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Hornsby NSW

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The Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate

Inquiry into the administration and operation of the Migration Act 1958

As a refugee advocate and physiotherapist I have seen first hand the damage inflicted on asylum seekers who have been detained in Australian Detention Centres.

I am acquainted with many cases of abuse and lack of care of asylum seekers whom I have met and corresponded with over the last 4 years, but I will report on one specific case as I have intimate knowledge of it since being involved at very personal level for more than 3 years.

This man wishes to use a pseudonym for fear of reprisals as he is still going through his application for refugee status and is on a Bridging Visa E. He was released from detention after 4 years on mental health grounds and is receiving regular psychological treatment now that he is living in the community.

The processing of visa applications, migration detention and deportation.

“M” an Iranian National, arrived in Australia in November 2000 and was transferred to Curtin Immigration Detention Centre. He was held in segregation detention for 5 months.

He was denied contact with his family, newspapers, television and radio news and current affairs and lawyers.

This segregation detention was found by HREOC to be in breach of human rights.

When “M” was first interviewed on arrival, he was told by the officer to just say where he was from and his profession. He was told there would be 2 more interviews when he could tell his whole story. But after the first interview he was told “there is not going to be another interview and you are rejected”

When “M” asked for a lawyer, DIMIA would not allow him to make enquiries as to whom could represent him. DIMIA appointed a migration agent without consulting “M”. That agent contacted “M’s family in Iran, and demanded money for his services.

This migration agent met “M” at the same time as meeting with about 30 other people at the Curtin airport. There was no time to have a private interview and the agent told all the detainees to write their claims to asylum in their own language and he would have it translated.

The day before “M” was due to have an interview with his case officer, it was found there were many mistakes in the migration agent’s translated version of “M’s story.

When “M” told the agent, he said “don’t worry you can tell the case officer before the interview and change it then”.

When “M” went for his interview with the case officer he alerted her to the fact there were mistakes in the translation and he was allowed to change some of them, but was not given time to correct all of the mistakes. During the interview “M” pointed out a significant mistake, but the case officer would not accept the change.

After the interview “M” told the migration agent he was not given permission to change all the mistakes and the agent said he would change the mistakes at the RRT but he failed to do so. Furthermore there were additional mistakes made in the RRT hearing.

“M” has written the following to me about his RRT hearing:

*When I first arrived in Curtin Detention Centre, I was told by an officer-
“You will have 3 interviews and will have enough time at the second and third interviews to say all you want. This first one is not official so just make it short and introduce yourself and then you can say more at the next interview”*

So I listened and did as he told me but unfortunately later I was told there are no more interviews and “you are rejected”

I was held in segregation detention for almost 5 months with no access to newspapers, radio or TV channels for any current affairs. I was not permitted to use a telephone or write letters. I was not allowed to contact my family.

This caused me a great deal of distress.

I did not have the process of applying for asylum explained properly to me. I did not understand English. I did not know why I was being held in segregation and I did not know why I had been rejected.

By the time I appeared before the Departmental Officer on the 5th March 2001 I was very confused about my situation. I had been in segregation detention and had no representative to help me.

The Departmental Officer said I was giving more details than in my first interview so she didn’t think that I was telling the truth, but I explained that I was told not to say too much at first as I would have more time and the second and third interview. As I have explained I never had any other interviews, except for the very first one on arrival, until I went to the Departmental (DIMIA) interview on the 5th of March 2001. For Example, when I was asked about my work history, at my arrivals interview, I said I had a shop but the interpreter told me that having a shop was not a profession or a skill so just write the profession or skills, not about the shop.

Throughout my RRT interview on the 29th of May, 2001, the member would not let me explain things clearly. There was a lot of confusion at times and as well as interpreting mistakes I was not able to finish sentences.

I found it very difficult understanding the interpreter. She was in Sydney during the interview as was my immigration agent and they were both talking to me on the phone and many things were translated badly.

I found the inquisitorial approach of the RRT hearing very intimidating and the member focused on things which did not seem important to my claim and ignored others about my core claims for protection. For example, the member focused on my work history, which as I tried to explain, included several periods of trying different types of work, like casual apprenticeships to see how I liked the work. This is common practice in Iran—similar to work experience in Australia. I was not always able to give exact dates for these periods, and I didn’t see that this was relevant to my claim.

I did not understand what the RRT required of me and no one explained the law to me. The submission from my advisor arrived by fax the night before my interview, and it was in English. I had no one to explain it properly to me before my interview the next morning .

There were numerous translation errors in the RRT hearing. Some of these were very significant. The RRT transcripts have been correctly translated by an expert and there were over 50 errors.

“M” was constantly in a state of fear that he would be deported. DIMIA and ACM officers kept saying he was rejected and must go back to Iran.

If he was not genuinely fearful of persecution and possible execution “M” would not have stayed in detention. But for obvious reasons he had no other choice.

The adequacy of health care and other services and assistance provided to people in immigration detention centres.

