

SUBMISSION FOR THE INQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958.

I write as a concerned citizen who has taken a keen interest in matters relating to asylum seekers since the "Tampa incident" in 2001.

I corresponded with a detainee for about two years and visited him in the Baxter Detention Centre in August 2003, April 2004 and October 2004 for a total of about 60 hours. I currently offer emotional support and practical assistance to an ex-detainee who is on a Temporary Protection Visa.

TERMS OF REFERENCE:

Processing and assessment of visa applications.

I have observed that long delays in the whole process of seeking refugee status and what is perceived as inconsistencies in decision making are a source of distress to detainees. Most people who are "boat people" are eventually assessed as refugees. The process appears to have been in many cases long and convoluted with people being held in detention for the entire period. I think that the time frame should be much shorter. At the same time, it is imperative that the processes are fair, consistent and accountable and appeal mechanisms, including to the Courts, are readily available to asylum seekers. I am concerned that the Refugee Review Tribunal comprises one person and I question what checks and balances are in place to ensure that unsubstantiated assumptions, bias and lack of accurate knowledge of the home country do not impact on decisions.

I question whether the Refugee Convention covers all situations in which people may be forced to flee persecution. I think that we must aim to protect those seeking protection in Australia, irrespective of whether or not their situation fits the Convention.

Migration detention

My understanding is that people who come to Australia on a valid visa and then apply for refugee status remain in the community while their status is being determined. It does not seem to me to be logical that people who are unauthorised arrivals should be placed in detention while their status is being determined. I understand that it is legal to seek asylum in Australia. If detention is to deter unauthorised arrivals I suggest that this is immoral. It is axiomatic that the punishment of individuals to influence the behaviour of others is immoral. Unauthorised arrivals have committed no crime. They should not be placed in detention and detention should, in my view have no place in our border protection policy.

It has been well documented that migration detention causes much suffering – mental, emotional and physical. Suffering of children and adults. On every visit that I made to the Baxter Detention Centre there was some upset – and I was there only for very short periods. For example, a man on the roof, detainees upset about guards using batons inappropriately, people on hunger strike, rumours of deportation, detainees placed in the "Management Unit" for behaviour which it seemed to me arose from despair.

There seemed to be a general lack of faith in the ability of the Ombudsman to deal with complaints and fear of reprisal if complaints were made.

Boredom and uncertainty seemed to be the norm in the detention centre. To my knowledge single men were not taken out for recreation and rarely for shopping.

Processes surrounding deportation.

On my first visit to Baxter in August 2003 I was informed that two Iranians who had been forcibly deported had been shot by security guards at the airport on arrival in Tehran. I know one man who returned to Iran under the Memorandum of Understanding with Iran who was forced to flee again and eventually obtained UNHCR refugee status. I question how sure the government is that people will not be persecuted, killed or forced to flee again when they are returned to their own country as people for whom Australia owes no protection. My impression is that detainees are terrified of deportation. People do not flee their countries and endure years in detention and years of uncertainty unless they are very afraid of having to return to face further persecution.

Why, if the government is certain that people are returning to a safe environment is the process of deportation seemingly clandestine and forcible. If all were well, surely it would be a happy occasion.

The adequacy of health care.

The deleterious effects of long term detention on children and adults have been well documented. In my opinion no matter what mental health resources are poured into the detention system problems will continue. The source of the problems is the system. Mandatory detention must be abolished and people in need of protection provided with timely and durable solutions.

I wish to comment on my experience of dental care for detainees at the Baxter Detention Centre. A young man was in detention for over four years. In this time seven of his teeth were extracted. I understand that no preventive or restorative work was done and he needed dental care on his release on a TPV. In August 2003 I went to see the South Australian Dental Service in Port Augusta to see if treatment for him could be expedited as he had on-going pain. I assumed that he had not been attended to because of lack of dental services in that area. The SA Dental Service contacted Dr. C [REDACTED] the dentist who, I understood had the contract for Baxter, who informed them that there were plenty of appointments available but detainees were not being brought to the surgery.

Outsourcing of management and service provision

ACM and GSL are both private companies. Private companies are concerned with making profits. Why is it that single men rarely, if ever left the Centre for recreation? Why were there apparently dental appointments available that were not being used? I suggest that it might have something to do with private companies not wanting to make guards available to allow these activities to occur.

Baxter is like a maximum security prison and I understand that it is not unusual for the guards to have been trained in the prison system. People seeking asylum are not

criminals. they are likely to be traumatised. The environment for their care seems to me to be totally inappropriate. Transparency and accountability should surely be of paramount concern for the government in dealing with such people. Human misery should not be the source of profit.

Related matters.

I wish to express my concerns about people being placed on Temporary Protection Visas rather than on Permanent Protection Visas. TPVs prolong the agony of uncertainty. If a person needs protection surely we provide it and let them get on with their lives and contribute to Australia.

I am very happy to know that long term detainees are being released from detention. I do have concerns about the Return Pending Visa. Fear of deportation to an unsafe place seems to be the norm for asylum seekers.

I am somewhat confused about the offer of application for mainstream visas. Asylum seekers are fleeing persecution. They are not migrants.

I am concerned about the Memorandum of Understanding between the Australian and Iranian governments, the details of which seem to have been denied to the public. Human rights violations in Iran are common knowledge, yet we make such arrangements in relation to people fleeing persecution in that country.

Conclusion

Mandatory detention must be abolished as must the "Pacific Solution" Australia must take responsibility for asylum seekers in off-shore detention centres, including Christmas Island and Nauru. People who come to Australia who are in need of protection must be protected. Our processes for assessment must be of the highest quality and err on the side of compassion. I think that Australia's treatment of asylum seekers is a national disgrace and I am personally very sad and ashamed of it.

I applaud Petro Georgiou and his associates on their principled stand.

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