

-----Original Message-----

From: Elaine & Geoff Smith _____u]

Sent: Thursday, 28 July 2005 11:08 PM

To: Legal and Constitutional, Committee (SEN)

Cc: Nettle, Kerry (Senator)

Subject: Senate Inquiry into the Detention System

to

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

I have not been given permission by any refugee to give their name or speak on their behalf, therefore please do not disclose the name of any refugee.

I have not known where to begin, so I am sorry this is a last minute letter to you.

I do not know what refugees will be brave enough to talk to you. Those from Nauru do not have permanent protection. They live in fear still. They worry they can be sent back. Many have a more punitive visa than that given to people from Australian camps. Many of those from Nauru are not permitted to apply for permanent protection. Please look into the visas given to refugees from Nauru. This is one more great injustice.

They have felt the harshness of the detention policy, so I cannot imagine they will speak to you.

I have had contact with over 100 refugees, mostly those who were detained on Nauru.

I have kept all their letters.

These letters and photos from the camp are a significant source of information. It would need a professional person to go through these letters and gain the evidence you are looking for. I do not have the resources to do this.

I have not asked them to tell me about their backgrounds and cases, but rather offered unconditional friendship to them.

On their part they have been very uncomplaining. I have come to hear of the difficulties in the camp as an aside. They did not want to talk about their treatment when they were picked up by Australian boats, and I have not asked for this information.

But various stories have begun to emerge.

Firstly I think it was unlawful and immoral and inhumane to treat refugees harshly, and transport them in another country after they had claimed asylum in Australian waters and on Australian soil. Some boats were turned back to Indonesia even though they were not safe. The refugees did not go to Nauru and Manus Island voluntarily. (refer to notes about treatment by Australian personnel and on Australian ships)

Secondly they were held in Nauru, an isolated country that could barely meet the needs of its own people for water, food, communication, housing, medical services, educational services and legal services. I think this was not done for the benefit of the refugees but as a way of isolating them from care and support, and a way of forcing them to return to the dangers of the countries they had fled from. I think this is unjust and inhumane. (I have letters that talk about the lack of fresh water, insects in the food, lack of medical care. One of my friends suffered a burst appendix and great difficulties in the 'hospital'. He sought medical help for two days before he was taken seriously. A woman incapacitated with an injured back was neglected for 3 years. There were very many instances of medical neglect. The hospital on

Nauru was extremely run down and Australia was resistant to transfer any but the most dire cases to Australia. Consequently people suffered while in the camp, and in some cases were sent back to their home countries with injuries, and mental illness.)

Thirdly they were given an initial interview where there were problems with the interpreters. The Afghanis were given short interviews about their problems with the Taliban and they were not encouraged to explain in full about the complex threats there were to their safety. There seemed to be a simplistic attitude that there were "goodies and baddies" in Afghanistan when the reality is that there were many factions, warlords, criminal gang leaders. There had been a long history of one group rising against another, many violations against people. I get the impression that people were denied refugee status and protection after the so-called overthrow of the Taliban. This is that simplistic idea that the country was then safe. People were then told they had no option but to return. They were never going to be accepted into Australia. I do not have details of the DIMIA files of the interviews, but I hope that you can ask relevant people about these.

Fourthly, they were pushed to sign to return. They felt they were signing their own death certificate. When they returned they faced danger again. Many could not return to their homes, their families were lost, their homes and livelihood were lost. I get emails from some who have fled to Pakistan, Iran, and who have gone further, looking for safety. They tell me they cannot go home to many areas of Afghanistan. I am happy to pass on some of these emails to the inquiry as long as identities are not disclosed. These people also are too fearful to speak out.

Others who did not sign felt this intense pressure also and so began a hungerstrike . They said they were seriously prepared to face death during the strike or gain their freedom.

I think that Australia was guilty of refolement.

Refugees were treated in a hostile way when they were picked up by Australian ships. SAS troops were sent to the Tampa and refugees were not treated with respect, eg they were given insufficient food, then some food was put in the middle of the floor and refugees were filmed scrambling for it. They were then held in the hold of the Manoora with insufficient food, in the heat and noise of the engine, out of daylight for about a month. There were insufficient toilet and bathing facilities. They felt they were starved off the boat, driven by hunger to go to Nauru. I have heard that chilli was added to the food of the Iraqi group. A man said his son was so hungry he ate it with tears pouring down his face from the pain.

There was a boat that was allowed to sink with Australian personnel watching. They were not given permission to rescue the people for maybe two hours. I am not sure of the details. Two women drowned.

