matter is being quickly assessed. We strongly support the expedited processing of people's matters, with a timely decision being made at the primary stage and the merits review stage and with people also reaching the minister's office quickly. But, having said that, we are not in a position to sustain increased numbers of clients coming to our centre for support; we already are not a viable proposition.

CHAIR—We appreciate your being here and answering our questions. Sometimes, in the absence of others, people have to play devil's advocate and ask questions that they do not necessarily agree with. An argument for having bridging visas with restrictive conditions is that, if clients are working in the community and receive a negative decision, they will have difficulty in leaving the country and will not present for removal. Based on your experience, would you like to comment on that?

Ms Domicelj—We certainly do not see that borne out with the clients that we have. We believe that people who are provided with the opportunity to support themselves through a process are far better equipped to make the decision to depart Australia, if there are no prospects for them to remain. On various fronts, such as financial and emotional, we see it being far easier for them to make the decision to leave. We as a centre just do not see people absconding. We see people wanting their claims assessed. They crave the opportunity to support themselves while they are here, but they also want a full assessment of their claims. If people are advised by a credible, independent migration agents that they have exhausted their prospects, we see them realising that it is in their interest to leave and that they have no viable future in Australia.

CHAIR—Unfortunately, our experience is that not all of them get that advice from credible migration agents; they get advice from some unscrupulous people who often, for commercial interests, give them advice to fight on in obscure, incorrect ways.

Ms Domicelj—Yes. That is a major concern for us as an organisation. We see a huge amount of that. We see people who have received advice from either disreputable agents or people who have a commercial interest in prolonging their stay, or we see people themselves trying to pull together a claim where they really do not understand the ministerial guidelines.

CHAIR—Or even well-intentioned people, who are migration agents, who are just idiots.

Ms Domicelj—Yes, those who are not fully aware of the ministerial provisions. We believe strongly that providing people with free, independent and credible migration advice at an early stage and seeing that they have migration agents who provide them with advice in relation to complementary protection and the ministerial guidelines will assist them to make a decision to depart, if they do not have the prospect of remaining. Their being able to support themselves

while they are here and waiting for that decision will improve their capacity to make the difficult decision to leave Australia.

We would also say that, if people are being provided with that advice early on, it is far more likely that those around them, whether they be community supporters or others, will be working with them to encourage them to take decisions that are in their best interest. Where that advice is there and incontrovertible that they do not have a protection future in Australia, they will see that it is in their best interests to leave.

CHAIR—We thank you very much for your appearance here today; we appreciate it. If you have any questions about your transcript upon receiving it, please speak to Hansard. If there are any questions from the secretariat, please address your answers to Stefan or Anna. Thank you very much for your time.

[2.37 pm]

CURR, Ms Pamela, Campaigns Coordinator, Asylum Seeker Resource Centre

KARAPANAGIOTIDIS, Mr Kon, Chief Executive Officer, Asylum Seeker Resource Centre

PSIHOGIOS-BILLINGTON, Ms Maria, Principal Solicitor, Asylum Seeker Resource Centre

CHAIR—Welcome. Would you care to make some introductory comments?

Ms Curr—Yes. Thank you very much for the opportunity to speak to the committee. I would like to talk about what is happening on the ground. The primary purpose of our submission is to put to the committee the proposition that mandatory detention for asylum seekers should be abolished. I would like to tell you what has happened in the last three months. I just remind you that, in this time, we have heard new values of detention being enunciated and the proposition that detention should be a matter of last resort.

In August this year, a young woman with a valid visa came through Tullamarine airport. She passed through immigration without any problems. She got to the Customs desk, where they decided to search her luggage. They read her diary and surmised from its contents that she might seek asylum. She was passed back to immigration and was then taken out to the Maribyrnong Detention Centre and detained. As I have said, she had a valid visa; she presented no security concerns. Once you go into detention, you go into a black hole; nobody knows that you are there. If you do not know anybody in the community, how do you contact anybody? Even Red Cross—who are entrusted by most governments of the world to monitor places such as Abu Ghraib and, I believe, Guantanamo—in Australia do not get a list of the names of people who have newly arrived in detention centres. No-one knows that you are there.

This young woman sat in her room in terror for four weeks. She was given a lawyer, which is a mark up; in the past that did not happen. She had a gender based claim and she was given a male lawyer, and it is not surprising that her claim was turned down. At that stage, one of the nuns who visits regularly, was told about her by other detainees and she called her out. We from the community were then able to get her a female lawyer from a community legal centre. That young woman's very strong claim was recognised and she was released on a permanent protection visa three weeks later. I guess I am asking why a young woman who presented no threat to the Australian community, who had come from very horrific circumstances, should have to spend eight weeks in detention. That is not a one-off. Other young men, who came in for World Youth Day, were detained in Villawood. They came on valid visas; they were detained.

Presently in Maribyrnong there is another woman, a doctor's widow. A doctor's widow in Australia might be accorded sympathy; this woman certainly deserves it. Her husband was killed in a country where thousands of doctors are regularly killed. This woman came to Australia through an airport. She did not have valid documents. She was placed in detention. She has been there now for three months, even though she has produced documents, speaks the language and

has the appropriate modes of dress, style and conviction that make her identity very easy to ascertain; she has been very open and honest about it. But she is still waiting, sitting in a detention centre—I guess you would ask why—at great financial cost, if you want to worry about such a cost, to the Australian community. And what about the emotional cost to her? She has lost her husband and left her children with family, and this is the situation.

I notice that the Ombudsman, in his evidence, told the committee that in most cases—in fact, in over 90 per cent of cases—in his dealings with all the other government departments, his recommendations are accepted; but, when it comes to immigration, less than 45 per cent of his recommendations are accepted. The Ombudsman has made recommendations in less than half of all the 450 cases that he has examined. We are not talking about a strong monitoring system. We do not have an external monitor; it is us.

I am contacted by detainees, just as they contacted me about Cornelia Rau in November, nine weeks before she was found. They said, 'This girl is sick; she shouldn't be here.' One of them actually said to me, 'I think she's Aussie girl; she talks like Aussie girl'—when we all thought she was German. I am saying that we have relied upon the vulnerable people in detention centres to alert us to the sick, the tortured, the suicidal and the physically ill, such as the young man who nearly died. He had abdominal pain and was told that he could not see the doctor for two weeks. By the time they operated, his peritoneum was full of pus and he nearly died.

This system is brutal. It does not work. It is going to cost us enormously financially. It is costing us our reputation. Here we have a government that wants to see us as the good global citizen once more. The UN Committee against Torture, in May this year, recommended the abolition of mandatory detention—and you cannot get much higher than that. So I leave it with you. I am willing to answer any questions. I say to you: you have a unique opportunity, more than anyone else. It is now in your hands. If you make a nice soft fluffy thing and say, 'Yes, detain them for a month, two months or three months,' it will go on. Mandatory detention has to go. There is no reason for it. Other countries do not do it. Look at the rest of the world. Nobody does it. In the UK, Europe, Denmark—run down the list—there is no mandatory detention. I ask you to please consider this, when making your recommendations.

CHAIR—Thank you.

Ms Psihogios-Billington—You have heard from Pamela about what is happening on the ground right now in this climate of, I guess, hope for and optimism about change; we do not see it like that. I would like to talk to you about the cost of keeping this policy. Kon will talk about the myth of those changes that have been raised recently. I want to talk about the cost of the impact on asylum seekers in our failing to meet their physical, psychological and most basic human rights and needs; the staggering cost to the community of running these detention centres; the cost in litigation, which is recently becoming the trend, both for damage done to people for wrongful detention and, I have no doubt, a whole host of other cases soon to come to the fore; and the ongoing cost to this country. I would like to talk about three cases that I have been involved in that, for me, brought this point home.

On 17 August, last year, the department of immigration attempted to remove an asylum seeker. At about four o'clock on a Friday afternoon, I received a telephone call from a distressed fiance. She said to me, 'My fiance is on the way to the airport.' I was completely shocked at this for a

few reasons. Firstly, this man had just come out of a psychiatric hospital in the preceding days and, in the credible assessment of every doctor who had seen him, was unfit to travel. Secondly, he had a ministerial request pending; we had not received a decision about that, and there were compelling grounds for him to be considered for a humanitarian intervention.

I immediately rang his case officer. I made phone calls back and forth for about the next hour, trying to ascertain where my client was and whether the removal was actually happening—'Let's get down to the facts.' His case officer informed me, 'Yes, he's on his way to the airport; he's being removed.' When I asked to speak to a case officer from detention, I was told, 'You can look it up in the yellow pages.' At 4.15 that Friday afternoon, we received a fax that was, indeed, notification of the decision refusing this man ministerial intervention. This decision was dated 15 August 2007, two days before we finally received it. We received it on the Friday afternoon, when our client was on the way to the airport.

