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**Submission by Ian Knowles to the Senate Inquiry into
Immigration Detention.**

Dear Senators,

My points of concern refer to;

1. The Courts having no power of review of cases
2. The RRT having no cross-cultural training
3. The Ombudsman having no will to exercise his/her power over Dimia.
4. The Minister's Office and Dimia
 - a) not being required to explain their decisions and behaviour to interested public,
 - b) not being in touch with the actions of the Dept. nor, for that matter, the detainees who are suffering the consequences of their policies
 - c) not noting the failure of both long-term detention and forced deportations as tools to pressure many people into signing to return to dangerous situations.
5. The attitudes of Dimia staff
6. The attitudes of ACM/GSL staff
7. The inability of detainees to complain to an authority that may inquire and respond to their perceived injustices
8. Recommendations

1. Re Immigration in particular (and all "national security" matters generally), it appears that the government has consistently worked to have power wrested away from the law courts and into the hands of the Minister and Dimia. Initially this was clear in the Privative Clause which removed the power of the Federal and High courts to review a decision of an RRT delegate.

In addition to the provisions of the privative clause, the govt. fought and appealed against any cases that would set a precedent for further claims. As it now stands, almost anyone getting a visa, gets it at the sole discretion of the Minister. This removal of the Courts as an independent arbiter in claims against the Govt. is the removing the very basis of our claim to be a civilised country. Separation of powers is the only known safeguard against non-transparency of Ministries and Departments.

2. RRT delegates continually show themselves unequipped by lack of experience, bicultural training or even wide reading to understand the words of claimants,

While the RRT delegates all have some legal training, they have no cross-cultural training, and one of the biggest single causes of justice not occurring has been the failure of delegates to "read" what is behind claimants' sometimes short statements, or an asylum seeker withholding his/her full story.

Two examples: One afghan man was rejected because he said that the Taliban came into his village and drove round in Pickups. When the delegate asked him what the Taliban actually did, the man repeated his statement. The delegate took the view that therefore no persecution was involved. I discovered that a whole scene of terror was in the man's head, that the Taliban were rounding up young men to fight for them, and that mothers were hiding their sons, others being threatened with death and worse if they didn't hand over their sons, et alia, but he was unable to articulate all this.

Many other delegates refused claimants on the grounds that seekers didn't give a full account of their story at the first interview with an immigration officer, and increased their story before the RRT. I have stayed with Iranian families whose children were often asked by their schoolteachers if their parents prayed at home or went to the mosque regularly. In many homes people have to ask their children to keep their parents' views secret because of fear of fundamentalists (a small percentage but powerful) reporting them to the Friday Imam's office. In short, *from childhood*, people in countries with such governments have to be careful about what they say to whom. In both the above samples the delegates made their judgements a) on words, and b) in a culturally biased legal system without reference to the relevant cultural conditions

(There is also widespread claim that in the early days, any RRT delegate who gave too many visas was not invited to be a delegate again. One story oft repeated by detainees was of a certain "Black Angel" delegate, -I think sth. african- who granted about 15 visas in a row to Iranians and was then removed.)

3. Relationship of Dimia with the Ombudsman.

Once a person is in Detention, they have no recourse to complaint because the Ombudsman refuses to enforce its power over Dimia

In my numerous phone calls to the Ombudsman's office on behalf of detainees, the Ombudsman notes the complaint and nothing happens. When I enquire why the Ombudsman has no reply from Dimia in the prescribed 31 days, I am told that the Head of the Ombudsman's dept. "doesn't want a confrontative relationship with Dimia"!

Thus there is no path through for the numerous complaints of human rights abuses even in that terrible time of cavity searches, long periods in solitary confinement, maggots in the food, goading and taunting by guards, refusal of medical and dental treatment, and threats of reprisals if people complain, some of which still continue.

4a. Ringing one of Mr. Ruddock's advisors to obtain reasons for policy goes like this. " I'm ringing because I'm told of such and such abuse happening in Woomera or Baxter. ACM say that Dimia make the rules. Dimia says it is acting in accord with ministerial policy. What can you do about it?"

