

**Submission to Senate Committee: Inquiry into the administration and operation of the Migration Act 1958** particularly in regard to the treatment of on-shore or near-shore refugee asylum seekers.

Extension of time granted 28/7/2005 to Helen Tait: Coordinator, Tasmanians for Refugees, Launceston- Refugee Advocacy group

### **Cover note**

- Submissions from seven list members of Tasmanians for Refugees, Launceston, with several requests to present evidence in person.
  
- Experiences arise from advocacy and support for asylum seekers; on temporary protection, in and out of detention centres, and from out of detention on Nauru . Most specifically we have serious concerns arising from the procedures of the taking and re-detention of a refugee family from Launceston.
  
- Our anguish is extended by knowing that the Hazara people who were fleeing the Taliban and warlords in their country were subject to continuing and further long term trauma in Australian process.
  
- Serious questions remain with DIMIA and other arms of our Government as to how and why interpreters and camp staff from enemy groups were extensively used by DIMIA in dealing with the predominantly Hazara Afghans who asked us for refuge.[supported by *Lost in Translation* Julie Macken : [Australian Financial Review](#) : 25-26 September 2004]
  
- Our alarm about administration of Immigration law focuses too, on the climate of secrecy, fear, intimidation that play on our friends' vulnerability, and by default also on their supporters. Advocates often find their efforts and concerns in exposing and questioning the inconsistencies and cruelties being administered upon the asylum seekers belittled or silenced by innuendos from the department, and sometimes members of parliament, cased in issues about client and department privacy. [see Margaret Reynolds of the UNHRC– *The Untold Story*]
  
- Questions about the involvement of Depart of Police, Defence and Foreign Affairs in administering the ' Pacific Solution' of refuge deterrent and detention, and the sinking of the refugee boat the SIEVX, remain burning questions. [see [www.sievx.com](http://www.sievx.com) ]

### **Members of Tasmanians for Refugees call for:**

- a full judicial inquiry into the administration processes of DIMIA and the harmful affects of refugee detention policies driving the processes.
- recompense to those harmed by poor and mal administration of the Migration Act
- a review of Immigration law in regard to on, and near shore asylum seekers
- full ratification of International protocols and human rights treaties into Australian domestic laws
- full recognition and disclosure of the facts surrounding the sinking of the SIEVX in Australia's Border Protection Zone

Mrs Helen M Tait: Coordinator, Tasmanians for Refugees, Launceston  
W. Launceston, Tasmania

**C. S. Strong A.M.**

**Person asking to give evidence directly.**

**Submission to Inquiry into the Administration and Operation of the Migration Act 1958**

- A) I acknowledge that government ministers and elected representatives are reliant for veracity of information and consequent actions and policy on information and advice given by officers in DIMIA
- B) Based on correspondence with detainees and visits to an I.D.F. we conclude that there are inadequacies, inequities and indiscretions in the management of detainees.
- C) Information to our political representatives, and to us, from DIMIA do not conform to the standards expected in an Australian democracy.
- D) We have evidence of inappropriate treatment of detainees.
- E) A public 'Vigil' in Launceston in December 2004 produced 171 written statements which we will make available to the Inquiry by tabling these with our evidence at a hearing. Over 160 of these are directly relevant to the purposes of the Committee and the Inquiry.

C. S. Strong A.M. (with the support of Mrs Sara Strong)  
Lilydale Tasmania

**Person willing to give further evidence on administration of medical and general care.**

**Fiona Anderson (Midwife) 6/8/2005**

Fiona Anderson  
Liffey  
Tasmania.

I passionately disagree with the application of the Migration Act which places men, women and children in detention centres, the Act is in total breach of the universal declaration of human rights. While working as a registered nurse/midwife in Derby W.A. I was one of the few midwives who were happy to assist the detainees from The Curtin detention centre, who were due to deliver their newborn at the Derby Hospital. I witnessed punitive actions by the security guards accompanying the detainees, which was confirmed by talking with the detainees, and unfortunately, witnessed outright racist behaviour and comments from fellow colleagues working in the hospital. I feel deeply ashamed to be an Australian in these days of invasion and human suffering, and when those in need of help in their exile are subject to intolerable conditions and cruelty in mandatory detention. I am prepared to give evidence if required.

Fiona Anderson.

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**Person willing to give further evidence on administration of medical and general care.**

**Fanou Burslem (Midwife) 7/8/2005**

Response to Senate Inquiry

Having witnessed first hand formidable breaches to treatment of asylum seekers I am available to give evidence as required.