Our client had a history of self-harm and depression. He was detained under the policy of mandatory detention, when first arriving in Australia. He had spent about a year in detention and had deteriorated rapidly during that time. He was released on a bridging visa E because of his mental health and the provisions in detention being inadequate to meet his mental health needs. In the community he had spent about a year working, coping and complying with his bridging visa E conditions—no problems. Then, on 2 July 2007, due to a glitch in the computer system, his bridging visa elapsed, and he was not aware of it. Under the policy of mandatory detention, he was redetained; there were no two ways about it. In the preceding days, he had called to try to find out the status of his bridging visa—'How many days do I have left? When is it going to expire?' No case officer got back to him. So, on 2 July, according to the system, his bridging visa E elapsed, his home was raided at dawn and he was taken in by the police and redetained.

In detention, he rapidly deteriorated. He attempted to self-harm by eating his car key. He was admitted to Toowong hospital. There were three divergent assessments on whether he was fit to travel. On 10 July, he was not fit to travel due to his mental health; on 14 July, he was fit to travel. On 1 August, he was fit to travel only to Toowong hospital to receive psychiatric treatment. When discharged two weeks later from Toowong, it was stated, 'He needs psychiatric review of his medication and mental health follow-up.' This did not happen. A day later, his removal is put into motion. This treatment was only possible because of the policy of mandatory detention, which fails to meet asylum seekers' every basic need.

Let me tell you about a case that affects the most vulnerable in detention—those who have suffered torture and trauma. On 16 October last year, an asylum seeker was deported to his country of origin. He had been tortured in his country of origin, and this had been proven by a medical report. In detention, where he spent almost two years, he was diagnosed with major depression and post-traumatic stress disorder. In detention, on several occasions he attempted to take his own life in the most heinous of ways. On the day prior to his removal, he was taken to an isolation cell. He was given suicide prevention clothing, he was handcuffed, he was helmeted and he was left alone.

CHAIR—What was done to him before he was left alone?

Ms Psihogios-Billington—He was helmeted, for his own protection, and then he was left alone. At 3 am that morning, he was injected with sedation. He awoke on the aeroplane. During

his detention, he had sought appropriate psychological care, which one of the most reputable external providers in Victoria was willing to provide. I had made a written request to the department for access to enable this to happen. My request was blocked. In August 2007, Detention Health Services, through an email to his case officer—which was intended for me—said, 'He has seen the visiting GPs and registered nurses on a regular basis; IHMS have advised that there are currently no concerns regarding his mental health.' I am aware that the committee has heard evidence to the contrary, regarding the sedation of immigration detainees at the point of removal. This is not our experience, and I invite you to investigate these matters further. I have also tried to obtain documents under freedom of information to find out exactly—

CHAIR—Are you saying that in this specific case or in wider cases? Are you making the allegation in this particular case? Are you saying that it is happening widely or more than we think, or it is happening just in this case?

Ms Curr—I wish I could answer that question with certainty. I have tried to obtain documents under freedom of information to find out who knew what, what happened when and who signed off on what, and I have not been able to do it. So I cannot answer that question with certainty to say that it is only this particular case or whether there are more. But I invite you all to investigate these matters.

CHAIR—Please go on.

Ms Psihogios-Billington—Thank you. There is an asylum seeker currently in detention; we have just come from visiting him. At year's end, he will have spent 4½ years in detention. He has fled from his country of origin because of religious persecution there. In May 2007, he was diagnosed with 'a major depressive disorder which is reactive to his very difficult circumstances'. This year he was diagnosed with 'severe anxiety and depression with panic episodes, pervasive sleep disorder and persistent suicidal thoughts'. He is on heavy anti-depressant medication as well as medication for chronic stomach pain—4½ years.

In September last year, the former government attempted to remove him largely on the basis of charges pending against him in his country of origin, which we submit are intricately linked to his claims for protection. On the eve of his deportation while still in detention, he swallowed razorblades and was admitted to a psychiatric hospital. In the intervening days, we were able to obtain High Court injunctions preventing his removal and have his immigration case reopened. He is currently fighting for a protection visa. We have made at least three requests for this man to be released into the community pending resolution of his immigration matters. There is no need for him, after 4½ years, to remain in detention, given what he is going through. Each of those requests has been refused—each of them. The more recent was in May 2008 under the current minister, and this particular client formed part of the review of long-term detainees.

On being told of the adverse decision, it was assumed that our client would attempt to self-harm. He had no intention of harming himself. He had appeals to prepare for. He had assistance to render all of his legal advocates. He was not interested in harming himself—not at this point. Detention staff though made an assessment that, for his own good, he should be transferred to an isolation cell. He never copes in an isolation cell; he goes backwards. Despite his protests that he did not want to be transferred to an isolation cell and saying that he would not harm himself, he

was transferred. When he got to the isolation cell, he found that there were used razorblades left behind there in the sink. He stayed in that isolation cell for five hours.

The costs of this policy to this asylum seeker are unspeakable, unthinkable. The costs of this policy to the community are staggering—operational costs, litigation costs and the immoral policy of making former detainees pay for their immigration detention. Pamela has referred to what this policy has done to us internationally. I reiterate that the UN Committee against Torture in May was explicit: end mandatory detention and end excised offshore processing centres. The time for the end of this costly policy has come.

CHAIR—Thank you very much.

Mr Karapanagiotidis—If you wonder what the future of a policy of mandatory detention in any form will look like, all you have to do is look at its history and what is happening right now. The reason that we have this human cost is that mandatory detention is unworkable, unnecessary and unjustifiable. There is an alternative. Detaining in any form people who are seeking asylum will damage them; it will traumatise them.

I have been running the ASRC for 7½ years and, in that time, I have assisted 7,500 people. The stories that stay with me and haunt me are those of the people with whom I have worked in detention. I try to understand what sort of policy could create the suffering that I have seen and heard of: the little 10-year-old girls who, while in the Maribyrnong Detention Centre, ate their own faeces; and the men on hunger strikes for 28 days who then slashed their wrists and used their own blood to sign farewell notes on the walls. I think about a mother who waited for her daughter to leave to go to school and then tried to crush herself under an electronic hospital bed, in the hope that her daughter would not be returned. What sort of policy creates this? I think back to a few years ago and the poor man who, after 5½ years in Baxter, turned up and asked me to help him get back into detention because he did not know how to cope on the outside. That is what mandatory detention does. I think of the children with whom I worked who stitched their lips together, and the men with whom I worked who tried in every possible way to poison themselves, slash themselves, bury themselves—to kill themselves.

What sort of policy does this? It is an unworkable policy. This rubbish that 30 days, 60 days or 90 fucking days is somehow going to create a humane mandatory detention policy is a lie. Every day that you detain someone, you break them. Every day that you detain someone, you humiliate and degrade them; you rob them of their liberty, of their freedom and of their very being. I think of two poor young Afghan men who have been in Maribyrnong since June, waiting on identity and security checks. In 16 years of mandatory detention, show me one Afghan terrorist as our reward for this policy. Mandatory detention is unworkable. The blood on the former government's hands is everywhere. The broken men that I work with, who walk the streets of Melbourne, who spent four, five, six and seven years in detention, are dead inside. For them, that life, liberty and hope are gone forever. This policy of mandatory detention is not just unworkable but also unnecessary.

What do we know about undocumented arrivals? We know that they are the most oppressed and the most persecuted. I know three things. My organisation and the Hotham Mission together were the ones that pioneered alternative detention in this country. We were the ones who cared for people who otherwise would have died in detention. The reason that this is not an inquiry

into deaths in custody is that organisations such as ours across this nation have done the work of this government. People otherwise would have died; they would have killed themselves in detention. Over 200 people were released into our care. They were undocumented arrivals whose cases were still on foot. Many of them had identity, health or character issues to be resolved. Not one of those people in our care every absconded. We know that undocumented arrivals are the ones who are least likely to abscond.

The second thing we learned about undocumented arrivals is that they are the ones who are least likely to have any history of criminality. Tragically, they are the ones who are most likely to be the victims of criminality and persecution. Not one in the 16 years of our policy of mandatory detention has been found to be a terrorist. The fiction that mandatory detention is built on, which I will get to shortly, is a pile of lies.

What is the third thing that we know? Apart from the fact that they are the least likely to abscond and the least likely to have a criminal record of any group of asylum seekers in this country, the third thing that we know is that they are the ones most likely to be found to be refugees. I have acted legally for some 6,000 asylum seekers in the last seven and a half years. In my experience, undocumented arrivals are four times more likely to be found to be refugees.

So the ones that we are subjecting to this onerous, immoral and brutal policy of mandatory detention are those most likely to be found to be refugees—more than 90 per cent of undocumented arrivals, during our policy of mandatory detention—those least likely to abscond and those least likely to have a history of criminality. Mandatory detention is unworkable, unnecessary and, most critically, unjustifiable.

Mandatory detention is based on a body of lies—the myth that we need it for health checks, security checks and identity checks. Our fear prevents our saying, 'Let's abolish it because the human costs, the financial costs and the costs to this country are too great; they are unbearable, untenable and unacceptable.' We hold on to it; we somehow think it is protecting us. Yet we go it alone. We are the only developed country in the world to have such a policy. The US does not even have such a policy. The UK, Sweden, Denmark, Canada and New Zealand do not have such a policy. Why do we go it alone in this?

