

Senate Inquiry into the administration and operation of the Migration Act 1958

Submission by Helen Lewers

July 2005

The Senate is to be commended for its decision to hold the present broad inquiry into Immigration matters. The Australian community should be informed about what it is supporting when it says it largely approves of the indefinite mandatory detention of refugees, and when the system seems to be such a vote-winner. (The Prime Minister said recently he believed the refugee issue won him two elections!)

I have been a refugee supporter for the past 3 1/2 years, first becoming involved when the stories of the Tampa scandal became known, and the lies spread by the Prime Minister and senior government ministers about refugees throwing their children overboard were brought to public attention.

Refugees I know reasonably well include those in detention, those in so called "community detention", people released by court order only, and those with bridging, temporary or permanent visas. I have corresponded with several on Nauru and followed the progress of some who went back "voluntarily" to their countries of origin. One refugee family I know is living on a bridging visa in the community, having first arrived in Australia on a tourist visa. I have also met people in detention who are there because of visa problems, and who are not refugees. Many of these were students. Countries my refugee friends come from include Iran, Iraq, Afghanistan, Sri Lanka, Nepal, Pakistan, China and Kashmir.

I have heard many stories from my friends which have been truly disturbing. Unfortunately, most Australians are still unaware of what really happens in detention centers, although publicity since Cornelia Rau's false imprisonment and Vivian Alvarez' deportation may be beginning to change that. The Howard government pursued policies and practices that would shock even the most hard line "illegal/queue-jumper" hater had they really known the true situation.

I am guessing here, but I believe that the Prime Minister, senior government ministers, public servant advisers and probably Liberal Party campaign organisers devised a rule that no ordinary Australians should see the human face of suffering of the refugees who came begging to our doorsteps, around the time of the "SIEV" boats and the Tampa. The former defence minister, Peter Reith, is credited with issuing an order that the Navy was to let no sympathetic depiction of asylum seekers reach the Australian public via any media. The former Immigration Minister Philip Ruddock has also acted scrupulously in this regard: the media has been locked out almost completely of the detention centers, apart from a few closely chaperoned visits to Baxter and so called "Community Housing" before they were operational. In addition, the Immigration Department and ministers Ruddock and Vanstone forbade their staff to allow any photos of detained refugees to be taken,

except under exceptional circumstances.¹ This policy has been taken to the further extreme that no discussion of asylum seekers' situation or cases will be entered into for "privacy reasons"², ostensibly to avoid harm to the people concerned by any persecutors or agents from their country of origin. Why is it that a refugees' "privacy" is the only right that is protected? Studies made by Human Rights Watch, UN observers and Australia's HREOC make long lists about other human rights that are severely infringed. The studies are routinely ignored or ridiculed. Perhaps it is the department's wish for "privacy" that it really wants protected.

Sometimes, even when the refugee/asylum seekers concerned beg for outside intervention on their behalf, the department still remains silent.³

If the Senate has any further powers in relation to this inquiry, I recommend that an investigation be made into the role the Howard Government played in the attempt to control the media's reporting of refugee news in the lead up to the 2001 election, and subsequently.

In addition to a media clamp-down, a pervasive culture of secrecy throughout the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) is responsible for the huge amount of time taken for the reality of Australia's cruel Immigration policy to be even mildly understood in the Australian community. The information blackout has been successful because it has a fail-safe mechanism. That is that the people who have suffered so badly still want the prize that the perpetrators of the cruelty may withhold at will: their visa, their passport to security and a normal life. In making only temporary visas available to refugees who arrived in Australia after a certain date, their continued silence is almost guaranteed.

I brought this matter up with my local federal member of parliament, Catherine King. A member of the Opposition, she was prepared to grill the government on some things, if only we would supply her with a fully annotated incident report – with times, places, dates and names of all concerned. I tried to explain that therein lies the heart of the problem – people cannot speak openly about these things. Not refugees, and not their supporters. DIMIA can be vitriolic and vindictive towards any refugee who breaks the "Peter Reith proclamation": no sympathetic coverage of refugees allowed! Families who have suffered enormously through DIMIA retribution subsequent to publicity (and I would hasten to add – the "privacy" rule was often breached by Immigration Ministers when it suited them) include the embattled Bakhtiyari family from Afghanistan and a large Iraqi family, the Kadems, now back in Iraq. Catherine King however was simply not interested in looking deeply at the policies and culture of the immigration department and the conversation was closed.

