

## Ballarat Refugee Support Network

### **the Committee to Enquire into the Migration act**

This submission is made on behalf of the Ballarat Refugee Support Network. BRSN is an apolitical body of some 350+ Ballarat citizens of all ages, religious and non-religious persuasions. Members share a strong concern for the well-being of fellow human beings who seek refuge in Australia. BRSN came into being in 2001 at the time of the Tampa affair and is now affiliated to RAR. From the very beginning members of BRSN have made it their business to keep in touch with Asylum Seekers and to give them support. For the last four years the membership has sought to become as well informed as possible about issues that affect Asylum Seekers. Members believe that this dissemination of information is essential for achieving a "cultural change" in the community. Until that is done government and opposition are unlikely to accept that it is "politically" worthwhile to make more than token changes in any attempt to repair serious flaws in the immigration detention system. BRSN accepts that this can be a difficult and sensitive issue for both government and opposition. Consequently, BRSN does not oppose mandatory detention of asylum seekers when they first arrive in Australia provided it is for a limited and specified period of time and that they are not subjected, as at present, to cruel prison like conditions.

Originally the Palmer Inquiry's Terms of Reference were specifically restricted to the circumstances of Cornelia Rau's detention from March 2004 - February 2005. On May 2005 the circumstances surrounding the removal from Australia of Ms. Vivian Alvarez/Solan/Young were added to the terms of reference. At no stage were the circumstances of non Australian asylum seekers included. Further, Mr. Palmer was not empowered to call witnesses nor was any witness protection given to persons wishing to give evidence.

Notwithstanding these limitations the findings and recommendations of the Palmer Inquiry make it abundantly clear that DIMIA's performance has very defects in regard to Detention Centres in general and Asylum Seekers in particular. The Report simply confirms, but only in part, BRSN's worst fears concerning the treatment meted out to those seeking refuge in this country and reinforces the impressions gained by members of BRSN in visits to Maribyrnong, Port Hedland and Baxter.

The so urgently required 'cultural change' referred to above will be achieved only when there is full and public disclosure of the administrative practices which flagrantly ignore basic human rights and have at least the tacit approval of government.

Such a disclosure will be made only to a full and open Judicial Inquiry with the powers of a Royal Commission to subpoena, question and protect witnesses.

The BRSN has a number of specific issues which cause concern; these include:

### **1. The punitive nature of detention.**

In some circumstances, there may be need for a period of assessment for health and security checks. However, notwithstanding government claims to the contrary, detention as currently practised is clearly punitive and intended as a deterrent to others seeking asylum. A letter from Senator Vanstone, January 2000, attached to this submission, makes this claim among a number of others which recent events have shown to be absurd, including an assurance that her department "takes the utmost care to address any health or developmental concerns of people in immigration detention."

BRSN members who have visited the Baxter Detention Centre agree absolutely with the finding of the Palmer Report that "there is much wrong with Baxter". In particular, the environment is so harsh and physically restrictive as to suggest that there has been a deliberate attempt to place this and other centres in isolated areas in order to prevent media scrutiny and so limit public concern.

The Palmer enquiry finds that there is "no razor wire at Baxter". This appears to us to be true but there is a high voltage electric fence, there are cages with security doors at each end through which one passes to move from one area to another, the only view the residents have of the outside world is a patch of sky above the exercise yard and, at night, the bright lights prevent even a view of this sky. Psychiatrists clearly indicated that the environment itself causes psychiatric illness.

The suicide rate among detainees is ten times that of the national average. ( Julian Burnside QC, *Compass* 24<sup>th</sup> July 05 )

The deprivation of liberty is a profound and intense punishment and this has been endured by many for long periods of time with no indication of date of release.

B. whom we know and visit is a stateless person who has been in detention for nearly five years. He has committed no crime. An attempt to deport him failed because he was not born in his country of ethnicity, a fact that he has always explained.

It is recognised by many experienced professionals, including Dr Jureidini, a consultant psychiatrist who has assessed many people in detention, that the policy of detaining asylum seekers indefinitely is a form of psychological cruelty, exacerbating distress in people who have already experienced severe trauma, dislocation and loss. This leads many to absolute depression and despair. (ABC Lateline 15th July 05)

### **2. Nauru and Christmas Island**

To Australia's shame the "Pacific Solution" and the "Christmas Island Solution" are cruel ways of isolating from public attention some of our most vulnerable fellow human beings. The fact that the majority of these people have eventually been recognised as refugees raises the question, 'How is their long detention justified?' While the Australian Government plans to send more troops to restore order and basic services in Afghanistan, detainees on Nauru are being pressured to return to that

country. How can this be justified? These are people who, after enduring years in detention, could be in serious danger if returned to their war ravaged country.

### **3. Privatisation of Detention facilities**

The Palmer Report indicates that there are clear problems of accountability in having private companies run detention centres. Further, the previous experience of companies employed by the Australian Government has been entirely concerned with running privatised penal institutions. Public accountability is essential and just one reason for public accountability is the experience of a solitary woman being housed with men at the Curtin Detention centre. Further detainees have been left in solitary confinement for long periods, tear gas has been used against groups containing children, people have been diagnosed as needing hospitalisation for psychiatric treatment but have not been transferred to an appropriate hospital.