Let us start with No. 1: 'We must have a policy of mandatory detention for the sake of health checks.' Millions of tourists come to this country every year without having a health check. I can talk just about community based asylum seekers who come here on tourist visas and apply for protection. The public perception is that, upon their applying for protection, there must be a rush to health check them. It is about a month after applying for protection before they are asked to do a health check. They are given another month on top of that, before they have to do that health check. If they miss that deadline, it is no big deal. At least two months pass.

People say to me, 'But, Kon, what about tuberculosis and HIV?' As the organisation that runs the only health service for asylum seekers in Victoria, we are the ones that treat most of those cases of HIV and tuberculosis. And what do we have to do when they are found with that? We call up Health Services Australia and, within four weeks—not the next day, not within 24 hours—we have to fill out a form called an 815 health undertaking. I have four weeks to call Health Services Australia to let them know that I am working with someone with tuberculosis or HIV. We do not lock them up; nor do we deny people asylum on the basis of their health. I have

never heard a bigger load of rubbish than mandatory detention being necessary for the sake of health checks. Where do we do it in the community with asylum seekers? Rightly, we do not do it. We never detain them under any circumstances, because it is a health issue and not a border protection issue.

The second and third great lies upon which mandatory detention is built are the ideas of security and identity. I invite the committee to look at the facts and figures—and not just at the fact that we have not had one single terrorist in 16 years of mandatory detention policy. Show me the war criminals, the mass murderers or the convicted murderers—show me anyone. What would the figure be? It would be 0.001 per cent of the 20,000 people that the UN Committee against Torture says that we have detained in the last 16 years. We detain them all, and there are those who will not be getting out in one or two months—'In three months we'll review it; in two months we'll review it; in 30 days we'll trigger it and the health and identity checks will go quickly.'

It will be those who are the most vulnerable and who have suffered the worst who will not be able to establish their identity for the purpose of a security check, like those two Afghan men in Maribyrnong. They are into their fifth month and likely to be there for a year, possibly longer. We know that identity checks regarding their country of origin are a nightmare. Most Afghans do not even know their date of birth. So we sit there and say, 'Well, once they have done their security check, we'll let them out.' What if they cannot demonstrate their identity? Who are we protecting here? This idea that undocumented arrivals are a threat to our national security or a threat to our country is a lie. There are no facts to support this. This is just the politics of fear. This is the most debased of policymaking and panders to the lowest common denominator. It is a lie that we need mandatory detention for health, security and identity.

Finally, there is an alternative. Imagine this system: a person arrives undocumented to this country. If they have a fixed address they are allowed to go and reside there. That is what they do in Denmark and Sweden. If they do not, they are placed in a community hostel. That also happens in Canada and New Zealand. Let us say we ask that person within 48 hours to present to be interviewed by an immigration officer so they can get necessary information to start their health, identity and character check process. There are lots of other ways of proving identity, such as asking questions about where that person is from that you could not otherwise ascertain.

I need to just stop and mention one other thing. When we work with community based asylum seekers who are found to come on fraudulent travel documents, that is the passport is fake and it is not their real name. We have had 10 like that in the last year. We have not done health checks or character checks and their document is not real, but not one of those has been detained, because there is no need to. With character checks that people are asked to like police checks with form 80s to get police clearances, they are given two to three months to do that because this government and this department knows that asylum seekers are not a threat to our country.

I would like to go back to the alternative. Within 48 hours they are seen by an immigration officer and get the information to start. They are then giving a living allowance to support them until they apply for protection. They live in a community hostel or at a fixed address that they have to provide and demonstrate. Let us say we give them 28 days in which to apply for protection. We provide them with a lawyer. We can bring an end to dodgy migration agents by IAAA funding, the provision of asylum assistance, by not allowing private agents to charge for it

and to have a legal aid funded model that could be shared among the community to ensure quality assistance. People lodge within 28 days. They are then given the right to work, health care or a safety net if they cannot, and the process is humane and fair. This is what all other western countries have a variation of. This system that I am imagining could happen tomorrow. It could happen right now. Mandatory detention is unworkable, unnecessary and unjustifiable. This alternative could work.

The community sector has been doing this alternative for the last seven or eight years. This government needs to have this policy. It does sit in your hands with the recommendations you make. Any period of mandatory detention is unacceptable, immoral and is going to damage people. It is the cost to them, our country and our international standing. You cannot trust this system to umpire itself because it is unworkable. We ask for it to end. Thank you.

Mr ZAPPIA—Thank you for your very passionate submissions that you have just made. I would love to dearly stay and hear the other questions and your answers to them, but I can assure you that I will read the transcripts later on. I have one question for Ms Curr. The case of the woman that you referred to earlier on, being the very first example you gave, did that occur after the policy change announcements by Senator Evans or was she detected prior to him releasing that change?

Ms Curr—I am not absolutely certain. I think the two events happened within days of each other.

Mr ZAPPIA—Is Senator Evans aware of that case?

Ms Curr—It is very hard to get through the gatekeepers, but I hope he is. I hope he is aware of the woman who is still in detention, being the doctor's widow.

Mr Karapanagiotidis—We can check those dates.

Ms Curr—I can give you that information.

Mr ZAPPIA—I do not know if it is appropriate for us to seek that information, but if we could be provided with the names of those people, I would certainly be interested in them.

CHAIR—I have already asked the committee secretariat to do that. We will be in contact with you privately about that.

Mr ZAPPIA—Thank you very much.

Mrs VALE—I would like to thank the three of you for a very powerful presentation. I assure you that your presentations are recorded in *Hansard*. Quite frankly there is a heck of a lot to digest there. I have no personal questions for you right now. Give me a day and I probably will want to ask you questions. Your presentations have been very powerful and given us a lot to think about.

CHAIR—I have a question for Mr Karapanagiotidis. When we visited you in Melbourne you told the committee that, despite the positive changes to immigration policy last year, 2008 was your busiest year. Can you tell us why?

Mr Karapanagiotidis—It has been the busiest in about three years. No doubt a lot of new people have been brought in and we are getting a lot more community based asylum seekers seeking our assistance. Since 1 January 2007 we have had 2,150 new people come to our centre seeking assistance.

CHAIR—Since January?

Mr Karapanagiotidis—Since 1 January 2007.

CHAIR—Is that new people?

Mr Karapanagiotidis—New people coming to our centre. We are an organisation that has a ethos of turn no-one away. The department of immigration sends hundreds of people to us every year. Everyone refers to us. We are busier than ever before. There is a bigger issue, which I know today is not about, but that ongoing policy of destitution of people is what breeds this requirement of people coming to us. The people that come to us, some of them have been undocumented for periods of time and others have just newly arrived. We are flat chat because this government continues to fail people in providing any basic safety net. That is why I am saying it is busiest I have been probably since 2005 because nothing has changed for asylum seekers in the community under the Rudd government; there is nothing for community based asylum seekers. I am talking about asylum seekers on bridging visas. Nothing! Not one thing. That is why I am the busiest I have been in years. They are poor and destitute.

Mrs VALE—If asylum seekers or people of any kind of bridging visa cannot access your services for legal advice, what option they have? Where do they go? I suppose you cannot tell me what you do not know, but are you aware that other people cannot get to you at all?

Mr Karapanagiotidis—I will tell you a really quick story about a man we are assisting at the moment. He had come from a country quite far away. He looked at a map and tried to find a country that was the safest country that he could get to, as far away as possible from his country. He saw Australia as the country. He got down here, arrived in Sydney, looked at this map and thought, 'I'm still not far away enough from my country. I have got to get further away because they will find me.' He hops on a bus and gets down to Melbourne. He is still scared. He is like, 'I have got to get away from here. I am still not far enough away.' He looks at the map again and sees Tasmania. 'I will get to Tasmania.' Gets down to the port. They ask him for documentation. 'Can you show me your identity?' The man has nothing. They say, 'I know a place that can help you.' They give him $20 and they send him down to the Asylum Seeker Resource Centre. They sent him to our old address, which is a street away in Jeffcott Street, which is now a law firm. He arrives there. One of the lawyers takes pity on him and takes him down to the next street and brings him to us.

Often it is pure chance because this government does not tell people when they seek asylum where they can go for legal assistance. They refer sometimes to us, and they are doing it more and more. They do not tell people about the 45-day rules. A lot of the time it is pure luck as to

whether people get to us or not, and as long as there is some small chance of winning their case, we will take it on. We are just overwhelmed at the moment in trying to manage this because there is no government support. Our entire law program is completely non-federal and state government funded. There is not a cent and we are one of the largest pro bono providers in this country. It is just pure luck whether people get to us half the time to tell you the truth, and the other half the time it is the Red Cross or the department sending them to us.

CHAIR—I hate to press on, but we have other people we are going to be discourteous to if we do not get to them. I have a question for Ms Psihogios-Billington. It appears that there are increasing numbers of people being released from detention into the community on bridging visas. Is this positive in your view? Is bridging visa E causing as many problems as releasing them?