In the same expedient and efficient manner, the Immigration minister both recommends the appointment of and fixes the term of office of Refugee Review Tribunal members (usually 6 months.) The contract is renewable, presumably being dependant on how readily the Member, supposedly independent, supports government policy. It is worth noting that the former Immigration Minister, now Attorney General, has flagged the possibility of introducing fixed-term renewable

¹ For example, see **Appendix 1**.

² See **Appendix 2**: retyped typical letter from DIMIA. I have received enough letters of a similar nature that I could mulch an entire garden bed.

³ See **Appendix 3**: letter to the DIMIA manager at Baxter. The letter did not attract a reply from Ms K [REDACTED], despite sending her a letter of authority from my refugee friend. I believe I would have received the standard reply letter "Sorry – for privacy reasons we cannot respond to your query. Etc, etc." if I did not have the letter of authority. This letter also brings to light some problems in getting appropriate medical help for refugees, and what I believe is the questionable (illegal?) use of handcuffs.

appointments for judges in certain courts. He obviously believes he is on a "winner" with the system of performance-based appointments that served him so well as Immigration Minister.

Again, if the Senate has any further powers in relation to this inquiry I would recommend further investigation, such as to find out why DIMIA has been so reluctant to free refugees and why it is so obsessed with catching and locking up people who have visa problems. How much do DIMIA bureaucrats and its culture extending back perhaps 50 years or more drive Immigration policy? What contractual arrangements are in place between DIMIA and prison operators to provide detainees for profit for the private company? To what extent do the needs of prison operators drive immigration policy? To what extent has the often severe, punitive, inhumane and deplorable attitude of DIMIA and prison company operators towards refugees been driven by the desires and even decrees of Prime Minister John Howard, Immigration Ministers Ruddock and Vanstone, other Ministers, and Liberal Party apparatchiks who have seemingly used vulnerable refugees in order to achieve a political outcome?

Incidents involving refugee friends that have not been able to be told before.

- Appendix 4. A description of the procedure of "sun-torture" used for head counts for those in "Sierra" compound in Woomera, 2000,
- See Appendix 5. A refugee's application to the department for refugee status, and appeal of his rejected application to the RRT: a case of ignorance, bias, intimidation, and racism.
- Appendix 6. Making contact with refugees in detention: phoning in, phoning out, and getting "bugged" in the process.
- Appendix 7. Making life so miserable in Australia that refugees or visa-holders will just give up and go home! "Voluntary" returns.

Visiting Detention Centres – not for the faint-hearted

- Appendix 8. Visiting Maribrynong Detention Centre for the first time, mid 2002.
- Appendix 9. Visiting Baxter, July 2004. (This article was published in my town's local newspaper).

Talking to politicians. (I mean, trying to.)

- Appendix 10. A letter sent by email and post, written a year ago to Senator Amanda Vanstone answering her false claims about the suitability and attractiveness of so-called “Community Detention”. The Senator can’t claim she “wasn’t told” (unless she doesn’t read her mail). No reply from the Senator was forthcoming, despite her offer to supply more details if required.
- Appendix 11: Attempts at myth-busting. Common misleading or false statements made by Australian’s elected representatives about refugee policy and practices, and attempts to put them straight.
- Appendix 12. Letter sent by email and post to Tony Abbott after his interview on the ABC’s “Insiders” program where refugee policy was discussed. Tony Abbot advised me that he forwarded my email to the Minister for Immigration for her consideration. She has not replied.

APPENDIX 1

THE ISSUE OF PHOTOGRAPHS IN DETENTION

At a visit to the Baxter Immigration Detention "Facility" early this year I scribbled a copy of a note posted in that visitors' center for the edification of visitors (presumably, although it was addressed to detainees):

Notice to Detainees

CAMERAS

As a general rule cameras are not allowed to be bought (sic) into an Immigration Detention Facility. It is accepted that there may be occasions when it is appropriate for cameras to be allowed in with the approval of the General Manager.

