

## Submission to the Inquiry into the administration and operation of the Migration Act 1958

### Terms of Reference

I would like to comment on the following:-

#### **Section a. i) processing and assessment of visa applications**

##### **a.i.1) *the actual process of determining whether people should receive refugee status.***

In my experience of working with several people who eventually received refugee status, from the stories of their experience, it appears that at the initial interview, the interviewer simply did not believe their story. It seems that the adversarial mode of dispensing ‘justice’, common in English-speaking courts, was used. I believe conducting interviews this way is inappropriate for determining if a person is a refugee.

##### **a.i.2) *the crucial role of the interpreter***

In a letter I received dated 5 July 2005, as a reply to one I had written to Senator Amanda Vanstone) from J G Murfet (Acting Assistant Secretary Onshore Protection Branch), I was told that “interpreters used are professional, and are not, in any event, the people making the refugee decisions.” I have no reason to dispute that.

However, in one situation in the past three years at the refugee review tribunal, a person I knew who was fairly fluent in English but felt more comfortable speaking in his own language, opted to use the interpreter for the review of his case. At some point, he told me, as he listened to the interpreter’s translation of what he had just said, he realized that his point had been mis-translated. He corrected the interpreter and the interpreter apologized and re-translated. At least this situation had a good outcome. For people who know very little English, they are at the mercy of the interpreter and their skills.

##### **a.i.3) *documents received explaining why their application was rejected.***

When those claiming Refugee Status have their cases rejected, they receive a document that outlines the reasons why they are rejected. This document is expressed in a form of English that is difficult even for a native speaker to understand. When the refugee claimant has poor English skills, this is just another way that makes things difficult for them. I know that refugee claimants are obliged to engage the services of a migration lawyer, but many of them have little or no money to engage a lawyer. Most rely on the services of a few voluntary or pro bono lawyers who have so many cases to address that they do not have adequate time to explain in detail exactly where the problem lies.

#### **Section a ii migration detention**

##### **a.ii.1 *Impact on children***

I taught as a Support Teacher Learning Difficulties for 14 years in primary schools with a high proportion of the children who had experienced one or more of the following:

- They had witnessed or were victims of violence in their communities
- They had escaped as refugees from violence in their own countries
- They had experienced the insecurity of living in transit countries en route to Australia.

I have witnessed the traumatic effects these experiences have had on the children’s psychological development, behaviour and learning.

In circumstances where the children lived away from their parents, these effects were more pervasive and recovery was much slower or did not occur.

### **a.ii.2. *Mental Health***

From the reports and anecdotal evidence given by lawyers for detainees and visitors to detention centres, it is evident that there is a conflict of interest inherent in the Immigration Department acting as both detaining authority and arbiter of a person's mental health.

### **a.ii.3. *Indefinite Detention***

Our understanding of Australian law is that a person cannot be held in custody for a lengthy period without charges being laid; the courts determine a specific period of imprisonment. It concerns me that men, women and children are indiscriminately imprisoned without charge, with no legal court case and for an undetermined time, even for life.

### **a.ii.4. *Denial of Human Rights***

Reports from detention Centre visitors have revealed that unaccompanied women have been held in the same block as men and that, in the Management Support Unit at Baxter, male guards have been allocated to supervise women showering and using the toilet

### **a.ii.5) *the length of time some people have spent in Detention ...***

In most cases that I have been associated with, people are rejected, appeal, and are then accepted as refugees. They could have received refugee status after the first interview! The criminal history check takes only a few weeks. It is not necessary to keep people in detention for years when determination of their status could be done far more quickly.

### **a.ii.6) *the siting of detention centres offshore and in inhospitable regions of Australia***

Situating the detention centres in such isolated and inhospitable regions increases the hopelessness of the refugees and adds to their trauma and mental health problems.

## **Section a.iii                      Deportation**

### **a.iii.1. *Threat to family integrity***

We have been disturbed by media reports of families that have been split when some members have been deported or threatened with deportation; these include parents and grandparents being separated from their children

### **a.iii.2. *Forced deportation***

We have read evidence of people being given injections or chemical sedation prior to deportation, and of the use physical restraints such as chains, handcuffs and gaffer tape.

### **a.iii.3 *Danger after arrival***

The study “Deported to Danger”, prepared by the Edmund Rice Centre for Justice and Community Education, gives evidence of the physical and psychological dangers faced by deportees when they are transported to specific countries.

### **a.iii.4 *Lack of access to legal processes and justice***

No court procedures are used to enable the deportee to verify the identity and bona fides of deportation order.

## **Section c. .... other services and assistance provided to people in immigration detention**

### **c.i.1**

These people ARE human beings, often traumatized, and therefore should be treated with compassion and kindness. That this does NOT happen can be seen from the following story. When the first group of TPVs arrived in Brisbane, I taught English to a number of the refugees. On one occasion, I simply wanted to find out if the group could write in the past tense. I asked them to write something, a story in the past tense. One man (a University graduate) told me he didn't know what to write about. He said he was too sad to write anything about his life in his country. I suggested he write something about his life in the detention centre but he said they had to sign a paper before they left that they would not discuss with anyone life in the detention centre. I asked if he could write about their journey from Port Headland to Brisbane, and so he began to write. Without his realizing it, I discovered a number of things re the way they were treated:-

When they arrived at the first food stop, they went in and stood behind their chairs, waiting to be given permission to sit down at the tables. The people serving food wanted them to come forward to order what they wanted to eat. They explained that usually they have to wait until their *number* is called before they can collect their food. *How dehumanizing is that – to be known by a number, not a name! to wait for permission to be seated, to be served food!!* The people in detention centres have not committed any crime, yet criminals in our jails have far better living conditions and are known by their names.

## **Section d) Outsourcing of management and services at detention centres**

### **1. Lack of accountability**

Within the detention centres, State authorities, such as police and health departments, are unable to exercise the supervision employed elsewhere.

### **2. Detrimental elements in contract between DIMIA and GSL:**

There has been a failure to set measurable standards for the delivery of care in the centres. The contract between GSL and the Commonwealth does not delineate statutory standards enforceable by third parties in the courts.

## **Section e) Any related matters - Financial Cost**

### **1. Glenside Hospital**

The \$150 000 per month used to employ guards and the hire of the demountable at \$300 per day is an example of the misuse of taxpayers' money that could have been used more beneficially for many people in Australia.

### **2. Detention Regime**

It is estimated the cost of the detention regime has exceeded \$1.1 billion.

As Australian taxpayers, we object to this use of taxpayers' money to deprive so many people of their basic rights. This money could have been used far more constructively.

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