There was a woman whose back was injured as she was hauled up the side of an Australian boat with ropes. Another woman was treated in this same way. but she fell back onto the deck of the boat. The Australian crew then used a different method to rescue the people. I constantly wonder why we did not send rescue boats with appropriate equipment to help these distressed people, rather than send military type ships. It seems obvious that the aim was not rescue, there was no plan to rescue, but to instil fear and threat, and to return these boats and people to the open sea, I think this is unlawful and inhumane. If we as individuals treated others like this, we would be held responsible for any injury and death that resulted.

I have copies of documents from one man who was mistreated on a different boat and who made formal complaints. His complaints were dismissed. I have not had specific permission from him to show you these documents. Therefore please do not reveal his identity.

Dear freind,

i am sending those documents to u and

also the answer of immigration plz publishe these all documents as they r don't bring any changes .

Dear friend ,

in these documents there is one docuemnts from Immigration that i got as a answer of this case . there is nothing to do immigration with this case but i am really surprise that how they gave me the answer of this case.

If the above documents are not received, then please contact me and I will send then as an attachement.

Yours faithfully,

Elaine Smith

SERVICE POLICE STATEMENT

File No ANNEX TO

Statement in the matter of
Alleged Mistreatment by Australian Defence Force Personnel

Place
Nauru

Date
11 Jun 03

Rank/Title [REDACTED]	Name in Full [REDACTED]	Service/Work Number [REDACTED]	Date of Birth [REDACTED]
Place of Birth [REDACTED]	Residential Address [REDACTED]		
Category/Mustering/Apppt/Corps N/a	Unit/Section/Ship N/a	Occupation [REDACTED]	
Employment Address N/a		Contact Phone No Work N/a Home	

Statement

1. This statement was made by me and accurately sets out the evidence that I would be prepared to give in proceedings under the Defence Force Discipline Act, or to a civil court, as a witness. This statement is true to the best of my knowledge and belief and I acknowledge that if I have stated in it anything that I know to be false or do not believe to be true I will be liable to prosecution.

2. On the 16 Oct 01, I left Jakarta, Indonesia and boarded an Indonesian boat after previously paying \$4000 to Pakistani smugglers, in the hope of being transported to Australia. I travelled for three days and two nights on this boat enroute to Australia. There were approximately 230 refugees, consisting mainly of Afghanistan, Pakistan people and 5 Malaysian crew members onboard the boat.

3. After three days, (19 Oct 01) the boat was caught by Australian Military, I remember seeing a plane circling our boat then a short time later, a small boat later known by me that he was carrying Australian Defence members, approached our ship. They told us to turn our boat around and return to Indonesia which we commenced doing. Later that same day, the Military people had left and the boat turned back around and started heading back towards Australia. Later that evening, the military again approached and stopped our boat again.

4. The Australian military people got onto our boat, they were wearing blue overalls. The boss (Captain) told us that the boat would soon be heading to Christmas Island then to Australia. It was night time and they stayed with us for the entire night. The vessel was escorted to the mountain at Christmas Island and tied the boat at the bay. They didn't say anything to us for the first two days.

5. Around 0500 hours 22 Oct 01, the third morning, we were all asleep when the Army boarded our boat and took all the women and children off the vessel and onto large Navy boat. An unknown number of military placed everybody into the engine room, there were more than one hundred single men. It was very cramped and we had to squat/crouch in the crowded hull of the boat. The military informed us that we were to remain in the engine room. As I was very cramped and it was hard to breath due to poor ventilation. I asked the military men if I could go to the top of the boat because it was cramped, they told me no I could not and I had to stay where I was.

6. There were many people who wanted to go to the top of the boat and it was very cramped for everyone. People started to become upset and a large number wanted to go up top. People started removing some planks of wood from the hull of the boat. I picked up an already broken piece of wood and hit myself in the head, I wanted to finish myself by that I mean I wanted to kill myself as I did not want to be mistreated anymore.

[Handwritten Signature]
G. A. (S/N)
S/T

SERVICE POLICE STATEMENT - CONTINUATION

Statement by [REDACTED] continued


7. The military people were trying to stop us from making noise, they started to spray the fire extinguishers at us and hit us with long sticks (batons). One of the military men (details unknown) hit me once on the right elbow with his stick and my elbow started to bleed. I do not recall the type of uniform he was wearing but would know him if I saw him again. There was many of us, I counted approximately seven people, who got hit with sticks. The military were taking video from above the engine room and they showed us that they were filming. When we were told this, people started to calm down and stop making so much noise. The military people were carrying a long black stick that was attached to their side. I did not ask for any type of medical treatment for my elbow as I was scared of the military men. I do not remember seeing any smoke or fire coming from the engine room. Some people were working on the engine to repair it and when they tried to start it, caused the engine to smoke that may have then been seen exiting the vessel through the hold area.