Visitors may be authorized to bring a camera into Baxter and take photographs of detainees under the following circumstances:

Weddings
Christenings
Other significant events

A significant event is one determined to be a "one off" and which cannot be replicated. Visits by friends etc are not considered to be significant events. The approval for the visitor to bring in a camera rests with the General or Deputy General Manager. Visitors will be required to apply to the General Manager in writing, indicating the date and time of the visit and the reason.....

And on it goes. I can't think what sort of position the general manager would be suited to. Perhaps something in Customs, where the concern is with objects rather than people.

APPENDIX 2

TYPICAL LETTER FROM DIMIA AFTER APPEALING TO THE MINISTER FOR CONSIDERATION FOR A REFUGEE FRIEND (retyped to avoid identifying details).

Australian Government

Department of Immigration and Multicultural and Indigenous Affairs

Ms Helen Lewers
(Address)

Dear Ms Lewers

Thank you for your letter of (date) to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator the Hon Amanda Vanstone, concerning a request that she exercise her public power under section 417 of the *Migration Act 1958* in (name)'s case. Your letter has been referred to me for reply.

Whilst section 417 provides the Minister with the power to substitute a decision of the Refugee Review Tribunal with a decision more favourable to (name), it is a non-compellable power.

I understand why you have raised your concerns about (name)'s request for intervention and assure you that the information you provided will be taken into account when a decision is taken on this matter. You would appreciate that privacy considerations prevent me from providing information about individual cases. Please be assured that the client will be directly advised of any developments in their case.

Yours sincerely

(name)
Director
Ministerial and Executive Services

(date stamped: day, month, 2004)

APPENDIX 3

LETTER TO BAXTER DIMIA MANAGER, WITH FRIEND'S AUTHORITY. (UNANSWERED)

(Address)

dd/mm/2004
 DIMIA Manager
 Ms K [REDACTED]
 Baxter IDF
 PO Box 2477
 Port Aususta
 SA 5700

Dear Ms K [REDACTED]

Re: (friend) Baxter Detention Centre: forced wearing of handcuffs at a public place

I am writing this letter in relation to my friend (name) enclosing a letter of authority from him to enable you and other members of your department to discuss such matters with me.

I have known (name) for almost 2 ½ years now, as we keep in touch regularly by phone and letter. He has been in Immigration detention for over 4 years. (Name) has suffered recurring chest pain suggesting chest/bronchial infection, for over a year, beginning when he was in XXXX Detention Centre.

I have seen a copy of the medical report made soon after his arrival in this country. He was found to be in excellent health but for some eye problem for which glasses have been provided. (Name) has maintained reasonably good mental health since then, unlike many of his compatriots suffering similar fate, because of his commitment to an exercise and fitness regime that included soccer playing (albeit on a concrete "field") and workouts in the gym, with a strong emphasis on (type of exercise).

About a year ago, (name) began to experience severe chest pain. It was noticeable in phone conversations that his breathing and/or chest was affected in some way. It was with some difficulty that he attracted the attention of the detention centre doctor, who at first prescribed antibiotics that didn't work. After a long wait to visit a specialist at the XXXX hospital, he was again referred to the detention centre doctor for a course of different antibiotics. The doctor at first complained, as these antibiotics were considered "too expensive" for the centre management company to afford (!) The doctor eventually backed down, and made the better antibiotics available. (Name)'s health improved for a short time, but then deteriorated again.

My friend noticed that his chest complaint worsened in the air-conditioned room where he spent most of his days, and felt that the air conditioning itself was a contributing factor. However, the unbearably hot weather in that part of the country of course necessitated its use. In the cooler months in XXXX following summer, (name)'s health began to improve. (Presumably when the air conditioner wasn't needed as much).

Throughout the time (name) suffered chest problems, his ability to maintain exercise was severely compromised. This in turn affected his ability to maintain a positive mental outlook despite his harrowing, uncertain and fearful situation in relation to his application for asylum in Australia, and unwillingness to return to a country where he knew he wouldn't survive.