Fanou Burslem  
Liffey

**Personal Submission from:  
Mrs. Helen Tait  
W. Launceston  
Tasmania.**

**Post Script:** *Today as I put the finishing format to this submission two young Hazara children are playing at my feet. I am at this moment deeply moved at the opportunity to know the essence of these beautiful children of the 'most persecuted people on earth' - Twins born from in detention 1 kg, 3 months premature; given by their parents, and the fruits of our beautiful lucky country, the precious opportunity of survival. In the honour, and the responsibility of respect for the beauty of the spirit of human nature, I put this submission to you* Helen Tait 7/8/2005.

**My concerns relate to:**

**1. The punitive nature of administration of Migration Act under what appears to be a fear-filled and unimpassioned Government Immigration policy in regard to on-shore and near shore-refugees.**

**2. That the inappropriate law has been applied in a kind of secrecy by department administration that renders the department almost inaccessible and unaccountable by default or by intimidation.**

**Assertions:**

- Australian Government policy and rigid and uncompassionate administration of the Migration Act does not give adequate attention at home to the spirit of refugee protocols, human rights and the care of the child, that Australia has signed internationally.
- The situation of refugees, seeking asylum and arriving by boat without papers and sometimes stateless, is not appropriately covered by the present Migration Act.
- The policy and law administered inappropriately and punitively has cruelly created extensive trauma and damage on dispossessed people who came to Australia for refuge and asylum. It has created in the world a new dimension of suffering where innocent people are incarcerated without trial, treated badly and abandoned by 'good' people in a civil and modern democracy.
- The administration of voluntary or forced deportation, on people who had safely reached haven in Australia, has unnecessarily added to the world population of traumatized and dispossessed people. [as in Quarterly Essay Issue 13 2004 Robert Manne and David Corlett *Sending Them Home*]
- Serious errors of judgment and process have been found in the operations of DIMIA in administering the Migration Act. In essence the systems in place of inappropriate laws badly applied, has caused the reckless spending of many millions of dollars to bad and inhumane effect.

The morality and the legality of the current administration of the act requires a full juridical inquiry, a revamp of Government policy and a full reassessment of the migration act.

## **Evidences:**

### 1. Close contact with people on temporary protection finds intense psychological difficulties with:

- Long and insecure wait times for notification of requirements after expiry of the first 3 year protection visa.
- Long delays, often months, for instigation of interview towards the decision for the extension of protection.
- Long delays, 5,6,8 months after interviews before presentation of results.
- Unreasonable requests to produce evidence of continuing refugee protection status in reference to life threatening danger in their place of origin.

### 2. Information on access to medical treatment of a family held in Villawood 2001:

- Harsh application of rules and regulations of detention which prevented adequate access of the parents to twin newborn babies 3 months premature.
- Severe limitations on times for critical communication with the hospital nurses and doctors.
- Bizarre application of rules for 24 hour guard by detention officers at hospital
- The sudden granting of a TPV and release of the vulnerable family into the community with an enormous hospital bill and no social support.10 days after the babies were born.

### 3. First hand experience of the trauma inflicted on a refugee family re-detained after a departmental administrative bungle re notification of change of address:

- Long term trauma affects on the children taken from school and childcare, father from work and mother from home, by six attending Federal and State Police officers
- Long term trauma affects on the children from time spent in re-detention in Baxter
- Stress and disruption to family life when the family was separated.

### 4..Phone contact with people in detention in Baxter DC 2003-2004 indicated:

- the prison like holding conditions and running of the centre; the inhumanity of detention numbering, compounding, surveillance, and regimented routines.
- [Supported by the myriad of damning reports of Amnesty International, UN and Australian Human Rights Commission, doctors, nurses, social workers, teachers, lawyers, clergy, supporters and advocates]
- issues of poor access to appropriate health care
- despair around lack of consistency, limited information, poor access and inadequate response from DIMIA to critical questions on visa processes and applications.
- some inmates living constantly in fear of undefined pending or threatened actions from DIMIA towards deportation.

### 5. First hand contact with people who had been held for 3 years on Nauru provides:

- video recording of the mouldy chipboard shanty camp showing conditions that would be unacceptable in Australian law for more than a weekend scout jamboree!
- the experience of the anguish of children and adults who saw extreme anxiety distress behaviours and psychological deterioration in their parents and friends
- insight on the dysfunction of keeping up to 800 single men confined in mentally and physically frustrated inaction for three and more years
- insight on the cruelty of incarcerating people-nomadic from inland mountain terrain, at the end of 'Rubbish Tip' road on the tiny, isolated island of Nauru, mid- pacific, three hours by poorly serviced air transport from Australia.
- evidence of misinterpretation and propaganda by people of Pashtun Afghan origin employed by camp operators and by DIMIA staff.