8. During the first evening, same date, I do not recall the exact time but I know it was dark. The military were letting people, who were asking, to go to top of the boat, to pass water (by this I mean going to the toilet). If we wanted to go to pass water, we had to make a 'T' - shape with our hands to get permission and then they would give us permission to go to the toilet. When some of the people were up the top, going to the toilet, I heard what I believed was the military hitting some people. I heard these people were crying and making thudding type noises, which sounded like people being thrown onto the deck. I did not see any person being hit at that time.

9. I was finally given permission to pass water and on returning to the hold, one military man grabbed my collar from behind and threw me onto the deck. Another military man had his boot on my face (I believe they were black boots) and he was holding me down. I don't recall what this man looked like. Then a third man tied my hands behind my back with plastic handcuff ties. I believe one of the three men was wearing blue overalls, but I don't recall what the others were wearing or what they looked like. They placed me in a wet area of the deck, that had been effected by the spray from the rough seas. I saw that three other people were already handcuffed on top of the deck and I was the fourth person to have my hands tied. I know these three people that were handcuffed was a man named [REDACTED] (no other details known) who I believe has since returned to Kabul, [REDACTED] (no other details known) who has gone to New Zealand and [REDACTED] (no other details known) who has left on the Nauru on the second flight, in December 2001 to Afghanistan. I do not regard these men as friends but they know me as Abbas.

10. I remained in handcuffs for two days and two nights. During this time, I was not allowed any water and they did not allow me to go to sleep. I was not allowed to lay down and whilst crouching, they would shine a light into my eyes. I believe they were handcuffing us so that people would be scared to ask to go to the top of the boat to pass water. Later that night, I do not recall the exact time but I finally had to pass water. I asked the military men if I could go, which they agreed, but they would not untie my hands. The military man undid my trouser zip for me and I passed water. I felt very ashamed at that time.

11. During this time I was handcuffed I was sitting down and leaning on a wall of one of the rooms of the boat, when one of the ladies was sitting across from me and the boss came towards me. The Boss said to her that she should mistreat me but the lady said "No". I don't recall which one said this and they were both very nice towards us. These ladies showed sympathy to me and did not mistreat me at any time. One lady had long auburn/henna coloured hair that was tied up behind her head and the other had short shoulder length blonde/yellow coloured hair. These ladies said to me that they the other military men shouldn't mistreat me. I don't recall any other details but know they were both shorter than me.


B. A. LEWIS
SGT

SERVICE POLICE STATEMENT - CONTINUATION

Statement by [REDACTED] continued

12. On the morning of (around) 22 Oct 01, I was still handcuffed on the deck. While I was there, I saw a man getting searched against the wall, on top of the boat. His hands were against the wall, his feet spread wide apart and the military men knocked away his arms and he hit his head against the wall and fell down. The two military men picked him up and dragged him to the side of the vessel, held his ankles then dangled him over the side of the vessel. I could see a shark swimming in the water below, the military men looked scared when they saw the shark and picked him up and put him on board the boat, a few moments later.


13. On the fourth day (around) 24 Oct 01, of the military being on the boat, a military man released me from the handcuffs and sent me back down to the engine room. While I was in the engine room I did not make any noise as I did not want to be beaten or handcuffed again. There was a barrier in the engine room that separated us from the engine room. There were two or three military men working on the engine. The barrier was made of woven material, which was dark in colour but had large square-like open spaces on it.

14. On the same day (around 24 Oct 01), all the underage boys (Age) from the military ship returned to the boat with us. There was about forty-five of them. They all had to sit in the engine room. A military man asked me if I wanted to go to the top of the boat as it was now very cramped, I said yes then I felt scared and believed they may beat me again if I went with them. I decided to stay below in the engine room where I stayed for another two or three days.

15. On either the fifth or sixth day (around 25 - 26 Oct 01) of the Australian military being on the boat, a military man who I believe was the boss or Captain came and spoke to me from the top while I was in the engine room. He was wearing the colourful uniform (green, brown and yellow in colour), I cannot recall specific markings on his uniform. I believe he was over 25 years of age and he had short yellowish hair. This man said for me to come up to the top of the boat or he would come down and 'fuck me' (I believe he meant he was going to beat me badly). I was scared and I told him I was not going to him. He said again that he would fuck me, he then commanded two military men to come down and get me. I decided to go to the top before they came down. My hands and legs were shaking because I was so scared. One of the military men grabbed me by the collar of my shirt and dragged me to where the Captain was.