“M” was grossly physically mistreated by ACM officers, abused and humiliated by GSL officers. He was mentally and psychologically mistreated by DIMIA managers and officers during the whole time he was kept in detention. He was deliberately provoked into venting his anger so he could be accused of “bad behaviour”.

He wrote to me about incidents of mistreatment:

*Several times I was beaten by officers. First time about March 2001. It was about 5 months that my family didn't know where I was and I knew that they were worried about me so I made a decision to go to another camp in secret, and contact them and tell them that I am alive. But officers saw me and they took me to INDIA which is isolated and they closed the door and after a few minutes, officer ***** came to me and started to swear at me, bash me and threw me to the floor a few times by my head, face down to the floor, so I got bruises on my face and because I was shouting more, officers came to my room, one of them twisted my leg and sat on top of me. I was in too much pain but they didn't care. A few days later I was released from India.*

I went to closed camp called FOX and complained about those officers to DIMA but they didn't answer me. Also I complained to the police but ACM didn't send it to them. They just told me they would talk to those officers and they would not do it again. Anyway I couldn't do anything else about it. When I was in another camp International Amnesty came to visit, and I gave my complaint to them. Later they sent me a legal form and I filled it and I sent it back to them, but unfortunately I haven't got any answer from them. DIMA control all the letters and maybe they didn't send it to Amnesty.

On Friday 19th July 2002, they took me away and didn't give me food for 24 hours I was in INDIA more than 3 months off and on, e.g. last time was 20 days

When I was at INDIA for 3 weeks I hardly could move because of my bruises. They bashed me with batons. I asked for doctor also I had pain in my heart. First they ignored me then, after 3 days the doctor visited me and still I had pain in my heart and they didn't care at all. They didn't mention my bruises in my medical report file.

Its about 8 months I have constant headache. They are telling me it is stress and they cannot do anything about it and they just give me pain killers and they made me stay in INDIA which was filthy and gave me dirty blanket with my wounds and bruises for 20 days. Now I've got some kind of fungus. They gave me special cream but still it has not healed.

It is about 3 months and because of my illness I can hardly walk and also more than 40 days I have allergy. I can't go out in daytime. I get itchy in the warm weather so I stay in my room so I sleep in the day and stay awake at night. In this situation, I can't do things that I want to do. I told medical people so many times again. They told me they can't do anything about it. You have stress and this is a psychological problem and not physical and we don't have psychologists here. A few counsellors told me hard condition of camp is reason for your stress and that is normal! I am confused and I don't know who to talk to about my problems.

Three or four times I was on hunger strike. Sometimes I didn't even drink e.g. One was for 33 days. The last 10 days I didn't drink. That time they gave me drip on my hand two times by force and once by my nose.

When I was on hunger strike for 33 days, on 20th day because of depression I cut my hand by razor. Also once at mess when officers were bashing us. I wanted them show me respect so I cut my neck by razor 3 times.

When I was at INDIA I sometimes was not allowed by ACM or DIMIA to have visits from the other detainees

The events of 19th April 2002

At 4 pm I heard noise and I saw all the detainees and officers running to the school. When I got there, officers were running to the inside of the school and saw another detainee inside the school and I knew that they were going to bash him so I went to help him and I knew that when officers are alone with one detainee how they will treat him as it happened to myself. When I went inside officers twisted his hands and he was shouting because of his pain and they sat on top of him and I was yelling and shouting at them "don't bother him". They didn't stop. I got very angry and I turned a table upside down to get their attention and make a noise, as I knew I couldn't touch the officers or they would say I would go to jail. They stopped hurting the other man. We went out together and at 7pm we went for dinner. When I entered and I got my dinner and I start to eat it, all of a sudden, officers closed the entrance and exit of the kitchen. There were 40 of them in riot gear and helmets and batons and tear gas and special uniforms and a video camera. And they started to bash detainees. When I saw them coming towards me I broke the fluorescent light to get their attention not to bash them. So I put it on my neck and I told them to go away but still they continued to bash the others. I cut my neck 3 times, to get their attention. I was hoping they would stop, but one of the officers bashed my arm with a baton and because of that it cut me deeply and started bleeding. Still they didn't stop and they were bashing and bashing us and I was trying to escape but they bashed me with baton on my head and hands and legs so I got to the exit, but by that time all of my clothes were full of blood. Some of the women officers were very scared and they didn't bash me. When I got outside I thought I am free now but suddenly one of the officers attacked me with the shield on my forehead and I collapsed to the floor and they handcuffed me and while they were dragging me to medical and on the way they kept bashing me and swearing at me. Also beat me with the garbage bin and saying bad things to me. That time nurses took him away from me and after about 2 or 3 hours they stitched me and still I was handcuffed up to about 1 o'clock in the morning.

They left me 20 days in INDIA which had surveillance by cameras. They locked the door. I was not allowed medical attention by the nurses as ACM knew that the nurses would have to do a report. Even if I wanted to go to the toilet I had to ask permission by officers and I had to be escorted to toilet.