Ms Psihogios-Billington—The release in and of itself is obviously welcomed. There can be no justification for someone's detention. We have seen the proof of that this afternoon. All of us were impacted by going out to Villawood and seeing what it has done to a man who has been there for 4½ years. My only concern with releasing people on bridging visas is, again, not providing them with entitlements. How does one make it? How does one have it all together to be able to assist in their case, to be able to instruct their migration agent when they are worried about where they are going to get their next meal from? It is just so unnecessary and punitive. At the end of the day it is also punitive. Yes, releasing them from detention is welcome, but releasing them into the community with very few supports is not.

CHAIR—It does seem incongruous to me that, given all of the work that you do, you do not have any government funding.

Mr Karapanagiotidis—We have approached the community services minister and she knocked us back for our first request. We have approached the health minister. We have been trying for months to meet with her.

CHAIR—I assume these are federal ministers and not the state.

Mr Karapanagiotidis—We are talking about at the federal level. The last government would never have thought to give us a dollar.

Ms Psihogios-Billington—We would not have asked.

Mr Karapanagiotidis—We normally would not have asked with the last government, but with this government where we have asked—

CHAIR—You have no philosophical objection to it. It is just a matter of the requests that you have made have not been agreed to yet; we have not met the people yet, but these things are in process. Especially if we are releasing people from detention and you are having to pay for the consequences, then it would seem logical that the extra burden be thought of down the road.

Mr Karapanagiotidis—There is money there. I can take one quick financial example. The amount we are spending in this year's budget on detention would fund the Asylum Seeker Resource Centre for 106 years. For every dollar that we are spending on detention in this

financial year, for every $10 we are spending on detention centres, we are giving the Red Cross $1. It is $12.7 million to the Red Cross and $121 million to detention. The money is there now. It is just that this government is squandering it and wasting it on locking people up, rather than spending it on things like the IAAAS scheme and expanding that to give all asylum seekers representation to funding asylum seeker NGOs properly. There is even the Community Care Pilot. We cannot get people with terminal illnesses into that Community Care Pilot because it is full because this government underfunds it by about $20 million.

CHAIR—To be fair, it is a pilot. That has got to be expanded. We have to see the success of it, which I am sure will be seen.

Mr Karapanagiotidis—We initially had a year in pilot. A recommendation was made to the Rudd government to end it being a pilot because it had a year of success, and they chose to make it a pilot for a second year. Every organisation, including ours, endorsed the Community Care Pilot and said it was more needed than ever before. It is just about money. There is money there right now.

CHAIR—Do you get money from Red Cross?

Mr Karapanagiotidis—No. Ninety-four per cent of our funding comes from philanthropy and the goodwill of the community. Six per cent comes from state government that we share with the rest of sector, what is called the Network of Asylum Seeker Agencies. We are completely grassroots community funded and the largest organisation. We are looking after 3,000 people.

Ms Curr—The state government, to their credit in the last two years, have assisted us with rent for our building because we had to leave the last building.

Mr Karapanagiotidis—They are the one government that has at least tried to support us and give us a fair go.

Mrs VALE—Can you access Legal Aid at all? In any other area of law, with very discreet examples, you can apply to Legal Aid just because you have got a client that has got a need. We have had the national Legal Aid office here. Do they have their own dibs on this particular area of law?

Ms Psihogios-Billington—Legal Aid has its own well respected area of practice in this area of law. Where Legal Aid funding is available is for judicial review. Often when good law gets made when you want to test a case and make a good law from it, unfortunately Legal Aid's criteria for funding to take cases to judicial review is very strict, and because of the time constraints in this jurisdiction there is not enough time to prepare a court application, get pro bono assistance from a barrister which is required, given that each case must be commenced only where there are reasonable prospects of success, and the funding requirements from Legal Aid.

Mrs VALE—In family law you can go to Legal Aid to get support, but you can also be a private solicitor.

Mr Karapanagiotidis—That is not available at the primary stages. That is why there is so much exploitation of asylum seekers in the legal process with thousands of cases of negligent practice because it is not government funded; all asylum seekers must have that.

Mrs VALE—Is there any rationale for why you are not able to access Legal Aid at the primary level?

Mr Karapanagiotidis—We are just not eligible in the area of asylum seekers in terms of refugee law. There are no funding guidelines that allow that.

Mrs VALE—Is that just an administrative thing?

Mr Karapanagiotidis—And a federal funding direction.

Ms Curr—I would like to ask you one small thing. In January this year a man died in Villawood, a 'Mr P'. All the other deaths that have occurred in detention or in hospital straight from detention were investigated by coronial courts. In this instance it was not investigated and I would ask the committee to look into the circumstances of the death of this man, because I have been told three different versions of where he died. It may be that he died in the centre in the early morning. It may be that he died in hospital. What is known is that for five months he wanted to go home, was physically not fit to travel, was stopped from going home and he died in our detention centres without getting care for his heart condition.

CHAIR—Anna is going to be in contact with you about the specific cases that you raised at the beginning of your testimony. She will be in contact with you about that and about the three different versions of the story. As a PS in a letter to the minister I can assure you all of these things will be systematically followed up. I appreciate the fact that you have come up and we appreciate your testimony. I am sure the senators would agree with me that it has been very specific and very powerful, as I would expect from you. You will get a transcript from Hansard and if you have any questions of Anna you will be able to come to the secretariat and ask those questions. There is a whole lot of testimony and I urge you in future presentations that you make to government that you read in order to see the context in which you are saying some of the things that you are saying. For instance, there is a very interesting table that we are going to be presenting as a supplementary on the number of charges that have been made over the years and the actual amount of money recovered. There are a lot of useful interesting documents in the testimony for this committee, which will be very useful and very helpful. Thank you very much for your appearance.

[3.29 pm]

MILNE, Ms Frances Lillian, Chairperson, Balmain for Refugees

PRINCE, Mr Shane Eric John, Counsel, Balmain for Refugees

CHAIR—I welcome Balmain for Refugees. I am sorry you have been delayed. As you can see, we have had a lot of people testifying today.

Ms Milne—I represent Balmain for Refugees; the Bridge for Asylum Seekers Foundation, of which I am a member; and also the Coalition for the Protection of Asylum Seekers.

Mr Prince—I am a barrister at the State Chambers in Sydney. I undertake quite a lot of pro bono refugee work in judicial review matters in the Federal Magistrates Court, the Federal Court and the High Court. I am often contacted by Bridge for Asylum Seekers or Balmain for Refugees to help with people they have identified as needing assistance.

CHAIR—Would you like to make a brief opening statement?

Ms Milne—As you know, we have written a very comprehensive submission ranging from a number of anecdotes about the people we meet in detention in Villawood and also the broad principles that we think should pertain. We support the people that we have heard before us from the Asylum Seekers Centre and the Asylum Seeker Resource Centre in Melbourne. So that we do not go over the sound ground I would like to focus on some of the more extreme situations that we face.

I would point out in starting that Villawood now receives most of the people who are coming in to detention. Therefore, we have the additional challenge in Sydney of coping with people who are still in detention and, again, with the same difficulty of finding pro bono resources to deal with all the things we meet up with. We thank you for being here at this time on a Friday afternoon. We realise by this time you must be feeling a bit dazed about it all, and yet this is the first time we have had an opportunity to put our position to you. We feel that we are now holding a very heavy load on behalf of asylum seekers presently in detention and those who have been released.

I would like to start off with an anecdote about a family of Chinese background that we have helped over the years, the tragedy that went on from the time they were in the detention centre to the time that they were released into the community, and the very long periods of time it took to make a decision in their case. They were a family of three. They had a young daughter. When the parents were picked up and put in detention they made sure that their daughter was not picked up and put her with a group of Falun Gong practitioners so that she would not be identified as a part of their family and would not go into detention.

I met up with the family, not realising that in fact the parents were married to each other, when they each separately asked for assistance. That assistance was claimed with urgency when the father had been part of some 35 people who were separated out from Villawood to meet up with

people from the Chinese consulate who were sent in without any support from immigration to make sure that the process undertaken was fair and were questioned without any representation of their own about who they were and why they were trying to stay here. The claim of immigration later was that the aim of this visitation of these mainland Chinese people from the consulate and from the police was to identify who these people were and therefore assist with the imminent removal of almost 40 of them.

We quickly came to the breach with numbers of the people who were in isolation not able to even get phone calls out to anybody other than lawyers—most of them had no lawyers by this time—and therefore it was back to the community and back to pro bono lawyers coming in to put up court cases as immediately as they could so that that would stop any removal of people who now were substantially vulnerable to the fact that it appeared that the mainland Chinese who had been sent by immigration to review them knew their cases, had papers and documents to check out where they lived and who their family members were and this, we felt, put them all in great danger should they be taken back. As far as I am aware, following the ministerial intervention requests that we put in after this matter and also going to the courts, none of those were then subsequently removed from Australia.

In the particular case we are talking about, when it was found that the father was about to be removed, the mother confided in me that indeed she had a daughter out in the community that they had not seen for 2½ years who was hidden there so she could never be put into prison as they were and that that daughter had been told that she must now move because the Falun Gong group had been getting media attention and they could not guarantee that child's safety. Therefore I raced to get the child into some formal arrangement, managed to get the mother out of detention to be with her, but the father was left in detention and was given no information about how he might join the family.