16. The Captain asked me who broke the boat engine, I told him I did not know. One of the military men threw a green cloth at me and told me to clean the toilet. When I finished cleaning the toilet the Captain looked at it and said I didn't clean it properly and he told me to clean it again. I went back to the toilet and they added chemicals to a bucket of water, they said the toilet smelt. They then poured the bucket, full of chemicals, over me because they said that I smelt as well. They then asked me to stand up. At no stage did I remove any of my clothing.

17. While standing, four military men approached me and again asked me who broke the boat/engine. I told them "I don't know about this". One of them was going to hit me in the back with his stick and I put my hand behind me to protect myself. The stick hit my little finger of my right hand. My finger was damaged and swollen but not bleeding from being hit. I still have trouble using my little finger and it hurts when it is cold. I did not seek any medical attention in regards to my little finger. After they hit me, I told the Captain that some families on the other ship damaged the boat. This was a lie and I told him this to save myself.


D. A. LEWIS
Sgt.

SERVICE POLICE STATEMENT - CONTINUATION

Statement by [REDACTED] continued

18. For the next two to three days (around 27 - 29 Oct 01) I remained in the engine room, during this time I was generally mistreated by the military men by this I mean they kept me awake by shining torches in my eyes and throwing water on me. This treatment was only happening to me, I could not move to another position in the engine room as it was very crowded and no one would swap with me. The water that was thrown on me was from drinking bottles and seemed to be fresh water. During this time I was hit in the head by a military man who was standing higher than me and watching the people down in the hold. I was leaning on a pillar of the boat when I felt a blow to the left side of my head. I looked up at the man who was carrying a long stick and saw that he was laughing at me. I don't recall what he was wearing. I then felt dizzy and do not recall anything else about that incident. I did not give him a reason to hit me.

19. Somewhere between the seventh and ninth day (around 29 - 31 Oct 01), three military men came into the engine room. One of the men came and spoke to me. I can remember his face and that he was wearing a military cap, he had green eyes and looked very strong. The man was a little taller than me, I am about 176 cm's tall. I cannot recall what type of uniform he was wearing. He said to me "Bagus" which is Indonesian for 'good', he then said to me "Is it Bagus", I replied that it is "Bagus". The military man raised his handgun (the gun was dark almost black and had a shiny side. He pointed it at my head at this stage and he was about one or two metres away. He then lowered his gun and pulled back the metal slide on top of the gun. He then said "Bagus" I then shook my head and said "No Bagus". He then pointed the gun back at my head and pulled the trigger and the gun clicked. The two other men were standing either side of this man holding the gun. There were also four military people above the engine room on the deck. When the gun clicked they all laughed at me. I thought I was finished, by that I mean I thought he was going to kill me and I started to cry. I don't recall what those men were wearing at the time of this incident. This incident was witnessed by most people (now known as reference number 03 - Christmas Island) sitting in the hold. I recall four people being Dr (Nurse) [REDACTED] and two brothers [REDACTED]. They were sitting with the rest of the single people that had not been transported off the boat and were sitting in the hold of the vessel.

20. On the fourteenth day (around 4-5 Nov 01), everybody was being offloaded ^{from} onto the big military boat. Small military boats were taking people over to the ^{Christmas Island} big military boat. The captain said to me that I was not going and I had to stay on my boat. I was the last person left on my boat before I was told to board the small boat. As I was going down the ladder to get on the small boat a military man kicked me in the right hand side of my head with the sole of his boot. I cannot remember which uniform he was wearing or what he looked like, but I know his boots were black. He said to be me 'bagus isn't it', I did not reply and got onto the boat. I still had the mark on my face from the kick when I arrived in Christmas Island.

21. When we arrived in Christmas Island the Captain spoke to the boss of ACM (Australasian Correctional Management), I know he was ACM because he had ACM printed on his white coloured shirt. The Captain told the ACM man that if there was any trouble with me, he should bring me back to the ship. I know he was talking about me as he was pointing at me at the time.