"M's blood soaked shirt is in my possession and M" is willing to undergo DNA tests to prove it was his blood on the shirt.

There were at least 6 witnesses to the that bashing by ACM

His complaints were ignored.

"M" suffered from early on in his incarceration from mental illness, especially Post Traumatic Stress Disorder (PTSD), not only caused by what he had gone through in Iran but also from his treatment in detention. As the years went on, his depression and PTSD were actually worsened by his long term detention and the bashings he received in detention.

Throughout his medical files (obtained through Freedom of Information) it is apparent from the very beginning of his detention he was not given adequate health care, and as time went on his psychiatric needs were very obvious. However he was denied access to a psychiatrist. The only treatment he was allowed was counselling by ACM or GSL appointed counsellors, and antidepressant drugs.

This was NOT enough to stop him having an intolerable itch and rash which was diagnosed as stress related caused directly from his treatment in detention (he did get to see a dermatologist after many months) and he also suffered from severe headaches.

"M" wrote:

It is a year that I am taking pain killers . I am very stressed out and every day I have headaches. They don't care. They don't have psychologists and only counsellors from ACM and they tell me the situation is very difficult in camp. For three months I have an allergy. I can't go outside when my body gets warm I look like I have needles in my body.

I have to sleep in day and stay awake at night.

*Doctor told me “your medical file is too big and you are young. You should rescue yourself”
How can I do that? You tell me how I can do that. I have been in India for more than 3 months. I am angry
and disappointed and I am forgetting things.*

“M” asked repeatedly if he could be moved to another detention facility in a cooler climate as the heat in the north of Western Australia was making his itch and discomfort much worse. DIMIA refused to grant this request.

In September 2003 “M” was in Perth for a court hearing and was being held at Perth Immigration Detention Centre for a few days. He found the centre was much quieter and cooler so his itch decreased and so did his distress. Again he asked the DIMIA manager if he could stay in Perth. The answer was “no”. He was taken to the airport to be sent back to Port Hedland on a commercial flight but “M” refused to get on the plane. He then thought he was going to be allowed to stay in Perth.

However, on the 24th September 2003, ACM officers seriously assaulted “M” while forcibly moving him against his will from Perth to Port Hedland Detention Centre.

At approximately 7.30 am about 10 officers took “M” by force, in an ACM vehicle to the airport. Two of these officers wore a blue uniform. Three went in the plane with “M”.

“M” was double hand cuffed, one to a belt around his waist and the other to an officer, and forced into a small charter plane where he was tied into his seat.

When he resisted being forced into the seat, one of the officers named ***** held his legs, while another officer called ***** beat his legs with a baton until his legs went numb and then his legs were bent by the officers and leg cuffs were applied as well as some sort of tape to secure him to the seat. His seat belt was also fastened by the tape.

A third officer held his fingers to “M”'s throat until he couldn't breathe. He nearly choked.

They also applied a motor bike crash helmet to his head which was very tight and hot. He was so tightly bound and restrained in the seat that he could not move at all for 4 hours.

When the plane stopped at Karratha to refuel, ACM officers released one of the handcuffs, before the 2 Karratha duty police officers came to the plane. The police officers reprimanded the ACM officers and reminded them of their legal obligations to allow passengers off the plane while refuelling took place. “M” stumbled and fell when he got off the plane as his legs were numb from being beaten and tied up. The police officers witnessed this.

The instructions for the forced removal came from DIMIA in Canberra.

When I was alerted to the fact that “M” had been taken back to Port Hedland I phoned the Detention Centre to speak to him. I had phoned him there many times before. However the receptionist denied ever having such a person there, and the ID number I gave was supposedly “not a Port Hedland Number”.

A few hours later, “M” phoned me to tell me what had happened. He was, of course in Port Hedland Detention Centre and had been held in isolation since arriving back there.

“M” had photos taken by the nurse at the medical centre as there was evidence of bruising from the attack. These photos are in my possession.

He made a complaint to DIMIA and the police but it was ignored, apart from DIMIA taking “M”'s statement. I have these in FOI documents.

“M” continued to suffer severe depression and itch for the next few months and was finally moved to Perth Detention Centre but it was not until May 2004 that he was allowed a full independent psychiatric assessment by a qualified consultant psychiatrist: that is after more than 3 years of obvious mental illness, cries for help, self harm, and inadequate treatment.

Now, I witness the day to day mental anguish of the uncertainty “M” faces, not knowing if he will be granted a visa. He is not allowed to work, or have access to Medicare. He relies totally on charity to survive. The damage to his mental health is still very obvious and he finds it extremely difficult to even talk about the trauma of detention and the abuse and neglect to which he was subjected.

I am willing to talk to the members of the inquiry, as long as it is in camera and the identity of “M” remains anonymous at this stage, as he fears he will be again subjected to unfair treatment by DIMIA.

Vicki McDuie