This brings together a whole lot of issues about men who are kept in detention while families are outside. He became utterly suicidal. On a particular event when all the detention centre had to be evacuated for fears of asbestos poisoning, they were put in a hotel and he tried to commit suicide. The wife was threatening that. The police came and shot the whole lot of them at the end of the day with stun guns, apart from the daughter. They rushed her, threw her on to the ground and took her outside. The parents were taken immediately to hospital, they were in such distress. The daughter was left completely alone until I and Mr Prince caught up with her.

CHAIR—How old was she?

Ms Milne—At this time she was 14.

CHAIR—When was this?

Ms Milne—It was about three years ago that that episode happened. That family is only just getting over that. Some of the effects of the stun guns being used on their bodies have not completely disappeared. The issues there represent a range of things that do not go well for people who are in detention when they are not given enough information, when men are separated from their families in order to get children outside detention and where those that are supposedly trained to negotiate with people about not committing suicide have no skills whatsoever, as far as I could perceive, and I am able to justify that because I was able to

intervene by phone about who was doing what during that whole thing. I put this to you simply to say that many times we have faced very dramatic scenarios in Villawood and there are not the resources to deal with those, apart from our voluntary groups, like the resource centre down in Melbourne, that have no paid support from government.

CHAIR—Have you ever applied for it?

Ms Milne—Yes. We have asked for the Bridge for Asylum Seekers Foundation to be funded by government.

CHAIR—State or federal?

Ms Milne—Federal. We received a reply to say, yes, the federal government realises that we are supporting people on bridging visa E, that we are doing a very commendable job, but at this point they are approaching having some policy in place and they will not at this point be dealing with our question about monetary support. There seems to be little likelihood that we would get funded to assist.

We do not know what is likely to come out of this and our concern is that we have got people still in detention. Even if we accepted a three-month limit, I doubt anybody is in detention that has been there less than three months now. Most people in Villawood have been there up to two years now, with some more than two years. We are concerned that the policy or the stated objectives of the government have not been met. We are also concerned that the strains of being in the community waiting even a longer period to have their cases determined is ultimately as destructive as we have seen it for people in detention. Maybe what we need to do is cut to the chase because many of our anecdotes are very similar to the ones that you have heard. We will not go into them in any detail. I just gave that particular family history because it is so very dramatic and it has taken many of the processes that require pro bono support.

The thing that we would like to go to most is not the territory you have already covered with many of the other groups but to say the thing that keeps people the longest in detention is the refugee and humanitarian determination processes. We have put up to you a fairly well considered set of proposals. I do not know whether you have had time to read them, but those proposals have quite alternative ways of going about this, not least of which is the well supported complementary protection so that we are dealing with both people who should get humanitarian visas and those that do meet the narrow categories of the refugee convention.

The things that we would like to see would be, for instance, three-member panels in any appeals tribunal. It is absolutely unacceptable that a single member is able to ultimately make a decision on the life and possibly death or torture of others. We only have recourse to the courts or to the ministerial discretion. You will have already covered with many other groups what the problems are of that process. I will ask Mr Prince to give some feedback on our thinking on these cases, because we do need to have a faster and fairer determination process, one that we can have confidence in so that we do not have to keep going back to the minister, because we who have spent lots of time in fostering trust and knowledge about particular asylum seekers know that they are likely to be in danger. It may take us three or four submissions to the minister to ultimately persuade him. Fortunately that has been successful on most occasions.

CHAIR—Mr Prince, would you like to say something briefly?

Mr Prince—Yes, I will. My grave concern is that an enormous amount of taxpayer money is being wasted through this process, primarily because the process of judicial review and extensive appeals to the courts is often focused on as a problem and it is said that refugees are stringing out the process by going to the courts in trying to get intervention and bringing unmeritorious claims.

That argument really belies the whole problem in the system, that is that once somebody gets to the Federal Court and is seeking judicial review in the very limited and technical way that it can be sought, the damage has already been done. That is because when they arrive in Australia they do not have any support. They often fall into the hands of unscrupulous migration agents who are charging extraordinary amounts of money for filling in forms. I have seen many cases, unfortunately, where migration agents have provided assistance, taken money, and not indicated their names on the forms. I understand there was some administrative system in the past where if a certain number of failed asylum applications were put in, the migration agent would then be put under review. So if there was any claim that was even marginal there was a disincentive for the migration agent to be completely involved, although they would still take money. They are unregulated. They do not need to have any level of professional qualification. Often times, unfortunately, a lot of the trouble comes from community members themselves where they speak the language of the person who is applying, there is a high level of trust built up between the agent and the person applying, but not necessarily a degree of professionalism in terms of the advice that is being given as to how to follow the process through.

I have one case at the moment where a person saw an agent. The agent did not tell them what the story was that was put into the application form. Told them before they went to the tribunal, 'Look, you cannot tell the tribunal that. You have to tell the tribunal that you wrote the story that is in your application form, otherwise you will lose', and then this person gets sucked into this vortex of lies and the tribunal then thinks that they are a liar and then will not believe anything they say. The whole thing just becomes a Gilbertian farce.

CHAIR—We have received lots of testimony which makes us understand that anyone who is seeking to assist a refugee who is a migration agent needs to have a higher degree of qualifications than they currently do in order to even reach the threshold of being allowed to make such applications.

Mr Prince—It is a very simple thing to do. As I said in the paper, you simply require a migration agent to be legally qualified.

CHAIR—I will have to hold you there. We will need to move to the round table. We have a whole lot of asylum seekers and refugees who have come in. We would like to ask you a couple of questions before we move to them, so we need to do that in five minutes. Mrs Vale, would you like to begin?

Mrs VALE—Yes. I would like to ask a question of Ms Milne. As you heard, the previous witnesses were very much set on the fact that we should just get rid of detention altogether. Do you share that same view?

Ms Milne—Yes. You will see that the opening rhetoric in the submission is very strongly of that mind. However, we have said if in fact the minister is set on his three-months, then the only thing that he ought to take any notice of ultimately is the health of people. If they need to be treated in any way, then you need to deal with the health issue. As pointed out by the Asylum Seeker Resource Centre in Melbourne, it is an issue that is almost a non-issue. People come into the country freely all the time and it is simply a face-saving device, but there is no real reason why we should have mandatory detention at all.

Mrs VALE—With the couple that were hit by the stun gun, what was the reason for using such a violent measure? Were they armed or what was the cause?

Ms Milne—I would rather not give precise details at this stage. I am happy to give it you in some other form as long as it would not be published. They thought that it was a dangerous situation.

CHAIR—I said we should not go into that. I would appreciate if you could speak to Ms Milne privately about that, if there could be an exchange of telephone numbers. The committee would like to know that, but probably not in these circumstances.

Ms Milne—If it is acceptable I would like to edit any specifics that are in that anecdote so that there would probably be less ability to identify the family.

CHAIR—Obviously, because we have this constraint of having this round table now, anything that you have not said this afternoon you are welcome to email to us and we will try to include it as an additional submission. Mrs Vale, do you have any more questions?

Mrs VALE—Yes, one more question. Do you have any comments that you could make generally on the process of removal? Do you have any concerns?

Mrs Milne—We had a situation about a month ago when my team of young solicitors and I had put in very strong and ultimately successful ministerial intervention requests. Two of the people that we were dealing with were unknown to us, being prepared for removal within 48 hours. When we heard this we had to trigger complaints from the minister down to say, 'This is dreadful. The ministerial requests have already reached Canberra. There is no communication with Sydney. Removal is now taking place. Stop those removals. These people have never had any support from migration agents in the process and no information in their own languages.' I will not go into the whole thing, but I might say that it turned out very well because the director of New South Wales came and met us and agreed that our organisation should be integrated into the removal system, so we now have a procedural sequence. I thank him for getting this into place so that that does not happen. That is not to say it did not happen last night again, because communication is not perfect in that very big organisation. We at least have some way of not being seen to have to run to newspapers every time or just to shriek hopelessly down a telephone knowing the minister will not ever hear about it.

I am very concerned about removals. We are concerned about what ultimately happens to people. We have given some anecdotes on this and I will not go into them. All of them expand into long scenarios. We have followed up some people who in the past have been killed. One

man recently committed suicide because our government had no policy in place for bringing people back who clearly had shown that they were wrongly identified as not being refugees.

CHAIR—Last question before we turn to our roundtable. On page 15 of your submission you talk about an alternative, albeit unsuccessful, detention pilot scheme which you have some experience with. Can you-perhaps not in great detail now, but by written submission—give us a scheme that would work and would have the least impact on detained people?

Mrs Milne—I am making a distinction between this and community detention. As far as I am aware, if I had had more time I would have said that this has been scrapped, that it has been found not to be successful, because nobody can give 24-7 attention to somebody. I do not think it is even operating any more. I put that in because I was not clear where it was at. It may still be functioning, but I have never been approached again. I know of nobody else that has been approached to put a care plan in position that has somebody with that person 24 hours a day. I do not think that is how it is necessarily happening now, but I may be wrong.