#### 6. Contacting DIMIA and ministerial staff on routine public and administration matters:

- Poor and defensive attitudes made this stressful and frustrating .
- Complex call centre menu, no switchboard operator in Hobart, key Tasmanian staff names not known in Canberra, slow or no return of phone calls, privacy restrictions applied. [instance difficulties for even head of SA mental health division in accessing DIMIA staff re Cornelia Rau's condition]
- Conversation with Minister Ruddock's senior officer expressing vehemently at length high anxiety about the difficulties of holding at bay millions of refugees on my behalf. [Surely this is Foreign Affairs and Defence Dept. border-protection business, not treatment of refugees business!]
- The disorganized administration by DIMIA of the \$30,000 bond conditions for release of one detainee on bridging visa.

#### 7. Interventions and disruptions to refugee boats in the - 'Pacific Solution' operated by the Australian Defence Force:

**As a participant in the [www.sievx.com](http://www.sievx.com) web site since mid 2002 I fully support and refer to as part of my submission the submissions of Mary d Davies [#106] and Tony Kevin.**

- Material collated for the website [www.sievx.com](http://www.sievx.com) and from the Senate Inquiry into *A Certain Maritime Incident* indicates an intense and questionable application of instructions to the Navy from Canberra to carry out disrupt and deter programmes which often seriously breached the protocols of human rights and international laws of Safety of Lives at Sea
- Conversations with a steel worker employed on industrial rigs working in waters north of Australia in 2001/2002 instanced naval interventions involving towing leaking boats back into Indonesian waters, firing on boats with water cannons, destroying and burning disbanded boats on island shores. He reports generally on the gung-ho attitude and approach to refugees and their boats and the seeming use of them both for target practice and disruption exercises.
- The position of refugees with families in Australia repelled from Australian waters in this way and being held in detention in Indonesia still, requires serious attention.

#### **Other questions and evidences:**

##### Re long and wrongful holding of Hazara Afghans:

What happened that checks of identity for those Afghans accused of being Pakistan nationals were not made directly in Afghanistan?

What happened that cases with further evidences of identity were not automatically re opened?

##### Re Tajik and Pashtun boys from Tampa being given early release and sent to supportive countries:

Many young Hazara men caught up in the Tampa situation suffered long term on Nauru and some still are awaiting for application of adequate processes.

##### Re the pre Christmas 2003 accelerated harassment and persuasion of Afghani nationals in Australia and in Nauru:

Particularly strong persuasion was put, by inappropriate interpreters and IOM staff on detainees to take repatriation packages **immediately prior** to DIMIA taking action on UNHCR's recommendation for Australia to reopen the Afghan cases

Re Administration that allowed inexperienced DIMIA officers to make decisions on identity and place of origin:

Relying on facial features, voice and language analysis on a race of Hazara people of the country denoted as Afghanistan; (essentially a mountain passage way of shifting border between East and West Asia and North and South from to Russia to Egypt) is ignorant, ridiculous and obscene.

Re Laws that allows the power of DIMIA to deport, to danger and without suitable warning or redress produced:

Extreme fear and compliance with department and detention staff  
Misuse of unsubstantiated evidence

Re Lack of access on request from clergy, doctors, lawyers, supporters and reporters:

Why are the doors of Baxter controlled by radio link to Canberra?

Why where reporters banned?

Why were MPs prevented and discouraged from visiting DC's?

How were other members of parliament able to sanitize and call this fair?

**What in the Australian Migration Act let this all happen ?**

Everyday I ask what happened in the communal Australian psyche that allowed the cruelties of deterrent, detention and temporary only visas to be imposed upon innocent and uncharged refugee asylum seekers. What condition of the wildest strongest rampaging animal in all the world would require it to be held in isolation and fortification that are the hallmark of Australian Refugee Camps? What were we thinking when the Australian Government set them up?

My wild assertion is that several Australian departments were infiltrated by subversives with suspect intentions long before their victims began showing up on our shores in the shonkey death trap boats of organized people smugglers, and I think that my assertion is far from incorrect.

**I endorse and refer to the Tasmanians for Refugees, Launceston call for a full judicial inquiry into immigration detention for refugees and for substantial law and policy reform to deal more effectively and more humanely with people seeking asylum in Australia.**

Yours Sincerely

Helen Tait

**Christopher J. Wareham**  
**Launceston TAS**

**Submission to the Senate Enquiry on the Administration of the Migration Act 1958.**

### **Silencing the Critics.**

*Government Ministers and Members:*

- Abrogating all public discussion by employing discourses such as "these people", "unlawful entry" and "border-protection" in relation to asylum-seekers, promoting conceptions of Otherness and criminality entirely contrary to the Common Law *right of innocence until proven guilty* and to International Conventions to which Australia is a signatory;
- A campaign of false press leaks and smears designed to discredit asylum-seekers in the eyes of the Australian public, while allowing them no means of response. (Exactly like the current press-smear of certain "terror-suspects" to justify AFP and ASIO raids, while silencing them through the application of a "Summons of Questioning" signed by the Attorney General, preventing public disclosure of *any kind* by the victim. It is interesting the same method of anonymous smear on a victim, who is entirely disempowered in response, is issuing from a department run by Minister Ruddock. )
- Government members in public forums claiming undisclosed "official information" discrediting Asylum-seekers, about which Refugee Activists using FoI have been unable to access.