22. At no stage did I report or was treated for any of the injuries that I received during the past fourteen days that I described above. I did not report these injuries on board the boat because the military were beating me and I was scared of them. I did not get my finger treated at any stage, as I wanted to show the injury to the people that did this to me so they could be judged. I did not at any stage give permission for any military person to hurt me. I remained at Christmas Island for two months and ten days until I was transported to Nauru. I was never mistreated by either ACM or IOM.

[Signature]
B.A. [unclear]
Sgt.

SERVICE POLICE STATEMENT - CONTINUATION

Page No 5 of 6 pages

File No ANNEX TO

Statement by [REDACTED] continued

23. About 1110 hours, 11 Jun 2003 I had a conversation with a person now known to me as SGT Brett Lewis of the Airforce Service Police. As a result of that conversation SGT Lewis showed me two A-4 pieces of paper with pictures of sticks on them bearing a Service Police Identification Label numbered BAL/01. I then signed and dated that label as did SGT Lewis after me. SGT Lewis then retained that item in his possession. I can say after being shown item BAL/01, that there are two sticks that look similar to those being used by the Australian Military people. I identified those two types of sticks, which I believe the Australian military had used on me. I then sighted SGT Lewis place a star on each picture in blue pen and then I signed and dated those pictures and handed them back to him.

24. About 1345 hours, same date, SGT Lewis then handed me four A-4 pieces of paper with pictures of handguns on them bearing a Service Police Identification Label numbered BAL/02. I then signed and dated that label as did SGT Lewis after me. SGT Lewis then retained that item in his possession I looked through these pages and sighted two handguns that look the same as the one that was pointed at me by the Military man. I then signed my name at the bottom of these two pictures and handed these pictures back to SGT Lewis.

25. About 1543 hours, same date, SGT Lewis showed me a letter that was handwritten. This letter was a letter of complaint titled: From [REDACTED] to DIMIA. I have never seen this letter before, however, I believe it may have been written by Dr Christie on my behalf. About mid April 2002, I spoke to Dr Christie about my sleeping problems, because I was and still are, having nightmares about the military man pointing his gun at me. I told Dr Christie the entire story and she advised me that she would write a letter on my behalf to the Australian Government. I agreed with Dr Christie writing the letter, but I did not see the letter she wrote.

D.A. LEWIS
SWP.

SERVICE POLICE STATEMENT - CONTINUATION

Statement by [REDACTED] continued

26. About 1500 hours, 12 Jun 2003, I handed SGT Lewis two A-4 pages being a sketch of SIEV 6 drawn by Mr [REDACTED] on 12 Jun 2003. I then assisted SGT Lewis by adding English wording to these sketches indicating parts of the vessel and lines showing direction of my travel for each Incident. After having this information read to me by my Interpreter Mr Mir Frahmand, I signed and dated both sketches. I then sighted SGT Lewis compile a Service Police Identification Label numbered BAL/03. I then signed and dated that label as did SGT Lewis after me. SGT Lewis then retained that item in his possession

[REDACTED]

Statement taken and signature witnessed by me at

Topside, Holding Facility, Nauru on 12 Jun 2003

at 1705 h.


B. A. LEWIS

SGT

I, Mir Frahmand acted as an interpreter for [REDACTED] whilst he was interviewed by the Australian Air Force Directorate of Security and Policing Investigations Section conducted at Topside Holding Facility, Nauru on 11 Jun 2003. I read this statement to [REDACTED] and can confirm the contents of this statement in it's entirety.

Mir Frahmand

Community Liaison Officer

IOM0015



**AUSTRALIAN ADMINISTRATIVE CENTRE
OFFICE OF THE LIAISON OFFICER
DEPARTMENT OF IMMIGRATION, MULTICULTURAL AND
INDIGENOUS AFFAIRS
NAURU**

~~XXXXXXXXXXXX~~
Topside Processing Centre
Nauru

Dear ~~XXXXXXXXXX~~

As discussed yesterday allegations you made about your mistreatment by the Australian Defence Force have been investigated.

The Defence force advised the allegations were considered very serious and the investigations were very detailed in nature. After extensive enquiries the investigation did not reveal any evidence to support the allegations of improper behavior by Defence personnel towards you.

While the enquiry found that ADF personnel used batons, this was done pursuant to extant instructions. Baton use occurred during an incident where assylum seekers rioted and attempted to sink the vessel. There was no evidence that baton strikes were made to the head or joints of person struck. Likewise plastic handcuffs were used to restrain assylum seekers, including yourself. The enquiry did not reveal evidence to support the other allegations you made.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ross Wilkie'.

Ross Wilkie
DIMIA Liaison Officer
Australian Consulate General
Republic of Nauru
28 November 2003