



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

**Reference: Immigration detention in Australia**

THURSDAY, 22 JANUARY 2009

MELBOURNE

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**JOINT STANDING  
COMMITTEE ON MIGRATION**

**Thursday, 22 January 2009**

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

**Members in attendance:** Senator Bilyk, Mr Danby Mrs D'Ath, Dr Stone 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

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**Committee met at 2.22 pm**

**CHAIR (Mr Danby)**—I would like to open this hearing of the Joint Standing Committee on Migration. Our report, which was tabled in December, was about the criteria for release from immigration detention, and we are now shifting our attention to community based alternatives to immigration detention including alternatives in use in other countries. Without extending too far into self-praise, I am very proud of this committee and the previous report. I believe it did not get quite as much attention as it ought to have from the media, but it is certainly getting the attention from the government that it deserves and I think it will have input into where the government is going.

After hearing from Mr Grant Mitchell of the international detention coalition, the committee will have the opportunity to speak with people currently living in the Australian community on bridging visas. For client privacy reasons we ask that members of the public and the media leave the room by three o'clock so we can proceed with that. A transcript will be made available at a later date.

[2.23 pm]

**MITCHELL, Mr Grant Edward, Director, International Coalition on the Detention of Refugees, Asylum Seekers and Migrants**

**CHAIR**—I welcome our first witness. Please state the capacity in which you appear.

**Mr Mitchell**—I am the director of the international detention coalition, which is a peak international body on human rights in detention issues in 50 countries.

**CHAIR**—Do you wish to make a short statement?

**Mr Mitchell**—Yes. The international detention coalition warmly welcomes this inquiry, particularly as an opportunity to ensure that Australia's detention policy meets our international obligations and also to put on the record human rights concerns that have been continually raised over the past 15 years. There have been really significant changes in the past three years. I have been fortunate to have worked closely with immigration in my last two capacities at Hotham Mission and the Red Cross around a lot of alternatives, including alternative places of detention, the bridging visa releases, community detention and the community care pilot. There have been really significant changes.

The issue that I would like to raise today in the context of alternatives is the continued lack of uniformity and often fairness in the detention and bridging visa policy that exists to date. In saying that, I am really talking about the major discrepancies that exist for people that come to Australia and seek asylum and what their rights and conditions and entitlements may be. So, depending on where they arrive, when they arrive, where they lodge and where their claim is, they will have a vast array of different rights and entitlements. They may be in a mainland detention centre or on Christmas Island with different entitlements. They may be in the community with entitlements or they may be destitute in the community, as you will hear later today. I think this, together with continued ad hoc, discretionary departmental decision making and also the minister's non-compellable discretionary powers for this client group, leaves detainees quite vulnerable.

This committee inquiry is a wonderful opportunity to look at how Australia could implement a broader reception policy as opposed to just revising our detention policy. It is an opportunity to look at the UNHCR's guidelines on reception and detention and at how Australia can look at a legislation that incorporates detention where required for security and health purposes, which is outlined in your first report, but more importantly at how that can be used as a minimum, with clear guidelines and being reviewable and so on. The biggest fundamental question is how people can and should be cared for in the community.

In the discussion today I think the most crucial question for government is obviously how to manage the compliance of people who are released from detention or who are not detained and, equally, how to do that while maintaining welfare and dignity. The good news is that that is possible, because it is happening internationally and it is also happening in Australia in a number of pockets, like the Community Care Pilot, which is a fantastic initiative of the former



government which is being supported by the current government, where government and community work together to try to get an outcome for people who are vulnerable in the migration stream. It is a fantastic initiative that has been going for two years, but it is still a pilot. The hope I put forward today is that this pilot could be explored further and could be the first resort for people who would otherwise be detained. I think it would be far more cost efficient, it meets government objectives—and we know that from the outcome so far of the Community Care Pilot—and it also maintains the welfare and dignity of people who are seeking our protection. I will leave it there. Thank you.

**CHAIR**—Thank you very much. I appreciate your making that short statement. We will go to questions.

**Mr ZAPPIA**—Thank you for your submission. Can I clarify one thing before I ask the question I want to ask. You represent 150 members in 50 countries. Is that 150 individual members or community organisations?

**Mr Mitchell**—Organisational members, primarily. We have about 40 individuals, who are often academics, but we have 15 Australian organisations, like the Refugee Council, that are members of the coalition.

**Mr ZAPPIA**—My question is: have you read our interim report that was released late last year?

**Mr Mitchell**—Yes.

**Mr ZAPPIA**—Having read that report, are there any further changes to our recommendations that you would suggest and, if so, what are they?

**Mr Mitchell**—I was really pleased about the report. As the chair has just mentioned, it is a wonderful step in the direction that Australia needs to go. As you outlined in the report, further review of detention is still needed, particularly on the issue of return. I have been looking at how other countries have been managing the issue of how to meet the government objective of people who have no basis to remain departing a country in the most humane way possible, and the most humane way is not detaining them to do that. I think that NGOs and the department working together, as recommended, is a priority. There are people who are detained at the moment unnecessarily, who have indicated to their case manager: ‘I will depart Australia but I am afraid to be removed by the government. If I could get on a plane by myself, I would.’ I have asked detainees: ‘Why are you in the court system? It’s not going to be successful.’ They have said, ‘I know, but I am so afraid of this forcible removal process,’ where the passport is handed over and then the country of origin is informed.

We have continually said to the minister and the department that, if they used the UK model—in which the department identifies who is sincere in their desire to depart the UK, they are made lawful and they then get on the plane and depart voluntarily—they would see a lot of people pulling out of the court system. People are quite often using the system out of fear. Obviously the 12-month issue raised some contention but I think that is an area to explore further in terms of what other countries are doing around time limits and security in certain cases.

In relation to alternatives to detention today, from reading first report, I think we need to talk about Immigration compliance. They are the primary detaining body in Australia and people in detention are primarily those picked up in the community. We really need to look at how decisions are made at that level, what guidelines they are using and the possible alternatives.

I am also particularly interested in talking about some of the existing alternatives to detention practices that are being implemented at the moment—transit accommodation, immigration residential accommodation and community detention. Alternative places of detention, which the government continue to use, were not mentioned in the first report. From my personal experience with that program, there are some concerns there. But I thought the report was a very important step in the right direction.

**Mr ZAPPIA**—From some quarters there has been criticism of the government's softening of its policy towards refugees who come to this country. Given that you represent an organisation that has experience with the policies of countries overseas as well, is there any particular country whose policies would be more in line with what you might be recommending and, if that is the case, has there been any evidence over recent years that those policies have led to an influx of refugees to those countries?

**Mr Mitchell**—It is quite fair to say that there is no evidence internationally that detention deters. We are undertaking a research project with Nottingham university on that issue at the moment. There is a political discourse that detention can deter but there is very little evidence that it does so. Countries have harshened and softened their detention policies, but the flows of people arriving and the numbers of detainees do not often correspond to those policies. There are a few reasons for that. We tend to see boat arrivals seeking asylum who in large degrees are found to have some type of protection need, and it is very hard for any policy we implement in Australia to be comparable to potential persecution in the country of origin.

Having a harsh detention policy is not going to solve it. It has not solved it in the US, the UK and a whole lot of other countries, even in Belgium, where they have very harsh policies—they detain children. I have just spent a lot of time in Belgium and they are just now starting to introduce a similar model to Australia's. The harsher their policies have gotten, that has not affected the flows. Obviously, the learning is that flows are better addressed through multilateral or bilateral dialogue around smuggling and so on. I and the coalition are quite interested in countries where they have acknowledged there will be some flows, that there needs to be border control and that governments of sovereign nations need to be able to determine who enters and who stays, but the process by which people are managed needs to be early intervention, as fast as possible, with the view that people who cannot remain need to be humanely assisted in that process. That is where the usual suspect, Sweden, is a very interesting model simply because the flows come and go: they do have large numbers of flows—and there are a whole range of reasons for that—

**CHAIR**—We will come back to that because I am going to ask you about it.

**Mr Mitchell**—but they actually get very good return outcomes, with people departing, and they get good enforcement of policy. At the end of the day, all countries are affected by people crossing borders undocumented, but I think there are some interesting examples in different

countries of how to manage those individuals and of government getting the departure outcome when there are no grounds for them to remain.