*DIMIA:*

- Undue secrecy and lack of public accountability in decision-making processes;
- Serving to criminalise Asylum-seekers and disempower Moral-activists by placing *onus for proof* solely upon Asylum-seekers: For example, to prove they are not "Pakistani" according to false documents obtained by DIMIA, or: to prove why they should not be deported, etc.;
- No right of appeal against dubious information provided from morphological studies of racial type of doubtful validity or by DIMIA officers of antipathetic cultural origin – for example, Pashtuns employed to "translate" for Hazaras;
- Sustained silence for many months before departmental decisions are disclosed;
- Deliberately promoting the fear that any publicity will result in an adverse decision on visa renewal and/or applications for permanency.

*Activities of Immigration Agents:*

- Immigration Agents masquerading as "Spokespersons" for Refugee Advocacy affectively stifling media debate;
- Wielding DIMIA's power by proxy and suggestion, such as threatening adverse responses from DIMIA against local asylum-seekers, thus ensuring their own interests;



- The same Immigration Agents withholding information, gained from their community liaison activities, from being disclosed to press or public, thus aiding and abetting in the silencing of debate.

*Concluding Remarks:*

The points outlined in this submission indicate a clear systematic abuse of political and administrative power throughout the current Immigration system. In each particular case, it is often difficult to ascertain whether this abuse of power is deliberate, a product of indifference or simply incompetence. Only a free and open investigation of DIMIA's activities will disclose the true extent to which the Department, its respective Ministers and agents are culpable in these matters. Certainly the appalling mess of maladministration is a direct result of the obsessive secrecy of DIMIA in regard to its operations and decisions with no provision for accountability. Citing "privacy" or claiming that it is "inappropriate to comment" as excuses for ministerial or departmental non-accountability is utterly insulting in the face of the misery department and policy have wrought on asylum-seekers and their supporters.

Aside from acknowledging the awful consequences for asylum-seekers wrought by this systemic maladministration and ignoble policy, we must acknowledge the impact of the same upon their supporters. Given that refugee-advocacy arises from deep-seated moral convictions, the assault from media campaigns by government and from the legal-oppression by departmental officialdom is a violent and shocking attack on the morality and morale of advocates; many of whom suffer from psychological illnesses as a consequence. No other group in our Australian society has been so morally undermined and surreptitiously vilified by government since the time of the anti-Vietnam demonstrations. After this policy is sent to the ash-heap of history, and its executors at last proved culpable, if only with the benefit of hindsight, the long-lasting psychological trauma will still be in evidence. It is my opinion that there are, and will be, clear grounds for future *compensation*, not only for those who have suffered directly at the hands of this government but also those advocates who have given tirelessly and selflessly, yet meet with moral abuse from officials of this government in return for their efforts.

Christopher J. Wareham

## **Maria Boersma willing to give further evidence**

6<sup>th</sup> August 2005

Dear Sirs or Madams,

I wish to make a submission to the **Senate Inquiry** regarding policies and administration of the Department of Immigration and Indigenous Affairs (DIMIA) in Australia.

My relationship with DIMIA has come from personal experience and what detainees, Temporary Protection Visa holders and Permanent Visa holders has stated to me directly. These are mainly the Afghani, Irani and Iraqi from 2000 -2005.

Some of the issues include

1. 'Passing the buck' and therefore no accountability
2. No legal crisis communication availability and therefore not following proper protocols
3. No caring for specific basic needs and therefore no personal respect or dignity given
4. Culturally insensitivity and therefore no adequate communication on any level
5. Major Mental and behavioural changes while in detention, some temporary some permanent in children(even after 6 weeks only) and adults
6. Incompetence re assessment and follow through of physical and mental health issues
7. Isolation used as punishment when understanding could be followed
8. Always assuming the asylum seeker or detainee or TPV as the guilty party rather than 'innocent until proven guilty'
9. Discrimination
10. Insensitive to ethnic complexities regarding use of interpreters
11. Extreme intimidation to encourage deportation
12. Separating families
13. Long wait (years) for the results of DIMIA protocols

I am a Welfare Counsellor and supporter of these refugees, creating a community where these people are acknowledged and respected. I am willing to be further contacted for details on the above issues on (03) 6331 69999 Bus hrs, mobile 0409 417 367.

Maria Boersma  
Launceston TAS

**Person asking to be give evidence directly.  
Suzanne Archer (Volunteer for DIMIA Refugee Resettlement)  
W. Launceston,  
Tasmania**