### **4. The cost of keeping people in detention**

*The Age* Editorial of 20th July 05 states that, since July 1999, the cost of keeping people in detention centres in Australia has been \$1.1 billion dollars. To this, we must add the cost of the Pacific Solution which Julian Burnside QC stated to be one thousand million dollars and this to prevent about 1500 asylum seekers reaching Australia. ( Julian Burnside, address to Rotary 17.2.04 ). In addition there is the cost of constructing and sustaining the 800 bed facility on Christmas Island

**5. Another concern is that under current policy, people can be and have been be deported into danger and that there is evidence that some people have been deported to their death. ( *Deportation into Danger* - research study by David Corlett and Edmund Rice centre. )**

### **6. The Plight of those on Bridging visas.**

Some Bridging Visas, such as Bridging visa E, do not allow the holder to work, to receive social security or to have medicare. Some of the people with these visas have children to support. It should be a matter of great concern that the basic livelihood of these people totally depends on charity.

It should be recognised that the majority of people on Bridging Visas could make a real contribution to our society. Instead, they are placed in a situation where they cannot support themselves or family, a situation which is damaging both mentally and physically.

### **7. Temporary protection Visas must be abolished**

The temporary protection visa results in great hardship, leaving people in a state of insecurity with a constant fear of the future and causing tragic family separations. For example, M, whom we know, spent 2 1/2 years in detention, was recognised to be a refugee and allowed to live in the community. He could not practise his profession as an engineer but he managed to establish a business in home maintenance. He rarely contacts his wife or two children in Iran because he fears that this will endanger their safety. He has not seen his children for five years and has no right to seek family reunion visas for them.

No other country limits protection to 'temporary protection'. Migration is a difficult process for any person and our migration policies have for a long time recognised this fact, providing assistance for people from many lands. For the refugee, often severely traumatised, without financial support, often alone and often having spent a long period in detention, the process is far more difficult. This group is deprived of settlement support services. Finding work can be particularly difficult when employers are made aware of the temporary nature of the visa.

### **8. The Return Pending Visa**

The Return Pending Visa was recently introduced as a solution to the problem of long term detention. However, it seems that little account was taken of the consequent anxieties for detainees. It is difficult and stressful for detainees to decide whether or not to sign an acceptance of this visa because, by signing they risk making it easier for the government to deport them and especially to countries like as Iran with which the government has made agreements.

The Return Pending Visa offers no security and for people already suffering serious effects of long term detention this can be very damaging.

### **9 Detention Debts**

We are aware of an administrative decision that, for those on TPVs, detention debts are to be waived.

However, there are other asylum seekers who have achieved release from detention in other ways eg. a permanent visa as a refugee, and who have been presented with a bill for the accommodation costs of their years in detention.

An Iranian asylum seeker known to us, spent 4 1/2 years in detention and finally was released on a spouse visa. He has a bill for over \$220,000. He must begin to pay this account if he seeks permanent residency in this country.

It is a serious injustice to charge for accommodation in Australian detention centres.

**Conclusion:** The writers of this submission have drawn on the experiences of both BRSN members and Mr. Julian Burnside QC as well as on information provided by the Brigidine Justice Community.

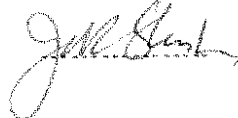
Bearing in mind the recent disclosure of the distressing experiences of the Whang family who, apart from the less than sensitive arrest of the children, must have been traumatised by witnessing an attempted suicide the Senate Inquiry is most timely.

We make this submission in the hopes that the inquiry will both lead to a Royal Commission and to immediate improvements in the way Refugees and Asylum Seekers are treated thus ensuring that Australia in all respects abides by both the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights to which our country is a signatory.

Signed on behalf of the Ballarat Refugee Support Network



David Dyer



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27 JAN 2004

Dear Mr & Ms Dyer

Thank you for your recent postcard concerning the A [REDACTED] family.

I can assure you that my department takes the utmost care to address any health or developmental concerns of people in immigration detention. My department has regular discussions with agencies such as the South Australian child welfare agency, Family and Youth Services, to address child protection and welfare issues.

Australia has strict privacy rules which permit the disclosure of information held on individuals by my department only in very limited circumstances. Although the *Privacy Act* prevents me from discussing the personal details relating to the A [REDACTED] family, I would like to correct the misinformation contained in your postcard message.

Mandatory detention of unlawful non-citizens was introduced by the Labor Government in 1992 and has maintained strong bi-partisan support in the Parliament. It is not the case that people in immigration detention have been labelled "criminals". They are not imprisoned, nor is their detention a "sentence".

Anyone can leave detention by returning to his or her homeland. The government will assist with the return of foreign nationals, including the payment of airfares and arrangement of travel documents where these have been destroyed or lost.

People are detained for the shortest possible time while their claims for protection as refugees is being established. Once refugee status is positively determined a protection visa is issued, subject to character or security concerns. You may be interested to know that of the 988 people in immigration detention (on 9 January 2004), only 10 were awaiting a primary decision on an application for a protection visa. This includes two detained as Unauthorised Air Arrivals and eight detained as a result of compliance activities. There were no Unauthorised Boat Arrivals awaiting a primary decision.

Most people who have spent lengthy periods in detention have chosen not to accept the original decision that they are not eligible to enter Australia lawfully. They have decided instead to contest these decisions in Australian tribunals and courts, as is their right. While these appeals are underway, the law requires that unlawful non-citizens be detained.

Finally, your allegations of abuse in immigration detention are completely unsubstantiated. Detention facilities are subject to both administrative and judicial review, and are subject to full parliamentary scrutiny and accountability. In fact, the immigration detention process is among the most closely scrutinised of government programs.

Thank you for bringing this matter to attention.

Yours sincerely

A handwritten signature in black ink, appearing to read "Amanda Vanstone". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

AMANDA VANSTONE