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August 12, 2005

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Submission to the Senate Legal and Constitutional References Committee's Inquiry into the Administration and Operation of the Migration Act 1958

I welcome the opportunity to submit my comments regarding the 1958 Migration Act and thank you for allowing us an extension of deadline. I note that the Committee has received numerous responses to its request for submissions and without wanting to duplicate the points that have already been made, I feel we can best contribute to the Committee's inquiry by commenting within the context of the case of Ms Vivian Solon.

The Centre for Philippine Concerns-Australia, Brisbane Branch and other Filipino community organisations in Australia were shocked to discover that a Filipino women who had been granted Australian citizenship in March 1986 was deported to the Philippines in July 2001.

On 24 May 2005, a number of community organisations and individuals, including CPCA, gathered in Brisbane to form an alliance offering assistance to Vivian upon her return to Australia. The coalition agreed a statement (which is attached).

This statement includes demands which I would like to expand upon for this Committee's consideration:

(a) a fully public, independent and open inquiry into immigration detention and deportation or a Royal Commission.

The Government has said that it will not agree to a Royal Commission or a judicial inquiry. Instead the public has had to rely upon information revealed by the media, piecemeal inquiries, and statements from Ministers and officers of the Department of Immigration and the Department of Foreign Affairs given in answer to parliamentary

questions. Some of these departmental and ministerial statements have been contradictory, misleading, and inaccurate.

There were attempts to withhold information about Vivian's wrongful deportation under the guise of privacy protection. Department of Immigration officials have stated this was done at the request of Ms Solon's ex-husband but have not yet been able to substantiate this claim with documentation.

The various services and government departments involved in Vivian's case wasted time and energy attempting to blame each other for the mistakes that were made. This apportioning of blame has even extended to blaming the victim herself. The Minister for Immigration blamed Vivian for her own deportation and is now blaming Vivian's lawyers for delaying her repatriation.

(b) a review of section 189 of the 1958 Migration Act on the 'detention of unlawful non-citizens'.

This section of the Act is at the core of the overwhelming power of Immigration Department officers to detain on grounds of 'reasonable' suspicion. The wording of this section of the Act makes detention mandatory without having to meet any criteria of what is deemed to be 'reasonable'.

(c) a single centralised federal data system be put in place to register missing persons.

As well as the missing persons registers, other government databases need review.

The lack of knowledge and skill about how to interrogate (or search) the various databases used by departmental officers has been exposed. The quality of the databases is poor, some of the software is old, some of the databases are not integrated and some are not even relational.

(d) the services involved in the chain of events that led to the deportation of Vivian Alvarez Solon Young be reviewed.

Details of unprofessional behaviour by a number of government operatives involved in Vivian's case have gradually been uncovered.

For example, the involvement of hospital social workers as immigration informants acting upon suspicion that Vivian was an unlawful non-citizen is particularly concerning. Are social workers trained and qualified to act in this capacity? Why should a hospital have made a non-medical policy decision to inform the Immigration Department that a patient's immigration compliance is suspect? Can it really be the case that such a decision is made on the basis of a person's perceived ethnic appearance? And, what level of professional competency do social workers have to recommend that a patient does not need or require legal advice or representation?

Then there is the doctor who deemed Vivian fit to travel, and therefore be deported, who now says he was not fully informed of her medical condition.

Again, based upon a prejudicial stereotype of someone of Vivian's appearance, an Immigration officer assumed that she was a trafficked person who had been brought to Australia to be sexually exploited.

Vivian's ex-husband's inquiries were treated with disdain by Immigration officers. The Filipino community's interventions were turned away. Even the Philippines Embassy's request for a delay of deportation so that Vivian could have a more thorough medical assessment was turned down.

It has also come to light that in August 2003 officials within the Department of Immigration knew without doubt that an Australian citizen had been deported but nothing was done! It seems it may even have been apparent in 2001, not long after the deportation, and it was known again in 2004.