**CHAIR**—Before I hand over the questioning to Mrs D’Ath, I have a sidebar question. What is the main source of the asylum seekers in Belgium?

**Mr Mitchell**—Primarily it is the Middle East and North Africa and also the former Soviet states.

**Mrs D’ATH**—You have said you are interested in talking today about the transit centres or alternative detention. In your submission you say that, despite changes in 2005, the department continues to use these old forms of alternative detention, including people being detained in motel rooms and also being transferred to the care of designated persons. Are you able to give us some examples or the sorts of numbers your organisation is seeing of alternative detention still being used?

**Mr Mitchell**—I have had extensive direct experience with that program because when I managed that program at Hotham Mission we were the first organisation to implement alternative places of detention on a request from Minister Ruddock at the time. I have not been directly working in Australia since June and I wrote that in August. Interestingly, the December report from the Australian Human Rights Commission stated that there were 144 cases of alternative places of detention in Australia. The majority of them may well be on Christmas Island.

The issue in the past for the department has been that, from 2004 onwards, longer term complex cases emerged and there were very few options for release of any kind particularly for someone who was undocumented and unauthorised. The 2002 migration series instructions on alternative places of detention was the only option. It was a very important first step, but it is not a practical tool and it is very outdated now. It basically says that a person in the community needs to be a designated person, so essentially they could be from a community agency such as ours or they could be a family member, which is still occurring, from reports I have heard. A family member says, ‘I will be a designated person for this detained family member,’ and a school teacher or doctor can sign that designated person arrangement. But it basically means that you are both their carer and their detainer because you are required to accompany and restrain them at all times.

It was my experience for a very long time that for people with mental health issues, the department, while trying to do what they could with very few options, were putting people in inappropriate situations. Sometimes they were on bridging visas with no Medicare and no support system. They were also in these alternative arrangements. The dialogue that I had with the department prior to my work overseas was that now we have community detention, now we have community care pilots. Those alternatives, that series of migration instructions, is dated. In fact, you need to revise it. I do not know if that has been revised; I do not think it has. The worst case they have been used for was for unaccompanied minors in motel rooms. For example, 18 months to two years ago two unaccompanied Iranian boys arrived by plane. They were brought here by an older man who said he was their uncle, but he was not. They were 15- or 16-years-old and were left at the airport. As unaccompanied minors, the minister is their direct guardian. We have such a gap in Australia around a consistent response to unaccompanied minors nationally. It

is left to the discretion of the minister as well as trying to negotiate with different states on different cases. So for a very long period these two boys were placed in a motel room with two guards.

**Mrs D'ATH**—When you say ‘a very long period’, how long are we talking about?

**Mr Mitchell**—It was at least two months before they were transferred. They spent a small amount of time in a detention centre—I cannot recall which detention centre. The only option for them was a South Australian group home, because an MOU had been signed between the department and South Australia for unaccompanied minors. That arrangement occurred. My point is that that was unnecessary. Community detention was available, case management had just begun and there were some brokered funds for foster or other arrangements. I noticed in the initial report that alternative places of detention was not mentioned as an alternative option, and I think it is very important that it is included.

**CHAIR**—Would you mind making your answers a little shorter because we have to get through senator D'Ath's and Dr Stone's questions.

**Mrs D'ATH**—And I will try to be succinct with my questions. You talk about the suggestion of open centres and transit centres. I have two questions around that and I want to bring those two points together. The Swedish example of the refugee reception centres—having not been to Sweden, I do not know what these reception centres are like. Can you tell me how they compares to our transit centres and what you envisage as an open centre?

**Mr Mitchell**—I have not visited a transit centre but I have visited two residential housing centres. They are completely open centres. In fact, Minister Ruddock visited the centres. I was a Swedish case worker so I worked for the Swedish immigration department and was working in that main reception centre. Minister Ruddock did visit that centre with the view of exploring what that might mean for women and children. The difference with what we have here is, of course, that we have closed centres. In Sweden, Belgium and most of Europe and New Zealand—

**Mrs D'ATH**—I am sorry to interrupt, but we do have to be succinct; could you explain what the structure of reception centre is? You said that you have not been to a transit centre here so you cannot compare it. How does it compare to a residential centre?

**Mr Mitchell**—People are free to come and go. The similarities are that there is a case worker who is responsible for the ongoing support and oversight of that individual. That occurs in Sweden and that does occur in the residential housing here with ITACs. The only difference is that the centre is open and people can move freely. The reporting is done to the case worker and the case worker is responsible for assessing any risk. Risk is both the needs they may have and risks to the community to abscond. So there is a continual assessment made around whether a person goes from low risk to medium or high risk, and they may be detained at that point. So there is someone actually responsible for checking whether or not the person is a risk to the community.

**Mrs D'ATH**—I have one more question and then I will come back to another issue if we have got time after other members' questions. Have you seen the facility at Christmas Island?

**Mr Mitchell**—No.

**Mrs D'ATH**—Because you make quite a lot of comments in here in relation to the facility.

**Mr Mitchell**—I have worked with lots of detainees who have been detained there and I previously worked for the Red Cross, which managed the community detention on that program.

**Mrs D'ATH**—Is the opposition to the Christmas Island facility because of the infrastructure and the way that the new facility has been built and I guess the security around it, and is there a way to make that centre more open, at least for processing purposes, or is it more the isolation from the mainland as far as services?

**Mr Mitchell**—It is twofold. Firstly, it is the entitlement and rights issue that I mentioned earlier. Under the excision law people simply do not have the same entitlements in relation to seeking asylum, legal access and so on. There is some provision but it is not the same, so there is a differentiation for that group. Secondly, there is the welfare issue. I have worked with people who have been detained on Christmas Island. There is one social worker on the island. It is extremely hard for the Red Cross or any other organisation to provide ongoing care that is required for the range of cases that generally seek asylum in relation to age, health and so on. The logistics of providing ongoing care are very difficult and responding to emergency health issues is extremely difficult. There are a whole lot of logistical issues. So there are rights and logistics and also just fairness: regardless of where people who come to Australia to seek protection arrive, we should have a standard response and set of principles in dealing with and managing them.

**Senator BILYK**—You talked about the Community Care Pilot. I think you said you thought it should be the first option. What areas can you see where the Community Care Pilot might need improvement? What suggestions could you make there?

**Mr Mitchell**—The Community Care Pilot is so unique because it is an early intervention model and it is really aimed, as I said before, at government and community groups working together constructively in trying to support and work with someone who otherwise probably would have languished in a detention centre with very little information, would have become more fearful and would have an increased likelihood of mental health problems. This is the complete opposite response and it is meant to deal with cases quickly. I think that it is very well constructed as a model. There are a whole range of examples internationally that have pieces of the Community Care Pilot model but that have not got them all right. There is a reference committee, with legal providers, the minister's office, the department and welfare providers around the table that have spent 2½ years formulating a model that they all agree on. We know that people who are refused have to go, but we want to do this as humanely as possible. We know from statistics that 40 to 50 per cent stay and we do not want them damaged in the community; it is not helpful for anyone. I think there is a whole lot that can be built on in terms of expanding it with funding. It can only work if the government commit to more case management. The reason for case management is that, prior to 2005, the reason we had a lot of issues around identity and so on—for example, Cornelia Rau—was that, between the guards and bureaucrats, there was really no-one who was assessing individual identity. There was a one-size-fits-all approach to the security response. This new model allows case managers to

individually determine what care is needed. So I think those two elements would be very successful.

**Senator BILYK**—You made some comments about softening policy. How do you see that we could soften the policy but still be able to look after the individuals? And what do you do if you cannot prove someone's identity? What suggestions would you have for those people?

**Mr Mitchell**—I totally understand the concern around identity fraud. But it is interesting—and your report sums it up—that there has been little actual evidence of identity fraud, or of security concerns or absconding as well. It is managing risk. The minister got it right in the values statement and the context that he put it in, which is that in moving to a risk management model we detain where we need to detain. I think the department have moved in that direction, but it has been acknowledged in an October Senate committee that they do need to do more work on this. They need case managers to be at the forefront of it because they are the ones who know the clients and they will be the ones to determine who is or is not a risk. It is not going to be some bureaucratic reading something from a paper; it is going to be the direct interaction with case managers. In Canada, where there is no ability to determine identity in any way except by a sworn affidavit together with a psychosocial assessment, that is sufficient. It is similar in parts of Europe. It needs to be case by case; the softening is only a perception issue. If the risk management model is tightened, and how the department intends to do it can be explained to the Australian community, that can reassure the community.