"the ministers policy is " _____

" do you advise the minister"

"yes"

" Why did you advise such and such"

" Well we advise the minister within the guidelines which he gives us"

" Well who actually advises whom?"

irritation becomes apparent

" What do you personally think about this matter given the consequences of such and such human rights abuses for detainees"

"It is not for me to have an opinion."

"Well how can you advise the Minister?"

"We advise the minister within the guidelines which he gives us"

After a couple of loops the level of anger increases and the advisor tells that he is a busy man and terminates the phone call with "You can put it in writing to the minister"

I reply that I have done that and only get a reiteration of a policy speech.

4b. Attitudes of the Ministry.

Mr ██████████ K██████, former advisor to Amanda Vanstone, had a 2 hour talk with me last July in which he asked me if detainees were happy with the RRT system. I replied that it universally was said by detainees that it depended on what the delegate had for breakfast whether they got a visa or not, such was the inconsistency of similar claims being accepted or rejected. What surprised me was the apparent lack of communication down the line. I thought that a ministerial advisor should be in touch with whether the system was working for *all concerned*. His only knowledge of the RRT delegates was that they all had some legal training, and he admitted that they have no cross-cultural training.

I gave examples of the fear that people live under in a country in which children are asked by their teachers if their parents pray and go to the mosque regularly, and that answering circumspectly is often a matter of life or death, and that a well - founded fear of persecution by those who have any ideas questioning the fundamentalist regime or the political system was so well founded that people are prepared to stay for 5 years in Detention rather than sign to go back to their country.

Mr. K. replied that life was hard here too and that we had taxes, and that if the Liberals lost that election he would be out of a job!

4c. The issue of forced deportations, and the threat of forced deportations belongs both to the Ministry and to Dimia. I have been unwilling to discuss these with anyone because of the danger of drawing attention to those who have been forcibly deported to a dangerous situation. What I do know from personal follow up, is that the Govt. does not follow up, in fact cannot follow up, the safety of forced deportees, and the infamous MOUs are no guarantee that anyone protected by one on entry into their country will remain protected.

Many Christians had their cases reviewed on grounds of danger for their return, but inconsistencies are glaring. eg an Arab Iranian was being forcibly deported just days after reports of purges of Arabs in Khozestan Province near the Iraq border.

Nonetheless, after the first forced deportations to Iran under the MOU, Dimia passed another round of "sign to return" notices to Iranians under threat of forced deportation if they didn't, and the response was negligible. Surely those who refused gained credibility as having a "well founded fear " should they return. Most were in about their 3rd or 4th year of detention at this stage.

5. Attitudes of Dimia Staff.

When applying for some work in Woomera, I waited for some time on 2 occasions in the Dimia office, and was impressed by the similarity to an education dept., head office - jokes about creating another piece of paper, and a light banter which struck me as surreal when, at that time, horrific abuses of human rights

were being perpetuated on the other side of a tin wall. One man was given 10 days solitary confinement for throwing his food at the wall (after many requests by certain detainees not to make the food so spicy that only the Pakistanis could palate it. Another man was given 10 days solitary confinement for having a mobile phone. A ██████████, the then head of Dimia at Woomera, when I questioned her about this, said, "he knew the rules", as though human communication isn't essential for life, as though solitary confinement doesn't come under torture, and, in this case, without acknowledging that Woomera had 2 mobiles for incoming calls per compound, for 70 or so people. (the outgoing phone system, I think run by Paytell, was the most expensive in Australia, and detainees could make a 4 minute call to the Middle East for \$20). In these day's of solitary confinement, under the euphemism of 'Management,' any answering back to a guards could bring up to an additional 10 days in solitary. Guards at the gatehouse made jokes to visitors about the cavity searches.

Use of the Press by Dimia

Dimia always had the right of reply when accused of a particular breach of human rights, but Detainees had no opportunity to reply when Dimia said "It didn't happen".