CHAIR—If you have other proposals that would have the least impact on detained people and would be willing to put it in a supplementary submission, we would be willing to entertain that and be very interested in it as well. The secretariat will make efforts to find out whether there are any individual community care programs still in existence, although I am sure you are right in that you suspect it is not in existence any more.

Mrs Milne—Yes. Our main theme today is that we need a proper determination process. We have no confidence, on the whole, in many of the decisions of the Refugee Review Tribunal. We do not find the people necessarily professional who are taking those positions and these things have been brought up in many other inquiries prior to this date.

CHAIR—Thank you very much for your appearance today. I am sorry it is constrained by our other friends here.

For procedural reasons, I will now end the formal meeting of the committee and we will move to an informal arrangement. First, I call upon a member of the committee, the deputy chair, to move that the committee authorise the publication of evidence now before the committee in its hearing today, including evidence we will take in an informal session now, with the exception of the full names of people in community detention who are here today and any other identifying details that may be withheld by the secretariat after providing advice to the chair and the deputy chair. There being no objection, that is so ordered.

I thank everyone who has participated here today. I now ask everybody not participating in the roundtable to leave the room.

[3.56 pm]

CHAIR—On behalf of the Joint Standing Committee on Migration, I would like to welcome people in community detention and their children to this public hearing today. I understand that most of you would have gone through some inconvenience to get here today and I thank you for taking the time to come and speak to us. It is very valuable for members of parliament to hear from people who are affected by our country's detention policies to hear about your experiences. As we mentioned in our invitation, we are working on an inquiry into immigration detention in Australia and your stories will help the committee to form a view about whether community detention is a good option for some people. At the end of our inquiry, which hopefully will be by the end of the year we will make some recommendations to the government. Your talking to us will help us advise the government what to do.

We have closed the room to members of the public and media to protect your privacy and allow you to talk to us more comfortably. We would still like to publish a transcript, which is what the Hansard people do, of what you say in our report, but the committee will not publish your full names or any other personal identifying material. After this discussion, if you feel you have said something you want kept private, please speak to the committee secretariat and they will cut this evidence out. Because we have got people who speak English, Mandarin, Cantonese and Korean this is difficult for all of us, especially for Hansard, but I ask everyone to be patient and we will do the best we can. I congratulate Mr U on receiving a visa recently. Congratulations on that. Could you one by one around the room introduce yourself to the committee, tell us where you come from and two minutes about your case?

Ms K—I came from Hong Kong. What else do you want me to say?

CHAIR—Could you tell us a little bit about your case, your story?

Ms K—I did not really want to repeat what happened in the detention centre. I was there for quite a long time, six years, and I have been out in the community now for more than 12 months. If I repeat what went on there, it would make me psychologically hurt again. I do not want to repeat what happened before.

CHAIR—We understand. Is there anything else you would like to tell us about your life now?

Ms K—To me, as far as I am concerned, there is no difference whether I am in detention. I am out now. I am still living in hope. I need medication to help me to calm my nerves—all different other things.

CHAIR—Are you working now or are you allowed to work?

Ms K—We are not allowed to work.

CHAIR—Would you like to work?

Ms K—In my physical state at the present time I could not do any work.

CHAIR—Are you getting support from any community groups?

Ms K—I have support from Red Cross.

CHAIR—Do you have any family in the community or any relatives?

Ms K—I was in detention for such a long time I lost contact/touch with other people. I have a younger sister here. To me everything is virtually isolated.

CHAIR—There is no contact with your young sister?

Ms K—Yes, I have.

CHAIR—You have contact with your young sister. I see. Is there anything you would like us to know as a committee that we could take back to the government?

Ms K—I would dearly love your support to submit to the government that to me it is no different whether in there or out here, because virtually I am living on hope; I am always very anxious inside. I am virtually depressed. Really I would like to solve that problem. I have no appetite. I could not sleep. The medication mostly helps me to settle mental state.

CHAIR—Does Ms K have a faith community or a church community that she belongs to?

Ms K—Due to my mental state as such I have not joined any church group, but I am a Christian.

CHAIR—Is the Red Cross able to help and support her with friendship? She has support from the Red Cross. Does that help her in any way with making social contacts?

Ms K—The Red Cross care about me. They introduced me to a psychologist. Apart from that, nothing really more than that.

CHAIR—Thank you very much, Ms K. Mr U, congratulations again on your visa. Can you tell us your full name, where you are from and a little bit about your story particularly as it affects immigration detention?

Mr U—I cannot say much because it is very hard for me, you know. I came from my country to Australia, to Sydney airport, and then from there to immigration detention centre. I have been there for 22 months.

CHAIR—Twenty-two months?

Mr U—Yes. I was inside detention before I come out. But first of all, before when I leave my country I lost my family through government forces. The army killed my parents before I came to Australia. At the airport I see my brother, but I lost my parents, and then they took me to detention. Since then I was over there. Now I come out, in just the last few months, 23 June. Then last week they approved my visa from the minister. I am waiting for my clearance. But I was there for 22 or 23 months. I had no sleep. Just taking sleeping tablets for 22 months, day and

night, including pain killer. I used many types of pain killers over there. I am still taking pain killer now.

CHAIR—Do you envisage that one day you will work?

Mr U—Not yet. I just got my visa. They just approved my visa last week. And I have to do my clearance, police check and health check, before they issue my visa.

CHAIR—Do you know how long that will take?

Mr U—I am working on my police check now. I have to send it to my country, which I did today. So, I am going to medical check-up on Monday. After police check come back, I will give to immigration. They will look at it before immigration issue me with my visa. Whether I have a criminal record in my country or not. Waiting for that.

CHAIR—Have you got family or friends or people who support you in the community?

Mr U—I do not have anybody now. I lost my parents, both sister and both brother. I did not know anybody here before I came to Australia.

CHAIR—Are there people from your country here who you know or do you not know anyone?

Mr U—I do not know anyone. Sometimes I met somebody.

CHAIR—Mr U, where did you come from initially? What country did you come from?

Mr U—Nigeria.

CHAIR—And you have no family or no social support here in the community?

Mr U—Yes.

CHAIR—Do you have a message you would like us as a committee to take back to the government to care for people better in any way? Is there anything you would like us to tell the government that they should do?

Mr U—The detention place is no good, because I am still having many types of—

CHAIR—Do you have a psychological or mental problem because of your time in detention?

Mr U—Yes, because I have spent a lot of time there with nothing to do, just thinking, and I was too stressed and taking a lot of tablets. It is very hard.

CHAIR—Do you have any support in the community? Do you have any community groups like Red Cross or anyone supporting you?

Mr U—Yes, immigration gave me community detention. I get support from Red Cross.

CHAIR—You get support from the Red Cross?

Mr U—Yes.

CHAIR—Do you have any other community groups? Are there any other Nigerian friends that you have in the community?

Mr U—No.

CHAIR—Do you find it hard to make friends, to find people?

Mr U—I am making friends little by little, because I do not know who is who because of my condition and what I have in my background. That is why it is step by step, little by little, you know? Because I have problem where I work in Nigeria. I live in the oil area.

CHAIR—Do you have any training/skills at all or would you like to work if you could?

Mr U—Yes, I want, when they issue my visa, to work and pay my tax. That is what I wanted to do. Because I have to have surgery. Even if I am not having surgery, I want to work and make myself feel better, you know? I am waiting for them to issue my—

CHAIR—That is the big thing really, isn't it? It really would help.

Mr U—Yes.

CHAIR—Did you work in the oil industry in Nigeria?

Mr U—I used to live in a different state in Nigeria, which is where I was born. I worked over there and then I have a problem over there, because we are killing each other over there. I am involved in the youth council for the area. The government want to kill me actually. So, before I left they shot my parents.

CHAIR—Thank you very much. I am sorry to hear about the death of your parents and your family. It must be very difficult being in a new country under those circumstances. If we can hear a little bit about Mr W and Mrs Z. If we can hear a little bit about them, where they come from and two minutes about their story in immigration detention.

Mrs Z—I am from mainland China. And my husband is from Hong Kong. And we met here. After four years we had visas. So my husband has been here about 10 years now, and he is in detention centre for about two years—24 months. After we got the second baby—I am pregnant—I want my husband. My husband applied for the community detention for one year, but the department never say yes. So, with my baby in my tummy I am driving to Canberra to talk with somebody; I want my husband to come back home. Then the department let me go into housing living with my husband. I went into the detention centre for about four months with my husband and my whole family. After four months—I think it was July—we go to the community detention this year.

CHAIR—Which detention centre was it? Were you in Villawood?

Mrs Z—Yes.

CHAIR—Both of you?

Mrs Z—Both, yes.

CHAIR—When you said you were allowed to live with him, were you living in the house, the community detention?

Mrs Z—No. When I came to the Villawood community centre we live in the housing. Before my husband was just living stage 2 about two years. Yes, that is right.

Mr U—Stage 1, I was there then.

Mrs Z—Yes, we are together.