**Dr STONE**—I am interested in that Canadian model. You referred to the idea that, if the authorities cannot identify the person through some external source, the person seeking asylum can make a statutory declaration. Does the Canadian government then try to validate that person's claim or is that the end of it—the person says, 'I am Joe Bloggs from Uzbekistan,' they sign a stat dec and that is it? Or does the Canadian government then say, 'That's who you say you are. Let's now go to Uzbekistan and check out your rellies' or whatever? How does that work?

**Mr Mitchell**—I am not as familiar with the Canadian model, but the Swedes have a similar model of interview assessment and sworn affidavit. The difference between Sweden and Australia is that in Australia we do the security check right at the end, which does not make a lot of sense. We used to do that with health checks. Until 2004, when someone sought asylum, we did the health and security checks after they had been here for years—so they were found to have protection needs, and then we would do the checks. We still do the security checks very late, and from your report it was clear that there is a percentage of cases that are not checked. In Sweden, they do make a determination about whom they view as requiring further investigation. They have a whole investigation category for people who are in detention or in the community base. That is not the end of it; I could undertake to find out a little bit more and convey that back to the committee.

**Dr STONE**—It seems to me that if Canada and Sweden are accepting statutory declarations of identity then why would anyone bother to spend a lot of time independently trying to assess someone's identification if there is a view that that is sufficient, if it is not followed by a lot of validation work? You see, it sounds rather interesting.

The other issue I am interested in—concerned about, I suppose—is when you have someone in the community with the right to work. One of the issues of course is the lack of anything to do. Whether you are in detention, out of detention or in alternative detention, there is the sheer boredom factor when you are waiting on a decision or whatever else. What is your international experience and knowledge about the capacity of detainees—we will call them that for the sake of it, given that they may or may not be in detention—to find work? What happens if they cannot find work either because they are unskilled, do not have the language or people are not prepared to take them on for what is, probably, likely to be a very short period? How do we overcome this issue of people being able to support themselves and not depend on a charity, even though in Australia we contract NGOs to look after the individuals? What is your experience of this employment issue?

**Mr Mitchell**—That is a significant issue. A group of NGOs here in Melbourne took a snapshot of 250 asylum seekers. Interestingly, the top five skills they had were the same as the top five skills on the skills list—hairdressers, plumbers et cetera. There is an incredible skill set but, for those who struggle to find work, that is an issue. The asylum seeker assistance scheme was set up for this purpose, but it excludes most people because it was developed 12 years ago when we did not have the 90-day rule for applications, so people had to wait for six months and so on. There is an assumption that a very large number of people can be self-sustaining in the community, so the investment by the government is in case management to make sure they are properly managed and overseen and cared for. There is a smaller percentage who may have health issues or other needs—and may also have trouble finding work—who might require that community care model, but I do not know at what level that would be. For those who have been given work rights, those who are connected to community groups have generally been able to find work. It depends on having a connection in the community and support from social workers.

**Dr STONE**—And presumably on where they are physically located.

**Mr Mitchell**—Yes.

**CHAIR**—With more people getting bridging visas there are potentially more people in the community, so this becomes a bigger issue.

**Mr Mitchell**—There are some questions that I think need to be asked around this. If we are moving from detaining them as a first resort to detaining them as a last resort, there are questions for the department and case management in terms of how they are going to manage this in terms of compliance and in terms of welfare. Welfare links them to getting the outcomes. If people are not coping and they are not well, they are less likely to be in a position to depart Australia. I think there needs to be a skeletal structure of this community care pilot model, which is there for those who reach a threshold of need. But the assumption would be that the majority of people would be self-sustaining, as they are in most countries. They need to do their best on their own undertaking. We know from 10 years of bridging visa E policy that people are very resourceful. They are resourceful because they have to live on charity. They have to go from charity to charity and develop relationships and live in a very destitute manner. All the asylum seekers I have worked with over many years—and I am sure you will meet some of them shortly—will say how keen they are to contribute to the community and to work. How easy that is depends of course on where they are located.

**CHAIR**—With people on bridging visas there will be more people in the community because they will not be in detention centres. Are you confident that, on the basis of experience elsewhere, people will get on with their lives and not become socially isolated and vulnerable?

**Mr Mitchell**—If you look at alternatives internationally, there have been a whole range of interesting pockets. I am sure you have all seen these different small pockets in Canada and the UK. We have been looking at those models really closely. It is very interesting in that some of them have failed dismally. But you do not really hear about those. They had an alternative to detention project in Millbank in the UK and it failed dismally. The reason it failed was that it worked with a group of long-term detainees who were very vulnerable, and they were trying to push for a return outcome at the last minute. It clearly did not get the outcomes that anyone wanted.

The most successful initiatives have been where governments and NGOs or community groups have worked together. One of our partners, the Lutheran Immigrant Refugee Service in Baltimore, and another Canadian group that you have heard of and also the Hotham Mission group here in Melbourne have all had very low absconding rates of one to two per cent. They have all had around the 90 per cent figure of people complying. By ‘complying’ we mean going home when they are required to. Why is that? I think it is part of having a system that is, right from the beginning, providing information about what people are going through. So you are mitigating fear and maximising empowerment. It is about the linkages. If you are connected to a worker in the community, that helps facilitate a lot of things around being able to function. But there is also a trust issue. If you make sure they are connected with the immigration officer, you are more likely to see people in better shape and following the rules. It is in their interests and the interests of the broader community. That is what we have seen internationally, but we have also seen it here. The community care pilot is an example of that. I think it needs a lot more support and attention and funding to roll it into the potential that it could have nationally.

**CHAIR**—Make it bigger?

**Mr Mitchell**—Yes.

**CHAIR**—Thank you very much for your presentation today. If you have any questions, please contact the secretariat. You will be given a copy of the *Hansard* transcript of your evidence.

**Proceedings suspended from 3.01 pm to 3.15 pm**



**BENCIK, Ms Melissa, Caseworker, Australian Red Cross**

**CURR, Ms Pamela, Campaign Coordinator, Asylum Seeker Resource Centre**

**D, Ms G, Private capacity**

**D, Ms W, Private capacity**

**G, Mrs F, Private capacity, through Ms Niluser Yaman, interpreter**

**G, Mr H, Private capacity, through Ms Niluser Yaman, interpreter**

**H, Mr S, Private capacity**

**I, Ms L, Private capacity**

**I, Ms S, Private capacity**

**L, Mr Q, Private capacity**

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

**Q, Mr P, Private capacity**

**S, Mr G, Private capacity**

**CHAIR**—On behalf of the committee I would like to welcome you to this special hearing for people who are bridging visa clients. I also welcome some of the case workers and other people I recognise who are interested in our bridging visa clients including family members. In addition I express my appreciation to the secretariat for organising this hearing. I understand that most of you have gone to considerable trouble and inconvenience to be here today and we really appreciate you coming in and speaking to us. As we mentioned in our invitation, we are working on an inquiry into immigration detention in Australia and alternatives that we might adopt to immigration detention.

The idea of this hearing today is that your stories will help us understand your situation and make recommendations to the government about different ways of doing things. We are particularly interested in what sort of support you need to live in the community. At the end of this inquiry we will make recommendations to the government, as I said before.

We have closed the room to the public and the media to protect your privacy, so you should feel that you can speak more openly and directly to us. The committee would still like to publish a transcript, an exact record of what you say, at a later date, but you will have a chance to look at it before it is published so you can approve it or cut things out of it if it is revealing of anything to do with your privacy. The committee will not publish your names in full or any other personal

identifying information when we do publish this transcript. We have the services today of an interpreter for our Turkish bridging visa clients and I ask everyone for their patience as the information is translated. If there are any specific parts of this discussion that you wish to keep private you must let us know. You can approach any of the secretariat staff today to assist you.