6. Attitudes of GSL and ACM Staff

One pattern worth noting is that flare ups of trouble in the detention centres occur every so often, ie not continuously, notably, every few months or so. This makes sense from the 3 sides of Dimia, ACM/GSL, and the detainees themselves. A reading of "Papillon", who notes that people in solitary confinement can't bear it for long and regularly shout or do something that causes the guards to beat them up. This is preferable to NO interaction.

In the same way, people who have no indication about whether or if they will ever be free, and no means of getting any communication out of Dimia or the ministry, waits of usually many months, and sometimes over a year for replies to applications, naturally leads to occasional fits of anger, smashing windows, chairs, throwing food, etc. This in turn gives

the guards, and ACM/GSL management something to do in their otherwise tedious lives.

It also gives Dimia a justification for their authorisation of ACM treatment of detainees. I'm absolutely serious here. A Detention Centre has very limited point. The detention of immigrants has almost no point for the employees, and is merely a job with a pay packet. A few have made some sort of mission out of their job, such as to protect detainees from the excesses of ill treatment of detainees, but I have watched many who just enjoy having power over others, and who refer to detainees as "them" with no recognition of detainees as fellow humans, whatever the merits of their claims. When one is 'on hold' waiting to talk on the phone to a detainee, the guards' conversations are mostly about their work conditions, or longing for knock -off time. At times of punitive action in the detention centres, I've heard Administrators talk to junior officers about how they are not racist, but that "these people" must have "respect" for us, as though the trouble is not caused by institutionalised disrespect.

In the worst days of solitary confinement, under the euphemism of 'Management,' any answering back to a guards could bring up to an additional 10 days in solitary. Guards at the gatehouse at Woomera would tell visitors that reports of leg-cuffing children and abuses reported in the Women's weekly and other press weren't true, but their defence was uncalled for -they "protesteth too much" and humour with visitors was nerve edge. At Baxter, an officer made jokes to visitors about them having cavity searches. When I suggested that the humour was rather black, she defended that the cavity searches were done by specially trained people. I now ask- "for what -what was found - a box of matches?"

It appeared to be an act of revenge for the fires, but it again justified the existence of an over the top security system which had /has very little point.

Some examples of specific abuse of detainees with whom I have contact.

There are stories by the hundred of people unable to get medical treatment which caused months of suffering.

One man, Ramzi , given a travel pass to Syria, even though he was Tunisian, and was effectively sent to become an illegal resident in Syria, was outspoken at Woomera, and refused dental treatment for 5 months for an aching tooth (He was given panadine forte which is not effective in long term use). I eventually found the Dentist in Roxby downs who that day had a vacancy, and by ringing Ramzi, the dentist and the centre management, he got treated. Refugee advocates often did this sort of work which was ACM's or Dimia's. (Ramzi rang me the next day to say that he had had his first night of unbroken sleep for 5 months. He also had a damaged back from being violently pushed by a guard.)

A Palestinian woman had internal bleeding from an IUD for many months before she was treated. She was ignored until it was life threatening, and only give painkillers.

After the Fires of Christmas 2002, Detainees were subjected to cavity searches, often shackled with hands above their heads, subjected to more threats of forced deportation, and general suspicion. People were offered favours, for informing on other detainees, and some detainees became paranoid about their fellow detainees. (This informing practice happened since the beginning, ~~at Curtin, then at Baxter.~~ Perhaps the most hated man for being friendly to detainees, then betraying their confidences. He was variously called things like snake and pig, and everyone was glad to see the back of him). Many people became mentally unstable, and it certainly exceeded those who got help.

Less mentioned is the wear of the constant indignity of having to ask for every little thing. Detainees don't have to do anything for the provision of their daily bread, and some who come out after years have to relearn how to have a semblance of self sufficiency, and in a foreign language too. Long term detention has a few success stories. A few are able to become philosophical and learn deeper things about the meaning of life, but the majority close down their ability to learn, because the situation lacks the stimuli of contact with nature, and normal human interaction. Obvious examples, are that

middle eastern people are very family oriented, and have continual contact with children and the aged and infirm. These contacts are linked with them being a very hospitable people. For single men removed from this for a long time, a part of their essential needs are missing, and self-harm is a common response to losing this aspect of human interaction. ACM/GSL, DIMIA, the government, and the media all failed to understand this, and perpetuated a view of self-harm, from a European point of view, as aberrant behaviour. This is the cause of massive pain - it is tragedy.