Mr U—Stage 1, then stage 2 and stage 3, in the housing. It is stilled called detention.

CHAIR—We have been there so we understand what you are talking about. Can you tell us a bit more about your experience in detention?

Mrs Z—For me?

CHAIR—For both of you?

Mrs Z—I think my husband has got more experience than me because I am just coming about four months. He was in Stage 2 for a long time. Maybe he can talk about the detention centre.

Mr W—When I was put in Villawood Detention Centre in July 2006 at that time my wife was looking after our three-year-old daughter. My son from a previous marriage was 22 years old at the time. I was in the detention centre and my wife was outside looking after them. For all my financial support I depended on my wife. She was working at that moment to support her family. When I was put in the detention centre I was really worried about my family, because I was in the detention centre and my wife needed to support our family. How could she deal with it if I am in the detention centre? By the way, my son had depression, a psychological problem. When we came to Australia my son was studying at the college to be a chef. Because of his mental problem he left the school. Plus, it is not affordable for me to support him to stay in college.

In the detention centre I suffered from insomnia. I cannot sleep at that moment. Every day I rang my wife about my family situation at the time I was in Villawood Detention Centre. When I was detained in Villawood Detention Centre it was up to my wife to find a job to make money to support our family. At that moment she had a few jobs. Every day around 6 am she left the home and worked till about 10 pm, when she can come back home. Until January 2007 the Red Cross approached us to look after us. Because Red Cross approached us to look after us in our situation everything improved. Since March 2007 I was allowed to visit my family once per fortnight. But from July 2007 I was prohibited from visiting my family again. I had no idea why I was

prohibited to visit my family. I did not know what the reason was. But at the moment my wife was pregnant.

CHAIR—You arrived in Australia in 2006 and you came from Hong Kong?

Mr W—I came to Australia in 1998 from Hong Kong.

CHAIR—And you came to Australia without a visa to work?

Mr W—When I came to Australia in 1998 at the time I had work permission. The visa was valid for two years.

CHAIR—I understand. We might ask Ms L and Mr L if they could give us some idea about where they come from and a short description about their story with immigration detention.

Ms L—I came from South Korea. It is very noisy here and I feel very nervous. I really do not feel like telling you what has happened in the detention centre. I was very scared while I was there. I have been hospitalised for quite a few months because of the psychological problem. I had been taking medicines while I was at the detention centre. When I was released I was okay temporarily, but I got the problems again. I started feeling scared and I could not get some sleep, so I have an appointment with a psychiatrist next week to see if I can get some more prescriptions.

CHAIR—Ms L, thank you for coming today and for sharing with us so we can go back to the government and tell how the government how we should deal with people who come to this country. Thank you for your courage and thank you for taking the time. This is an important message. This is an important inquiry so we can make sure that we do not make the same mistakes again. Do you have any support in the community?

Ms L—No.

CHAIR—No Red Cross support or community groups?

Ms L—I have a bit of support from the Red Cross.

CHAIR—You have no friendship groups or family groups?

Ms L—I had some friends before I was in detention, but once I was released I lost all my friends. They do not contact me anymore.

CHAIR—I am deeply sorry and I do apologise. Is there anything Ms L would like to tell the government through this committee?

Ms L—Even if I am released from the centre I cannot work, but I am a woman and there are a lot of nice things I can see that I would like to get for me, but I cannot afford to buy them. It is very frustrating. I feel very sorry as a woman for myself. All my belongings before I went to the detention centre have all disappeared. And I have to live very basic life just to survive. I feel

miserable. For people who can work and who want to work it has to be granted to work. I will ask government to let us work because I want to work.

CHAIR—Ms L has a visa that does not allow her to work?

Ms L—I do not have a proper visa.

CHAIR—What did Ms L do in South Korea? Did she live in Seoul, and does she have family she is in contact with there?

Ms L—I am not contacting my families at all at the moment.

CHAIR—What happened to all your possessions before you went into detention?

Ms L—It was all of a sudden.

CHAIR—Yes. I can understand. It is a very big thing for a woman to lose her possessions.

Ms L—I was taken from my home to the detention centre, so I do not know what happened.

CHAIR—So she had no time to organise anything?

Ms L—Not at all.

CHAIR—Thank you. That is a very special message to take back to the government. Could Mr L please tell us something about where he comes from and his circumstances?

Mr L—We are a married couple. We were in the detention centre for eight months. My wife was hospitalised for four months, needed four months while we were in the detention centre. I was there the whole time. Because it happened to us all of a sudden. Because we did not have enough time to pack things and manage whatever we left behind, maybe all our belongings lost and gone to someone else without our permission. I had a lot of difficulties and inconvenience at the detention centre. One thing I really want to tell you, it was a big change in my life. I used to go to church, but now I have become a more sincere Christian. Maybe it was of benefit to me spiritually. It gave me a chance to read a lot of books.

I have been released for three months now. As my wife mentioned earlier, we are living on a very basic life; we are just surviving at the moment. We have no ways to meet and enjoy meeting other people, or help other people at all. I would like to live as Jesus instructed to us that we are meant to support other people and help other people. I am not in a situation to help other people at all.

CHAIR—Do Mr L and Ms L have a church group that they belong to?

Mr L—Yes, we go to church.

CHAIR—Do the people in the church support him? Are they helpful?

Mr L—We are not really belonging to one church because we do not have a proper visa.

CHAIR—Is Mr L not allowed to work, either?

Mr L—We do not have any visa at all. We were just released. That is all.

CHAIR—Can you tell Mr L he can go to whatever church he wishes. He does not need a visa to go to church.

Mr L—With the Korean church they have regular gatherings every week. They go to someone's house and have a gathering and read the Bible and whatever, but because we are in such an unstable situation we cannot really participate in those groups and I just do not feel comfortable to go to the meeting.

CHAIR—I see. What would Mr L and Ms L like for their future lives? Would they like to work and get a visa? Does he have a specialty of work that he does?

Mr L—I majored in mechanical engineering in Korea, so if I am given a chance I would like to get a job in that area.

CHAIR—Has he got any opportunity to learn English, or any support from the Red Cross? Have people in immigration put him in contact with other people who can help him and his wife?

Mr L—I was trained for first aid by Red Cross. I got the certificate recently. My wife studies English at Auburn library three times a week for free.

CHAIR—Is Mr L learning English too?

Mr L—There are classes only for the beginner so I do not really go. But my wife goes to English class.

CHAIR—Is Mr L beyond the beginner stage?

Mr L—Yes.

CHAIR—You can tell him that is very good that he is learning English and that we need mechanical engineers in Australia.

Mr L—Can I tell you something else that I want to tell you?

CHAIR—Yes, please.

Mr L—I can understand we are given very basic support financially from government. It is really free money without me working. I should be appreciative. I would rather go to work and make money instead of getting free money from the government. If that cannot be worked out to let us work, I would like the government to give us some concession rate especially in transport,

like bus fares and train fares and things like that. I would like to get a concession. There is only one particular medical centre or hospital where we are allowed to visit and see the doctor, but for my wife, because she cannot speak the language she has a lot of difficulty when she sees the doctor. She wants to see a Korean doctor, but they are not on the list that we are allowed to visit. I would like my wife to be able to visit a Korean doctor.

CHAIR—The message I received is that it is important that our newcomers to Australia have access to doctors from their nationality. I think that is something very important. It is a very important message. It is important that we should know that. I would like all translators to apologise for me, but my wife is waiting for me at home and I must catch a plane. Thank you very much.

ACTING CHAIR (Mrs Vale)—Mr L, do you have an application in for a visa?

Mr L—We are in the process of appeal.

ACTING CHAIR—You are in the process of appeal?

Mr L—Yes, to the immigration minister.

ACTING CHAIR—Thank you for coming here today. You have an important story and it is important for us to be able to record it and to make sure the government understands. You are the kind of people that will build Australia's future and you are just the kind of people that we need. I am personally grateful that you both came today. Thank you very much.

Mr L—Thank you very much.

ACTING CHAIR—Ms L, I am so sorry about your personal possessions and your furniture. I do not know the answer to that, but I will be making personal inquiries to find out why people's possessions are not put in some sort of storage so it is there for them when they come out. As a woman I understand her distress. Thank you very much, Mr L and Ms L. Mrs Z, thank you for coming today. You were in detention. Can you advise how long you were in detention?

Mrs Z—Fourteen months.

ACTING CHAIR—I just wanted to clarify if you were in a detention centre?

Mrs Z—One year and two months.

ACTING CHAIR—What detention centre were you in?

Mrs Z—Villawood Detention Centre.

ACTING CHAIR—How long have you been out of detention?

Mrs Z—I was released on 31 July this year.

ACTING CHAIR—How old is your little baby?

Mrs Z—Less than two months.

ACTING CHAIR—Congratulations. Where did you come from?

Mrs Z—Mainland China.

ACTING CHAIR—Do you have any particular skill? Do you have any training?

Mrs Z—No.

ACTING CHAIR—We can train you in Australia. Would you like to be trained? Would you like to have a job?

Mrs Z—Yes.