I would like to extend the committee's appreciation to the Red Cross, the Asylum Seeker Resource Centre and to the Hotham Mission for their assistance in bringing everyone together today. To begin, would you like to briefly introduce yourselves to the committee and briefly tell us where you come from and how you came to live in Melbourne.

**Ms GD**—I came from Cyprus. We have been here for eight years this year. What else did you want me to say?

**CHAIR**—How did you come to be living in Melbourne? How did you end up here?

**Ms GD**—In Melbourne or in Australia?

**CHAIR**—In Australia.

**Ms GD**—We came as a family. I was 12 years old so it was mainly my parents' decision. We basically came here to escape torture and all the hardships in our country to start a life here.

**Ms WD**—Hello. I am from Ethiopia and I came on 3 November. I am an asylum seeker and I am holding a bridging visa E now.

**CHAIR**—Where are you from?

**Ms WD**—I am from Ethiopia.

**CHAIR**—Where in Ethiopia?

**Ms WD**—I was born in Negele.

**CHAIR**—Where is that in Ethiopia—in the north? Is it near Addis?

**Ms WD**—In the south.

**CHAIR**—Is there any particular situation in Ethiopia in the south that you want to tell us about?

**Ms WD**—I had problems and that is why I left for the United Arab Emirates and from there I just got a visa to come to Australia to seek a protection visa here.

**Mr L**—I have been living in Australia for 20 years. I reported myself to the department of immigration four months ago and ended up in the detention centre. Now I am on a bridging visa E. I am still waiting for the minister's decision.

**Ms SI**—I came here with my sister in January 2003. We came from Malaysia and I really love it here.

**Ms LI**—I would not really fit a profile for an asylum seeker. I am just here with a broken marriage and I am currently on a bridging visa E.

**Mr Q**—I came from the northern part of India—Jammu and Kashmir. I came a long time ago and ended up in a detention centre and was there for days, then weeks, then months, then years. When I was released I was in a very bad condition mentally. I was not coping in the community. Then with this visa, which is a removal pending bridging visa, I just kept thinking about what I could do, where I could start and, if they were going to deport me tomorrow, whether I should work or not work and whether I should study or not?

Most of the time it is hard for me to concentrate in my workplace and many times I have been kicked out by the boss because I was not doing a good job at work because my mind was not coping. I have found that it has been a very hard life outside. I have lost many jobs and have ended up with no job. Most of the time now I rely on Centrelink, which is much worse than when I was in detention. One payment goes to rent and another payment also covers the rest of the rent. Sometimes I stayed close to the weekend market but that was not earning enough. I usually go to a different market and pay \$20 to get a stall. But sometimes you do not get customers and so sometimes I just go and work on the farm. It is not an easy job there because I suffer a lot, but I am trying to manage and it is now much better than when I was first released.

**CHAIR**—What detention centre were you in?

**Mr Q**—I travelled to many detention centres—Broome, Curtin, Woomera, Perth and then Baxter.

**Ms Curr**—He was in detention for six years and 10 months and he has been in the country now for 11 years. He has spent the last four years on the return pending bridging visa.

**CHAIR**—And you are originally from Jammu, a province between India and Pakistan?

**Mr Q**—Yes.

**CHAIR**—Jammu and Kashmir are two disputed provinces, would you say?

**Mr Q**—They are disputed—

**Mr GS**—I am from India. I have been in Australia nearly 14 years. I have spent three years in a detention centre, half the time in hospital. I now work in Shepparton on big dairy farms. I have been working there for nearly six months. I am on a removal pending visa and I am trying for my permanent visa all the time.

**Mrs FG**—We arrived here in April 1996. We have lived in Mildura for 10 years and for three years we have been in Melbourne. Two years after our arrival we had twin children through the IVF program. We worked in Mildura for seven years with a tax file number. When we arrived they gave us Medicare rights and a tax file number but in 2004 they wanted the tax file number

back and they took it back. I had many difficulties in the meantime with my two little children. We have been living with Red Cross and asylum seeker help. Our children have a visa but we do not. Our children were born here and—

**Interjector**—The children have been granted Australian citizenship but the parents' case is currently still before the minister and they hold a bridging visa E.

**Mr HG**—I thank you for all the help I have received.

**CHAIR**—It is certainly an unusual circumstance when someone has a tax file number and a Medicare card and is working up until 2004 and then suddenly everything is reversed, but I am sure there is some bizarre bureaucratic explanation for that.

**Dr STONE**—To begin with the last situation, has your request been on the minister's desk for the last 12 months or 13 months now?

**Mrs FG**—I think so. My lawyer would know that better.

**Ms Psihogios-Billington**—A lot of the people seated here have been assisted for many years by the Asylum Seeker Resource Centre and the other agencies in the room both legally and with their other daily needs. So the cases are familiar to us, I guess, and we hope that this is the year that brings resolution. Speaking for this last family, several requests have been put to the minister unsuccessfully, and with the recent grant of citizenship to their children a new request has been put to him. That request was lodged in November and it has been reactivated early this year following the grant of citizenship. So for accuracy, it has not been 12 or 13 months.

**Dr STONE**—How many people on the panel are working at the moment in paid employment?

**Mr GS**—Yes.

**Mr Q**—I just started back two days ago. It is just temporary fruit picking.

**CHAIR**—Are you both up in Shepparton together, did you say?

**Ms Curr**—No, Mr GS works for a dairy six days a week, 14 hours a day, by choice. If he does not work, he thinks about his situation—

**Dr STONE**—So two people here are working. Are they the only two?

**Mr L**—I am also working in a part-time job. I am a chef. I also teach basketball to kids and I referee.

**Dr STONE**—The reason for asking that is because I am very keen to know the extent to which you feel it is important to be in paid employment in terms of helping you cope with your current situation when you are not sure what your future will be and in terms also of giving you financial security. These three gentlemen are working part time or full time; the rest of you, I assume, are not working.

**Ms GD**—It is really hard to find work. For example, I apply to Coles and they ask how long your working visa is for. They will accept people with at least a 12-month working visa. In other places when I apply they ask whether you are a citizen or not and if you have a working visa. They ask how long the working visa is for and the answers are not that positive because they say that they cannot guarantee a job because we might go. It is very hard.

**Dr STONE**—Has everybody got a work permit?

**Ms LI**—I have not had a work permit since the first day I came. I have four children, two Australian-born children to an Australian father. All of my children were just granted Medicare recently. All this time we did not have Medicare or any Centrelink benefits. One of my children and I do not have any work rights so for the past 1½ years I have been financially supported by the Red Cross. Before that I was living on my own and I would collect rubbish and furniture on the streets and resell that to support my children. It was not easy at all.

When I had problems with my partner and he was charged by the police over drugs and child pornography the HS got involved and they claimed that I was not mentally stable and they put me on medication. I was sleeping 23 hours a day and I put on 20 kilos in a month. Then they removed my son from my care and gave my son to my ex-partner even though he admitted he was doing all those things. So the system has failed me too many times.

I have a daughter who is going to Monash next month and we do not know whether she can apply for a scholarship. She was also very suicidal and depressed when she was sitting for her exams last year, because she feels she has got no future. She wakes up at two o'clock or three o'clock in the morning, banging her head on the door, because she feels she has no future. She is one of the smartest students at school. She wanted to do medicine and she has the brains for that, but she just did not study. But then she got a good score. She was one of the top 15 in the state and that is why she was offered a place at Monash next year.

**CHAIR**—What faculty?

**Ms SI**—The faculty of science.

**Dr STONE**—We congratulate you. That was a brilliant job, brilliant.

**Ms LI**—She is hoping for a scholarship.

**Mrs D'ATH**—Do you have a work permit, Ms GD?

**Ms GD**—Yes, I do.

**Mrs D'ATH**—How long is it for?

**Ms GD**—It does not state a period but you know how when you have to get your visa renewed they give you a period of time—bridging visa E—and it depends on that visa. Sometimes they take off that part where it says you are able to work and study. So it is up to them. I am not sure. It gets renewed sometimes.

**Mrs D'ATH**—Maria, it would be very helpful to get a general clarification, but in this particular situation I am interested in knowing what your visa says that would make it difficult for you to study or work.