One man tried to escape from detention because he had heard that his mother was dying, and he desperately imagined that somehow he could get back home before she died, without being apprehended by the Iranian authorities - his mother died and he was put into solitary confinement and taunted by the guards. No one ever knew his reasons.

7. Inability of detainees to complain. Special points.

Detainees had both imagined and verifiable fear of criticising people in either Dimia or ACM or Dimia. Initially the threat was that they might reduce their visa chances if they complained about conditions, injustices, or staff behavior. One man claimed to have evidence that the fires at Woomera were started with AFP involvement, and he was removed forthwith to Port Hedland. He was the last Iranian to be released.

8. Observations and Recommendations

Summary:

Dimia is thus outside of the law, the RRT decisions cannot be reviewed independently, the Ombudsman is not functioning independently, the Minister has all power in her hands, (it is not even possible to get a reason for her decisions to release some asylum seekers and not others, which information is available to anyone judged in a court, and therefore justice for a person who is artificially declared to be an illegal non-citizen is unavailable).

A) All the fears under which detainees live are doubled by having a private, and especially a private profit making company running the detention centres.

B) A large amount of government responsibility for its detention policy is removed by having such a company to which the buck can be passed.

C) The ministry appears to not be intimately aware of the actions of Dimia, and has even less control over the actions of ACM/GSL.

I recommend therefore:

A) The removal of ACM/GSL, making Dimia responsible for running of detention centres.

b) Re vamp Dimia and institute proper cross-cultural training for employees, including experience living in a relevant culture , learning the rituals, language, etc. thereof.(Similarly for RRTdelegates.),

c) Place an obligation on the Ombudsman's office to do it's job.

d) Remove the privative clause, and restore the power of the courts, OR, have special training for RRT delegates, but under the auspice of the Courts, not under Dimia, who have an obvious motive for finding Australia NOT responsible for protection of various people.

e) Actively educate the people of Australia to learn about other cultures, to make friends with people of different cultures, to learn other languages, to get on the net and talk to people around the world and to debate.- in schools, in business men's luncheons, in staff-rooms, until people demand leaders who will

make the country secure through friendships, not muscle.

A Conclusion.

The detention system is primarily negative. It achieves nothing for the asylum seekers, and renders their lives largely useless to society; it achieves nothing for ACM/GSL employees except a job, as the training doesn't encourage personal or social growth for them. What do they do when this job is finished - usually become a security guard for someone else, because their education isn't wide enough for something positive; it achieves nothing for Australian society because we have skilled or at least able bodied people locked up at huge expense, and almost none of them are a security risk. N.B. All the Iranians recently released after 5 years or so have been locked up for *nothing*. and nearly all have been found to be genuine refugees! This is Australians' *shame*.

Final Thought

A *positive* policy would presuppose a strong national understanding of the type of society which we all want as a secular state. It would not be biased towards particular ethnicity nor religion, but would not allow any religious or ethnic mores to override any agreed on fundamental human rights. As things stand, there is great fear of certain Muslim values – attitudes to women, etc., which is better tackled not by restricting middle eastern immigration, but by making it clear to *all* immigrants what is expected in a secular state. I have many middle eastern friends, and most of them welcome e.g. the improved relationships with women that this society affords. Some obviously do not. I suggest that the difference is partly between those who are welcomed and maintained as friends by secular Australians, compared with those who live more isolated in their

own ethnic communities. The circles of friends supporting refugees have learned a lot about the value of taking the initiative in welcoming immigrants rather than just saying yes or no to an application. A 2-way obligation occurs if we move towards immigrants, and government may well encourage this by running courses for immigrants which facilitate the making of friendships early in an immigrant's life in this country, and getting good multicultural literature into schools and homes, et alia.

Yours faithfully,
Ian Knowles