ACTING CHAIR—Do you have any story that you would like us to tell the government? Is there anything you would like to tell us?

Mrs Z—I am really concerned about my baby. My husband has a valid visa here, but I do not have one. If I am sent back to China that means my daughter and I will be apart, so I am really worried about my future.

ACTING CHAIR—Your husband has a valid visa?

Mrs Z—He is a temporary resident. He has a three-year visa.

ACTING CHAIR—Does Mrs Z have an application in for a visa?

Mrs Z—Currently I am preparing a letter to the minister, but I am not sure whether I can be granted a visa.

ACTING CHAIR—You can tell Mrs Z I have given her my card. Would she contact me to let me know the outcome?

Mrs Z—Yes.

ACTING CHAIR—Thank you for coming and sharing your story with us today. You have a beautiful little Aussie girl there and we need to keep her here with you.

Mrs Z—I have the same visa condition as my husband.

ACTING CHAIR—She has the same visa condition. I see. Thank you for coming along today. Are there any questions from our guests to us as a committee? I would like to ask, through the interpreters, if the people that are preparing letters to go to the minister are getting any help?

Ms K—I have a solicitor.

ACTING CHAIR—Ms K has a solicitor who is helping her prepare a letter. Mr U, are you preparing a letter to the minister or have you got your visa?

Mr U—Yes.

ACTING CHAIR—Mrs Z?

Mrs Z—The Legal Aid helped me to find a solicitor.

ACTING CHAIR—The Legal Aid is helping you find a solicitor. Do you have a solicitor yet?

Mrs Z—Yes, I have a solicitor.

ACTING CHAIR—They will help you prepare?

Mrs Z—Yes. We already received a letter from the minister and we were asked to check and the police are checking. All this has been done.

ACTING CHAIR—It has been done?

Mrs Z—Yes. We are still waiting for the response.

ACTING CHAIR—Thank you very much.

Mr L—The application is already submitted and we had help from Frances.

ACTING CHAIR—From Frances who is here?

Ms L—Yes. We were told we would get an answer in about two months, but it is dragging on and on. I am getting a bit nervous and impatient because we do not get any response from the government.

ACTING CHAIR—I have given Mr L and Ms L my business card. They can write to me if they do not get an answer in another three or four weeks and I will chase that up personally.

Ms L—Thank you.

ACTING CHAIR—Ms L has already expressed that she has had difficulty in finding a Korean doctor. Have our other guests also had difficulty in finding a doctor from their nationality?

Mrs Z—We do not have any problem.

Ms L—Maybe I misinterpreted to you. There are a lot of Korean doctors that I can find, but we are not allowed to visit them.

ACTING CHAIR—Yes, we understand. You mean doctors that are accessible to you?

Ms L—Yes.

ACTING CHAIR—I understand. Thank you for clearing that up. Mrs Z?

Mrs Z—I have a Chinese speaking doctor.

ACTING CHAIR—You have a Chinese speaking GP?

Mrs Z—Yes.

ACTING CHAIR—Mr U, have you had any trouble trying to get a doctor? You can speak English, so you do not have any problems?

Mr U—No, I do not have any problems.

ACTING CHAIR—Thank you. Ms K, do you have any problems, or do you have a Chinese doctor?

Ms K—Hong Kong.

ACTING CHAIR—A Hong Kong doctor. Thank you.

Mr U—The detention centre is no good.

ACTING CHAIR—The detention centre is no good. Ms K, do you have any questions of the committee? Thank you for coming and every blessing for your future. I hope you have all your needs looked after. I would like to ask everybody if they chose the house that they are living in with the Red Cross and how they pay the rent, whether they pay the rent themselves or the Red Cross pays it? Do you feel safe in your homes?

Mrs Z—Of course.

Ms K—I feel safe and very secure.

Mrs Z—My husband and I live together.

Mr U—I want to say that free things are no good—when somebody pays your house rent, gives you your money. It does not do anything for the hours of the day. We have nothing to do, so we sit. It is a kind of stress with nothing to do.

ACTING CHAIR—What you are saying is your house rent is paid and you get some money, but you still have concerns about your head in as much as you need to work.

Mr U—Yes, I need to be busy.

ACTING CHAIR—You need to be busy?

Mr U—Yes, all the time. Not just like this.

ACTING CHAIR—Not just sitting around?

Mr U—They give you your money and pay your rent, but it is not good. It is still a problem.

ACTING CHAIR—Ms K agrees with that. You need to be busy?

Ms K—Naturally. It is no good.

ACTING CHAIR—It is no good for your psychological health. Thank you, I understand. That is important.

Ms L—I do not feel very safe, especially when I am alone. We live in a unit which Red Cross found for us and they pay the rent, but when I am alone without my husband I feel very nervous and scared, because there is no security around the block.

ACTING CHAIR—If something goes wrong with your house or if you do not feel safe, is there somebody you can call to fix the problem or to look after you?

Ms L—I do not have anyone to ring.

ACTING CHAIR—You do not have a contact like a Red Cross number or somebody from the Red Cross to call?

Ms L—I have a contact for the Red Cross.

ACTING CHAIR—Ms L, if you do not feel safe or anything concerns you, then you should call the Red Cross on the number that they have given you.

Ms L—Can I tell you one more thing?

ACTING CHAIR—Yes.

Ms L—I appreciate the community centre gave us very basic stuff for us to live after the detention centre, because all my belongings disappeared. I must say the stuff is very low quality. I am suffering from a skin allergy, and especially the blanket causes me an allergy problem. If they are going to support us with supplies then, instead of giving us two low quality things, they should just give us one thing of good quality. That would be a better idea. I feel rather discriminated or ignored with the low quality stuff being given to me. I understand I have been released from the detention centre, but I just do not feel that I have been treated fairly as a human. Most other released people feel the same way. They gave us three towels, but they are hardly useable. I would rather have one good quality towel from them, if I could raise that issue.

ACTING CHAIR—We really understand what you are saying. Thank you. Obviously you cannot work, so perhaps you could tell us what you would do in a normal day?

Mr U—Nothing.

ACTING CHAIR—Would you like to add to that?

Mr U—I do not do anything. I want to do something. There is nothing to do. We appreciate what has been given to us by the community. It is better than detention, but they need to give us something to do. Do you know what I mean?

ACTING CHAIR—The inactivity is not good.

Mr U—Yes. We need to use our minds somewhere. You have to think a lot of things. I lost my parents. They hit my parents and I came to Australia. We have too much feeling. They are knew too. I was telling them all the time. They knew everything about me. For me, I need to be busy and find something to do. Then I might be able to forget the thing, because it is very hard for me. I do not have a brother, sister, mother or father. I have no connection anywhere within Australia, so it is very hard for me. There is nothing to do.

ACTING CHAIR—Mr U, is their any Nigerian community in Sydney that you can make contact with?

Mr U—Yes, I do. I attended a meeting somewhere once. Just attended once.

ACTING CHAIR—Is it hard to get to, is it?

Mr U—It is good to know people, but you do not know who is who.

ACTING CHAIR—You do not know who is who.

Mr U—I was so scared because of my problem. I do not know who is who. I attended a meeting twice or once, but I am not into talking much to them, because I did not know who is who.

Ms K—Every day seems aimlessly with nothing. It seems hopeless all the time. There is no looking forward to the day. It is just aimlessly everyday and just do not know what to do. Watch a bit of TV, go shopping to buy some food for cooking. That is it, another day. Every day I just do not know what I am going to do. I cannot visit people. I cannot catch public transport a long distance. I am counting my money.

ACTING CHAIR—This is a very strong message that the committee is receiving.

Ms K—Endless waiting for that particular day. It is just waiting and waiting.

ACTING CHAIR—Thank you. Mrs Z?

Mrs Z—I just look after my baby at the moment. If I have some spare time I learn English at home.

ACTING CHAIR—Thank you.

Mrs Z—We are waiting for the visa. We do not know how long it will take. We are waiting and waiting. During the period of waiting we waste our lives. I wanted to make some contribution to Australian society and I want to make some contribution for my personal life. I do not want to waste it. I just live in this kind of situation of waiting and worrying.

ACTING CHAIR—Thank you very much. We understand that message. Does Ms L have anything she wants to add?

Ms L—I go to English class three times a week. We try to attend seminars which the community organises. They are things like seminars in a church or a library. My husband spends a lot of time reading *Time* magazine in the library and searching on the internet. We put in an application for voluntary work through the Royal Prince Alfred Hospital to care for elderly people. We are waiting for a response. Obviously they have to go through some clearance check. They are in the process of doing that. We would like to do voluntary work.

ACTING CHAIR—That is very admirable. Thank you. I would like the interpreters to check with the guests if there is anything else that they want the committee to know.

Mrs Z—No more.

ACTING CHAIR—Thank you very much for coming. Your information has been very valuable. It is important that the committee understand that we have to send a very strong message to the government that we can do this better. We can welcome people to Australia much better. Miss Z and Mrs Z, you have both made a beautiful contribution to Australia with those two beautiful little girls. Thank you very much. This concludes our hearing here in Sydney.

Committee adjourned at 5.10 pm