**Ms Psihogios-Billington**—It is a bridging visa E. The actual visa is the bridging visa E. It is not a substantive visa. It is just a visa that allows you to remain lawfully in the community pending a decision, a removal, or whatever else the case might be. The bridging visa E attaches to it various conditions and, depending on what stage of the immigration process you are at, these conditions can be lifted. And what the witness is referring to is that it is just a magical little box that says, 'No right to work', and if it is ticked that is your no right to work, in effect. When it is not ticked it means that you have the right to work. But the bridging visa E carries with it regular reporting and compliance requirements at each department of immigration. So there are various triggers where, depending on the renewal of bridging visa E, the work rights may attach to a bridging visa E or they can be taken away depending on what stage of the process you are at.

And that is the difficulty with approaching employers and education providers. When they ask you how long you are here for and you say, 'Until my next bridging visa E', it is very difficult. A favourable grant is on a monthly basis and we have clients who are at the end stage of the asylum process and they have to report every fortnight. So you are here until the next fortnight.

**Mrs D'ATH**—Are people like Ms LI able to specifically ask for work rights as part of her bridging visa?

**Ms Psihogios-Billington**—This case is a bit different. I am not sure whether she has applied for asylum but, if she holds a bridging visa E, the first request to the minister comes with an automatic 'no work rights' condition.

**CHAIR**—Does that only last for a month?

**Ms Psihogios-Billington**—No. Normally with the first ministerial request there is a no work rights condition that attaches and you lose that. If you had work rights before, they have gone. You can say a lot about the motivation behind that, I guess, but if there is a ministerial refusal and there is new information or something changes that merits a second request to the minister being made, the bridging visa E is then granted not on the grounds that you are making a request to the minister but on the grounds that you are making arrangements to depart Australia. So the department has a dual approach at that point where they say, 'Yes, you can go to the minister and we will deem whether there is new information sufficient to refer the case back up. At the same time we expect you to make acceptable arrangements to depart. If you are compliant, your work rights will be reinstated.' That is when work rights can be reinstated. But at that point, approaching an employer and saying, 'I am on departure arrangements and I have got a month's visa—can you give me a job?' is a hollow exercise.

**CHAIR**—What about your situation, Ms WD? You have a bridging visa E? Is Maria and the centre representing you?

**Ms WD**—Yes.

**CHAIR**—What do you see as the future? Have they advised you that you are likely to be given a more wide-ranging visa or even citizenship or permanent residency, or is it a matter that you have no idea about at the moment? What are your work rights?

**Ms WD**—I had them from the time I came into the country in February and I worked for four months. After that I had to apply for the ministerial request and my work rights and Medicare were taken. For the last seven months I have not been working. After I got new evidence to request a second ministerial decision I got my work rights last November. I worked as a team leader in a hotel and they promised to take me back if I got my work rights. At that time I had just quit my job and I did not have any work rights. I asked them to take me back and they said that if there was a position they would take me back, and I am just waiting until then.

**CHAIR**—It is important for us to have a feeling for these kinds of things. Mr L, you had been here for 20 years and then you were taken into detention. That is very unusual. Ms WD you left Ethiopia to go to Abu Dhabi—is that what you said? Both are unusual circumstances. What were the circumstances? Were they personal or was it politics in Ethiopia? What caused you to leave?

**Ms WD**—The country?

**CHAIR**—Yes.

**Ms WD**—It is all about politics, and the politics surrounded my family as well. So at the time I had to leave urgently. I was in employment but at the time I left it was because of political circumstances. After that I just could not go back to Ethiopia because of my family situation and the government. That is when I got a visa to come to Australia and seek protection.

**CHAIR**—And Mr L, you have been here 20 years?

**Mr L**—This has a long history. I just wanted to report myself to the immigration department. I was thinking that I did not have a future. I was standing at the crossroads and I did not know which way to go. Even now, I stay home and I cannot sleep. I still think that I am in the middle. Which way will I go—north, south, east, west? I simply hope that the government will help.

Education is very important. In the 20 years I have been here I have used my education. I was a PE teacher in China so I have found a club and teach the kids and do the refereeing and this is keeping my life going. If I did not have education I think that I would not have spent such a long time in Australia. I have got poor health and I stay at home thinking about it.

**Dr STONE**—How did you come to Australia originally? Did you come as a tourist or overstay as a student?

**Mr L**—I came on a student visa.

**Dr STONE**—And you simply overstayed and then 20 years later you thought that it was no good being illegal—

**Mr L**—When I finished studying I got stomach cancer. During that time I was illegally living in Australia. But I have to keep my life going so I use another person's Medicare card. This was

my friend's. It has been such a long time. Then last year I just thought that I had to decide which way I was going.

**Dr STONE**—So you handed yourself in, so to speak, and said, 'Here I am. I have not had legal status in Australia for 20 years—

**Mr L**—I told them what had happened and they said they would send me back to China. No, I said, I have to tell you how I had spent 20 years in Australia. That was my experience, whether you send me back or let me stay. I had to do it. It was an experience for me and the government.

**Ms LI**—My issue is that I have tried to apply for work rights; I wanted to work and earn. I was a career woman back home in Malaysia before I migrated here. I was a businesswoman, a very successful businesswoman. Now I am living on welfare. But then the department of immigration say that I could not establish that I am in financial hardship. They ask me what happens if I am granted work rights—what about my babies? Who is going to look after them? I do not have Centrelink benefits. I could not apply for child care or kinder or anything. I do not have any financial assistance from Centrelink, so that is another issue. If I were to be granted work rights, I cannot work anyway. My daughter is only two and a half. My son is only four, so I am back to square one—I do not work.

**CHAIR**—You have no family here?

**Ms LI**—No, I am an orphan. My dad passed away in 1984 when I was 15 so I was living in an orphanage.

**CHAIR**—And as you explained before, your former partner has been charged and you are separate from him altogether.

**Ms LI**—When I first came here I got married to this man. I was a little bit naive and I did not tell him what I did. But then when we got married and applied for the spouse visa he saw my paperwork, my assets and my shares and then that was it. I lost \$1.6 million. That was when the abuse and violence law came in and I had to leave him only months into the marriage. I was living on the streets because I did not know where else to go. I only had 3c in my bank account and two daughters. My younger daughter is autistic so it was hard.

So I rang up someone I had known for the previous eight years here in Australia. Unfortunately he was working for immigration so he did not want to get involved. It would have been a conflict of interest. But I begged him to help me. Eventually we got into a relationship and he fathered my children. Then when I was pregnant a month with my daughter I found that he was doing child pornography and that he was taking money from work. It got so messy.

By that time my first appeal to Amanda Vanstone was turned down on humanitarian grounds. She wanted me to go back and leave my son here. That was just not on. What wrong did I do? So I left him and I lived on my own and I raised my kids. My daughter accompanied me when I gave birth to my fourth child. I had my fourth caesarean. My other son passed away so I have got four surviving children. I was living on my own until the Red Cross took me under their wing and helped me financially. Work rights do not affect me in any way. In fact it would make me worse because I have no-one to mind my children.



**CHAIR**—Mr GS, could you tell us about yourself and work rights?

**Mr GS**—I have been three years in a detention centre and for half of those I was hospitalised because of depression.

**CHAIR**—Which detention centre?

**Mr GS**—Baxter. Now I am working full time in a permanent job. But I have got no future. It is very hard.

**CHAIR**—Do you have any family here?

**Mr GS**—No.

**CHAIR**—And you are working in Shepparton?

**Mr GS**—Yes.

**CHAIR**—Is it hard there working six days a week without friends or knowing people?

**Mr GS**—No, I spend most of my time at work. I sometimes work 12 or 13 hours or 14 hours a day.

**CHAIR**—It must be fairly exhausting, so you are pretty tired when you come home.

**Mr GS**—Yes.

**Dr STONE**—So you are milking, are you?

**Ms Curr**—No, he is looking after the calves.

**Dr STONE**—You are almost one of my constituents. I will have to meet you there sometime. When did you arrive in Australia? How many years have you been Australia?