It was not until 22 April 2005 that the Department of Immigration began their search for Vivian in the Philippines. And had it not been for a chance viewing by a local priest of a news broadcast on May 7, Vivian could still be languishing in the hospice for the destitute and dying where she had lived for four years. The same hospice to where the Immigration Department knew in 2001 she had been sent.

(e) all officers involved in assessing migrants and refugees to undergo cross-cultural sensitivity training.

There is an obvious lack of knowledge about the naming conventions of various cultures. Vivian's use of a variety of surnames (i.e. her husband's name, her maiden name, her mother's name) has been a poor excuse for departmental confusion in trying to locate and verify her records.

(f) where criminal liability be found in the way Vivian Alvarez Solon Young was treated, those persons responsible be called to account before the law.

We appreciate the efforts of the media, Mick Palmer and the inquiries of various Senate Committees to get to the truth of these matters.

Yours sincerely,

Dee Dicen Hunt
Co-coordinator, Centre for Philippine Concerns Australia, Brisbane Branch.

STATEMENT FROM A COALITION OF COMMUNITY ORGANISATIONS CONCERNING THE DEPORTATION OF VIVIAN ALVAREZ SOLON YOUNG

24 MAY 2005

In a mad rush to deport Vivian Alvarez Solon Young, Immigration officers shunned a group of Filipino professionals in Brisbane from assisting her.

A Filipino social worker, Maria “Guing” Coop, who spoke with Vivian the day before her deportation in 2001, questioned the alleged illegality of Vivian’s status in Australia.

During the interview, Vivian told Ms Coop that she was married to an Australian man and had been living in Australia for a long time. But when Ms Coop telephoned the compliance section of the Department of Immigration and Multicultural Affairs (DIMA - as it was then titled), to ask of the basis on which it was decided that Vivian was in the country illegally, the officer replied that there was no record of Vivian’s entry into Australia.

Dismayed, Ms Coop replied, “How do you think she came here, on a broomstick?”

During the three days while Vivian was detained in the Airport 85 Motel in Ascot, a group of Filipinos attempted to offer their professional assistance to Vivian. Amongst them was a doctor, a Roman Catholic priest, nun, social worker, and two registered nurses.

One of the nurses, Mayette Mackintosh, who was asked by the Philippines Consular Assistant to accompany her while she interviewed Vivian at the motel, witnessed Vivian having a seizure. Ms Mackintosh spoke with Vivian in her native tongue Cebuano. She recalled Vivian’s limited arm movement and her overall physical weakness.

After the seizure, Ms Mackintosh strongly suggested to an Immigration officer present that Vivian needed urgent medical attention. She was told that they will inform the Department about the situation and they will handle it. After Vivian was composed and seemingly all right, Ms Mackintosh and the Consular Assistant left the room.

The next day, the officers who were guarding the entrance to Vivian’s room told Ms Coop that arrangements had been made for Vivian to be looked after in the Philippines by a charity of the Mother Theresa Sisters.

How then could the Department of Immigration claim in 2005 that they did not know where to begin their search for Vivian?

The first hand accounts described above are significant testimony in a daily series of developments about Vivian Solon’s case of wrongful deportation since it was revealed by the media to the Australian public on May 4, 2005.

In the light of the emerging information about Vivian’s case, the Filipino community, friends, family and supporters in Australia demand:

- a fully public, independent and open inquiry into immigration detention and deportation or a Royal Commission;
- a review of section 189 of the 1958 Migration Act on the ‘detention of unlawful non-citizens’;
- a single centralised federal data system be put in place to register missing persons;
- the services involved in the chain of events that led to the deportation of Vivian Alvarez Solon Young be reviewed;
- all officers involved in assessing migrants and refugees to undergo cross-cultural sensitivity training; and
- where criminal liability be found in the way Vivian Alvarez Solon Young was treated, those persons responsible be called to account before the law.

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