**Mr GS**—Fourteen years.

**Dr STONE**—How did you come here originally?

**Mr GS**—I came as an asylum case because of the problem in India.

**Dr STONE**—Did you come by boat?

**Mr GS**—No, by plane.

**Dr STONE**—So you flew in and then claimed asylum when you got here.

**Mr GS**—Yes. I got a work visa for nearly three years and after that I got a bridging visa E.

**Dr STONE**—So you had three years work visa initially?

**Mr GS**—Yes, and after that, a bridging visa E. I have worked for nearly 11 years.

**Ms Curr**—He has worked always in the rural areas.

**CHAIR**—So you have been on a bridging visa all the time while you have been working looking after calves and they never gave you a permanent visa. So every time when you go to a farm you have to show them this visa that says, 'Bridging visa E'—

**Mr GS**—No, now I have a removal pending visa—

**Dr STONE**—What is your situation right now? Is your case before the minister?

**Ms Curr**—He is on a return pending bridging visa and has been for one year. Before that he was on a bridging visa, released into the community with no right to work and no Medicare. He was released from hospital in Brisbane and at that stage he was on a lot of medication and a lot of treatment. When he got his return pending bridging visa he immediately went out and got work and, because he is working he has now been able to stop taking any medication and, as long as he works long hours he is not suffering from overwhelming depression. That is why he continues to work.

**CHAIR**—He is so busy working he does not have a chance to think about it.

**Ms Curr**—That is right, yes.

**Dr STONE**—Where is his case right now though? What is happening to his case?

**Ms Curr**—He and Mr Q are the last two in Victoria, I think, on the return pending bridging visa. They are waiting for a decision.

**Mr ZAPPIA**—From whom?

**Ms Curr**—The minister.

**CHAIR**—Mr and Mrs G, what were you doing in Mildura when you had work rights?

**Mrs FG**—Grape picking.

**CHAIR**—How many years?

**Mr HG**—Six years, from when we had the tax file number until 2004 when the tax file number finished. We worked on grapes, oranges and everything.

**CHAIR**—After 2004, why did they come and take your work rights away?

**Mr HG**—Because we came here on a tourist visa, we kept extending the tourist visa. In 1997 they told us that we could work. After that, each time we applied they gave us a visa for three or four months. Then it was reduced to one month and 15 days. We kept coming here to Melbourne from Mildura as a family to get our visa. Someone else completed our form for us—an application form, I suppose—and he did it incorrectly. Because of that, they were going to send us back to Turkey and we applied to the Asylum Seeker Centre.

**CHAIR**—So the Asylum Seeker Centre took you over after 2004?

**Mr HG**—Yes, that is correct.

**Ms Psihogios-Billington**—I do believe that historically the trigger for the bridging visa E would have been possibly a ministerial request that was made in their case. This family had made applications at that time for a few visas unsuccessfully and I believe that the first ministerial would have been a trigger for the long history of bridging visa Es that they have subsequently been on.

**Mr HG**—We had the children in Mildura. We did not have enough money and we could not work and they tried to remove the children from our care.

**CHAIR**—So because you do not have any money they said that you could not look after the children and they wanted to take the children?

**Mrs FG**—When they removed the tax number the Turkish community helped a little bit, but because we could not work and had a lot of financial problems both of us had depression and then they tried to take the children away. I was depressed and I could not look after the children properly so they tried to remove the children. In the meantime they were calling us here every fortnight to deport us back to Turkey and that added to my depression.

**CHAIR**—Your decision to come to Melbourne from Mildura was because you could not support yourself in Mildura and the Asylum Seeker Centre was able to help you live here in Melbourne?

**Mrs FG**—We were willing to come to Melbourne every fortnight and they were hurrying to deport us as quickly as possible. We were very depressed about this and we then applied to the Asylum Seeker Centre. That is the reason. They took our work rights and we could not financially support ourselves so we had nothing else to do.

**CHAIR**—When you were in Mildura you were working all the time? You were busy and had enough money to support yourself and the children?

**Mrs FG**—Yes, we were working in Mildura. I was putting my children in a box and I was picking grapes and also looking after my children in the box. It was extremely hard.

**Mr HG**—Because we could no longer pay our rent in Mildura, they asked us here and they found us a house here.

**Mrs FG**—I could not buy milk for my children. I used to use towels as nappies. We had many difficulties.

**Mr HG**—This was during the period when our tax number was taken away and we did not legally have work rights. They were checking every year. Immigration was raiding every year. While we did not have the tax number we could not work.

**Mrs FG**—It was very difficult to live on charity provided by other people.

**CHAIR**—I have a question for each of you. If you got a visa, would you go back to Mildura and work in fruit picking? Don't give me an answer yet because I want to ask each of the others a question. If you got a bigger visa, Mr GS, a more extensive visa, a substantive visa, would you stay in the dairy business? I want you to think about it so don't give me an answer yet. Mr Q, if you got a visa, what would you do? Would you go into business? I want to know what you would do if you got a more substantive visa.

**Mr HG**—I would go back to Mildura.

**Mr GS**—I work on a dairy farm and my next goal is to save money and buy a small farm there in Shepparton.

**CHAIR**—You would buy a small farm in Shepparton and do it yourself?

**Mr GS**—Not a dairy farm, a fruit farm.

**Dr STONE**—There is a big Indian community in Shepparton that owns fruit orchards.

**CHAIR**—A good answer!

**Ms LI**—If I were to get my permanent visa, I would like to go back to Hong Kong and establish my business. I would like to have an office here and be a good Australian, pay my taxes and look after my big young family.

**CHAIR**—So you have four kids and you are confident that you could start a business and look after them?

**Ms LI**—Yes. I could easily make \$50 million—I am not scared. I am very positive I can do that. But I need to travel in order to do that. I cannot just be here. Every time I want to ring them or email them and they ask me to come to meetings—these are big people; we do not just make calls; we have to have tabletop meetings and whatnot—I need to travel. I can leave Australia—that is what immigration says—but I cannot come back. They are happy for me to leave but they say I have exclusion for three years from coming back.

**Mr L**—First I would go back to see my parents.

**CHAIR**—How long since you have seen them?

**Mr L**—Twenty years. Secondly, I would get a job and then more education. That is my dream.

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**Ms WD**—If I get my permanent residency I would try to do the things that I am trying to do now. My age is good for study so I would like to improve my knowledge. I would like to be an Australian citizen and if I am a permanent citizen perhaps I could go back to Ethiopia. Maybe in the future, if the country is good and the problem I had is solved, I might go and visit.

**CHAIR**—The hotel chain that you were working for has said that they would give you your job back?

**Ms WD**—Yes. I would like to say something about the problem I have. The visa that I am holding now just said that it was granted for only one month and they want to make sure that I work for three months minimum. So they are not sure whether I am living with them for one month. If they are hiring someone they want to depend on them so they said that they are not sure how they can give me the job because the visa that I am holding is just for one month. The other thing is my study. I am not sure whether I am living in the country or when the decision will come.

**Ms GD**—I would finish off my degree as well as working at the same time to support my family.

**Senator BILYK**—I am interested in the accommodation that people have and how they found it. Obviously people got help. I was just talking to Maria and she said that Hotham has helped a lot of people.

**Mr L**—A room just keeps you living. I have not got a telephone. I have a very small fridge. The Red Cross is very helpful. When I got out of the detention centre I did not have a television and my caseworker got a television for me. I did not even have a way of cooking but now I can cook at home. So every week we get money but we have got to pay the rent and live—that is \$250 a week. How do you spend it?

**Senator BILYK**—That is private rental, is it?

**Mr L**—Yes, through the Hotham Mission.

**Mr ZAPPIA**—That is here in Melbourne, is it?

**Mr L**—Yes.

**Ms LI**—I am paying rent of \$280 a week with whatever I am getting from the Red Cross. I do not have any Centrelink benefits. I do not have a healthcare card. I pay all my bills and everything. It is extremely hard. I am on very high antidepressants at the moment. I have been on antidepressants for the past five years. I was suicidal. I have been trying to hurt myself. I have been known to walk around naked a few times outside at two o'clock in the morning. It all just got into me because there is no future at all. I have Australian-born children who do not have their benefits. They cannot even go to kinder or child care. It is very stressful. I went to St Vincent de Paul. I went to the Salvos asking for help. I do not go to the Salvos all the time for food or nappies. If I go to them the first thing they ask me is whether I have a healthcare card. I say, 'No, I do not,' and they say, 'Sorry, we cannot help you.'

**CHAIR**—Who said that?

**Ms LI**—The Salvos and St Vincent de Paul. If you have no healthcare card, they cannot help. So it is very difficult. I have been put in one corner and I cannot move anywhere. It is extremely hard. When it comes to the children's education there is not enough financial assistance. I am sure that you all have children. It is so hard. I cannot afford not to have a telephone because I have kids at home. I cannot afford not to have internet because they are in high school. So I have to provide all these things and I have to scratch here and there. It is a lucky thing that I have my skills to back me up and I know how to manage on the little amount of money that I have. I do not know how the rest do but with rent at \$280 a week you can just imagine.

**CHAIR**—Mr Q, what would you do if you got your visa?

**Mr Q**—I would try to save some money and start something of my own.

**CHAIR**—Would you stay in the markets in business?

**Mr Q**—Yes, the weekend markets.

**CHAIR**—That is a weekend job, but something else during the week?

**Mr Q**—No, there are some markets which only open at weekends and there are markets that open on working days like Mondays, Tuesdays and so on. So sometimes I drive to Dandenong, sometimes Scoresby, sometimes Laverton.

**Dr STONE**—I am presuming that you are waiting on a final decision about whether or not you are refugees and whether you will be accepted as asylum seekers. Is that the situation, Mr and Mrs G?

**Mr HG**—Our refugee application has not been accepted.

**Dr STONE**—So you have been through the refugee tribunal?

**Mr HG**—Yes. It was rejected also.

**Dr STONE**—Is your application now before the minister for discretionary decision? Is that what it is up to?

**Mr HG**—We have said that we now want to stay in Australia on the basis that we have got two children who were born here and are Australian citizens. We have been living here for 14 years and therefore we are accustomed to living in Australia.

**Dr STONE**—So where is the application right now?

**Mrs FG**—It is with the minister.

**Dr STONE**—So if the minister makes a decision that, no, he will not accept that you have a reason to remain in Australia, what would you do?

**Mrs FG**—We will do whatever we can, but not go to Turkey. We have forgotten how to live there. We will do whatever we can but we will not go to Turkey. Our children do not want to live there.

**Dr STONE**—Why do you not want to go back to Turkey?

**Mrs FG**—We have no jobs, no home and no job prospects back in Turkey. I am 50 years of age. Our children know nothing but Australia and they do not want to go back. We cannot offer anything to them. I have been under stress and treated for depression because of the stress and that would only make it many times worse. At the moment I am unable to look after myself because of the stress.

**Dr STONE**—Given that you were asked what you would do if you were granted permanent residency, can I ask the reverse question: what would you all do if the minister's decision is not in your favour and you are asked to leave the country? What would you do?

**Ms Curr**—In the case of Mr Q, he has no choice because he is stateless. He cannot be returned home because his country does not recognise him, so he has no choice.

**Mr GS**—I will never go back. Most my life, nearly 14 years, I have spent here in Australia. If I go back I would have big problems there.

**Dr STONE**—So you cannot really tell us what you would do if you had a negative decision coming through?

**Ms Curr**—Sorry to interrupt, because I have read some files I understand why people are reticent. The reasons that they have come—and I do not want to identify people—is because they have witnessed family members being killed and they have witnessed extreme violence. It is very hard in a format like this to go back to explain that in this room because these are very hard things for people to talk about. Because I have read the files and I know the background of why people have left, I do not know that they can in this format explain that.

**Dr STONE**—What I am trying to get at is the process and what people would think about doing given that they have exhausted their opportunities for appeal. What we are considering in this context is not being in ordinary detention, being in the community, and what happens when people are required to go home if they have been in the community and so on. So it is an important issue for us to think about.

**Ms Curr**—I cannot answer for everybody—

**Mr HG**—We came here on a tourist visa and stayed here one year. Then we began getting extensions of our visa. We came as two people and then we had two children here and we are now four people. Those children grew up here. I am unable to contemplate how they can live there.

**Mrs FG**—I will die here, but will not go.

**Mr HG**—We had children after 20 years of marriage. Turkey did not give me anything. I have had children here and was able to put food on my table here.

**Ms GD**—I want to stay here. There is no way that we can go because it is not safe for us.

**Ms LI**—I do not want to go back to Malaysia. It happened to me four years ago when Amanda Vanstone turned down my first appeal to reside here. If I were to go back home I would lose custody of my younger daughter. She is under 18. I have an agreement with my ex-husband, who is an Asperger's syndrome sufferer, if I lose custody, he is a Muslim and he wants the children back in his custody. I had an agreement that I would not remarry when I filed for divorce and I married here and I have more kids. So I will lose custody of my younger daughter. That is one thing.

Secondly, I have nothing else in Malaysian. I lost my company, my business, my house—everything. I would have to start my life again. My daughter has adapted to Australian schooling and education. My autistic child has great support here in Australia. Malaysia does not offer that. Australian education is the best for me. It works for me and my kids.

And what about my youngest two babies? How am I going to take them out of Australia? They are Australian citizens carrying Australian passports. I cannot take them out. Their father would charge me with kidnapping them. What am I going to do? So I cannot go back. I am a mother and I must stay with my kids. You cannot separate me from my children.

This is my second appeal based on humanitarian grounds. Whatever request has been made, I have done. I have done all the paperwork and documents, and reports from every single person the minister has requested. I have done that since last year and I am still waiting now. As I said, there is no future for me here. I am just living here as each day comes. It is not healthy for me and my children.

**Mrs D'ATH**—I have a question for all of you. In your application process over the years have any of you got a caseworker or a regular contact person within the department of immigration who provides you with regular information as to the status of your application and provides you with advice or assistance?

**Ms LI**—No, I do not. The last time I went to the department of immigration, 15th floor, compliance, last month to renew my bridging visa E the lady at the counter said that my case had been dragging on for no reason. She did not see any reason why I was not being granted a visa. She advised me to ring the minister's office in Canberra. She gave me the number and asked me to call just to find out what was going on and what the delay was all about, because all reports had been submitted and had been documented too. I took her advice—she is an officer of DIMIA—and I rang that Monday. A gentleman answered my call. He said that he would send an email to the person in charge and that person would ring me back the next day.

I waited two days. Nobody rang me. I rang again and left another message with a lady. The lady said that they were busy for Christmas celebrations and that somebody would ring me back soon. I waited. Two days after that somebody did ring me up, but unfortunately that officer from



the minister's department told me not to call the office. He said I had no business calling them. He said that I had an agent and I was to go to the agent. He said that ringing them would not make any difference; it would not speed up my case. I was very heartbroken being spoken to that way.

**CHAIR**—He was talking about an immigration agent?

**Ms LI**—No, an officer—from Chris Andrews' office I think—

**Mrs D'ATH**—They told you to go through your agent—are they talking about an immigration agent?

**Ms LI**—No, an officer from DIMIA suggested that I ring Chris Andrews' office—

**Mrs D'ATH**—Yes, I understand that.

**Ms LI**—I rang there twice. Somebody rang me back, telling me that I had no business ringing them up because I am just a subject.

**Mrs D'ATH**—But they told you to go through your agent?

**Ms LI**—Yes.

**Mrs D'ATH**—What agent are we talking about—an immigration agent?

**Ms LI**—I said that there was no harm in ringing. In fact my caseworker from the Red Cross said that there was no harm in ringing. I just wanted to know what the status was, that's all. But in being spoken to that way, I really felt belittled, honestly.

**Mrs D'ATH**—Has anyone else got a regular contact or a caseworker that provides you with updates to your application status?

**Ms LI**—No.

**Ms GD**—No, we have not had for a long time. But last year towards the end we had a caseworker looking at our case from immigration, but that was the only time. I got the impression that they were trying to get us out of this country. They were obviously under the power of the big people there. I understand that they were told to say that. It was their job. Now they are trying to say, 'Look, this is your case. We believe in your case and we think that it is going to go through,' and then they will push it in. So I am really confused whether they are trying to help.

**CHAIR**—Recently they said that to you?

**Ms GD**—Yes.

**CHAIR**—But you have not heard from them again. When was the last time you heard from them?

**Ms GD**—Last year—two months ago.

**Ms Psihogios-Billington**—Our experience—and in all fairness there have been some improvements that we have seen—is that historically, no, especially for our bridging visa holders. They would show up to renew a bridging visa and would deal with anyone that was over the counter on that particular day. There was no continuity. There was no officer who was familiar with the person's file to spare them having to answer often difficult questions from the start. From mid year and earlier, from last year, for example—and I can speak for Mr and Mrs G—they have had a case officer for a good year now. They deal with the same person. The paperwork is prepared in advance, cutting down on time for the department and cutting down on time that needs to be spent by the family going in. They do have two young kids. So for some of our clients we do have a regular case officer whom we can contact and whom they deal with when they present to the department. Historically that has not been the case though.

**Dr STONE**—So everybody now has a caseworker?

**Ms Psihogios-Billington**—I cannot speak for everybody, Dr Stone, just the clients I am familiar with.

**CHAIR**—Do any others have a caseworker?

**Mr Q**—I report every fortnight. I ring them—

**CHAIR**—And is this the same one? Is it the same guy or same woman?

**Mr Q**—Yes, the same one in immigration.

**CHAIR**—And you know their name?

**Mr Q**—Yes.

**Mr L**—Yes, I go to him every fortnight and report. But what is the meaning of 'caseworker'? My caseworker is from the Red Cross, so this is different.

**Ms Bencik**—To clarify, my name is Melissa Bencik and I am a caseworker at the Red Cross through the Community Care Pilot. Some of the people here at the table today are part of the Community Care Pilot. Anyone who is on our program has a caseworker at the Red Cross, but also has a case manager at the department of immigration. They also have a compliance officer. So there are quite a few different people involved and I think that becomes a bit confusing for people when there are different titles used.

**CHAIR**—But altogether, if they are lucky enough to be under your project they will have a case officer?

**Ms Bencik**—They will have a caseworker at the Red Cross. They will have a case manager at DIAC, and they will have a compliance officer. So depending on who the individual case manager at DIAC is, will depend on how much communication they have with their client. Some case managers choose to communicate more through us and some will liaise with their clients directly. The amount of information they choose to share is dependent on that worker sometimes as well. Some people might know a bit more about where their case is at but I think that due to maybe a lack of transparency people are not always aware of where their case is headed and that sort of thing. So I think that is where some of the confusion is about the titles that people have and who does what.

**CHAIR**—Bridging visa E people are not under the community care project; they do not have to have a case manager from the department of immigration?

**Ms Bencik**—I am not sure how to answer that question.

**CHAIR**—In a sense, people under the project are lucky compared to others.

**Ms Bencik**—Generally, the people who come onto the Community Care Pilot are the most vulnerable people who have been waiting a visa outcome and they are referred to us through DIAC. That is how our program works.

**Dr STONE**—How long has the community care project be going on for?

**Ms Bencik**—Three years, since 2006. It is still a pilot at this stage.

**Dr STONE**—Would you recommend that as a good model? Is it working comparatively well? Can you give a comment after three years?

**Mr L**—Much better.

**Ms SI**—We were practically like first-timers. We did not have any help; we felt like dying here.

**Ms Curr**—Before the Community Care Pilot people came out of detention and arrived in Melbourne from Baxter at five to six o'clock at night with nowhere to stay and \$120 to survive on. After the Community Care Pilot was introduced people were met and a lot more things were put in place so that they did not land on our doorstep at nine o'clock in the morning. In the case of one person who had \$120, \$80 was paid to a motel in Elizabeth Street and that left \$40 to survive on until immigration and all the other things had been set in place. These things came in after the Palmer inquiry and they certainly are a great improvement.

**Dr STONE**—They came in in 2006 so it is long overdue for the pilot to turn into a program if it has in fact been a success.

**Ms Curr**—There has been a lot of discussion about how pilots can live on forever. We would be very keen to see it go from pilot to—

**Ms Bencik**—I guess the main thing that our program provides in terms of support is a fortnightly living allowance, which is only 89 per cent of a basic Centrelink wage. You can hear some of the difficulties that people have expressed today about trying to pay rent and feed the family, and then it is only 89 per cent of a basic Centrelink wage. Also we pay for some medical expenses in accordance with Medicare, because people on bridging visa Es are not entitled to Centrelink and are not entitled to Medicare. As well as that there are other supports, but they are the main ones.

**CHAIR**—Before we break up we would like to know whether there is something you would like to say to us. If you have something that has not been said, please tell us. You do not need to repeat your evidence and, if you do not want to say anything, do not say anything.

**Ms GD**—There is a lot, I reckon.

**CHAIR**—I think that we have broken the ice and we have found out a lot, I can tell you. We appreciate it. Do any of you have anything that you would like to add?

**Ms WD**—The time that I was living in the United Arab Emirates the visa I was holding for just two years was for employment, but they said it was for permanent residency. So whatever the company might like, I would have to return to the country even if they wanted to renew or extend my employment. That is why we feel as though we have human rights to claim. I was lucky, I can say, to come to Australia because I did not have any family. I was alone and that was the only chance I had to come to Australia. I hope the government will understand why we are asking for our human rights. I would also like to say thank you for the support I have in Australia from the community, the church, employment, the lawyers—everything is there—and I am not sure about the Red Cross. I would like to say thank you for everything.

**Ms LI**—Thank you for hearing me.

**Mr S**—Thank you for listening to me when I spoke.

**CHAIR**—I think we thank you.

**Mr HG**—We thank you very much listening to us and we hope that with the information we gave things will change in the future.

**Mrs FG**—We hope that we will hear something that will make us happy.

**Mr HG**—We also want to acknowledge and thank too all those who helped us—the Red Cross, asylum seekers sponsors—

**Ms SI**—I think that there should be more help for students in my circumstances. When I tried to apply for assistance for entrance to uni I could not do anything because I do not have the PR visa. There should be more help, not just in terms of financial help also in terms of emotional support for other children like me going through the final year of school and having a mum with severe depression. Having children to look after in the house is not easy and there should be someone to help. I did not study for my year 12 exam and I really regretted it. It was not just my mum being sick but the stress and the constraints that I was under having to live practically in

handcuffs—not allowed to work, not allowed to do anything except breathe. There should be financial help for people with bridging visa E.

**CHAIR**—Now you are at Monash University, have you got someone? Are you in contact with a counsellor there who is helping you or someone who understands your circumstances at Monash?

**Ms SI**—Because I do not have a PR visa I have to enrol myself as an international student. As an international student, I have to fill in an acceptance form. In that form there is a section on visa details. I have talked to them and explained my circumstances and I am waiting on a reply from them. I will talk to a counsellor but I have to enrol myself first.

**Ms GD**—I was lucky that I got a scholarship and was able to get a place in university.

**CHAIR**—Maria, do you find that universities are helpful or is there a problem?

**Ms Psihogios-Billington**—No, there is a problem. They obviously have threshold criteria, one being permanency or citizenship. The other is that if you are not in those categories you will be deemed an overseas full-fee-paying student, and for our clients that is where any contemplation of further study stops. Ms GD was fortunate with a scholarship. RMIT up until recently was running a scholarship program for asylum seekers. That has now ceased. So short of getting—and this is for Ms SI as well—a decision from the minister resolving their case, and that is hopefully going to come soon, we are waiting. Everything has been done and now it is just a waiting game. We are waiting to find out the minister's decision.

**Ms GD**—I have a friend who was in the same situation. She was granted permanency but still has a problem. She cannot apply for HECS even though she has got permanency. She still has to find a way to study and get education.

**CHAIR**—Thank you. That is a new problem that you have made us understand so I am pleased that you spoke up.

**Ms Curr**—There is a problem that was introduced when they brought in their resolution of status visa to give permanent visas to people on temporary protection. There is a bureaucratic anomaly which means that the ROS visa is not listed on HECS-eligible visas. So all those people who have been waiting to study when they get their permanent visa have now been given ROS and they cannot study—no HECS.

**CHAIR**—All of that means that we can write from this committee to the minister for education and go into that. With the exception of the full names of everyone here who is a client, this committee will authorise publication of the transcript of evidence. The names can be withheld by the secretariat after providing advice to the chair and deputy chair. I thank everyone for their attendance today. We really appreciate it. Thank you for coming.

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

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

**Committee adjourned at 4.37 pm**