Since his transfer to Baxter, (name)'s chest complaint has re-emerged. The comparatively much colder weather must be a shock to his system. He requested an appointment with the center doctor which was granted after some delay. The doctor recommended (name) visit the Port Augusta hospital for more tests.

My friend was happy that steps were being taken to alleviate his chest pain, and was grateful that the detention center company (GSL) had organized a trip to the hospital. However, he was devastated to realize that GSL intended to take him there wearing hand-cuffs, as though he were a criminal. He was in fact transported, led round the hospital corridors, waiting and treatment rooms handcuffed all the while to a uniformed GSL employee. (Name) told me that there were many patients at the hospital, and they all stared at him with suspicion and fear.

My friend has suffered enormously during his 4 years in detention, but this treatment has shamed him so much that it will take him a long time to recover, and will I'm sure rank first amongst the humiliating experiences he has been forced to endure while he awaits his fate in Australian detention.

(Name) is not someone at risk of escaping. He was permitted to go on shopping, swimming and fishing expeditions in and around XXXX township without handcuffs being used. He does not want to escape. He very much wants to live in Australia as a legitimate citizen, and is in fact awaiting the outcome of another application for protection under the refugee convention, as allowed by the Minister. In addition, (name) would have an impeccable behaviour record whilst in detention. He manages to avoid trouble by keeping quiet and keeping very much to himself. More importantly, (name) is not a criminal: he has not been convicted of any crime. That his flawless behaviour over a lengthy stay in detention should be rewarded by the humiliation of wearing handcuffs in public is heartless in the extreme.

I request that you ensure this doesn't happen again, and that your policies and actions acknowledge that there is a two-way benefit in respecting the humanity of those in your charge. (Name) appears to be suffering from a health complaint that could be related to being detained in unsuitable conditions: the least you can do is to help him overcome the problem without further damage to his self esteem.

Yours sincerely,

Helen Lewers

cc (Name)

Baxter Medical Centre doctor in charge

APPENDIX 4

A DESCRIPTION OF THE PROCEDURE OF "SUN-TORTURE" USED IN WOOMERA DETENTION CENTRE AS A PUNISHMENT

One refugee friend had been on a hunger strike in XXXX detention center in the year 2000. Because this incident threatened to breach the government's information blackout (ie the media became interested), it was considered a serious misdemeanor to have taken part. My friend, "Mohammad," (not his real name) was taken to Woomera. Incidentally, he was not told where he was going, or what was going to happen to him. Because of the practices in the country from which he had fled, and because of his recent experiences at the hands of DIMA and ACM, he assumed, terrifyingly, he was being taken to be killed.

In Woomera, he was put in the "isolation" compound reserved for serious "troublemakers": Sierra compound. It is worth pointing out that in the 3½ years that I have known him, Mohammad was never violent, abusive or aggressive with department officers or ACM (or subsequently GSL) guards to my knowledge. Some guards have spoken highly of him when I have rung detention centers, asking to speak to him. His "crime" in Villawood was the hunger strike.

Mohammad was kept in Sierra compound for the duration of his stay in that particular detention center: 5 months. The conditions were particularly harsh, given that ordinary Woomera was "no holiday resort" as even Minister Ruddock conceded. In Sierra, there was no TV or newspaper. There were no phones. Nobody received letters, other than from the Immigration department. At breakfast, detainees were issued with 2 pieces of bread, 2 small butter sachets, 2 teabags and 2 packets of sugar. During the morning, they could ask guards for more tea, and they may or may not be given some. They had to ask specifically for the sugar as well. This had to last until the afternoon. If they asked again, an argument would ensue. Some people who didn't speak much English would just say "two tea?" meaning, "Could you give me two teabags?" The guards would say "No. You have to say please." After many months of arguments and skirmishes, with more guards coming and eventually the supervisor, tea and sugar were provided in quantity. Later also, TV and newspapers

It being the year 2000 when the Sydney Olympic games were being held, many detainees, specially Iraqis and Iranians, were naturally interested and requested newspapers or other means of finding out details of events. Instead of this, guards wrote up a daily medal tally on a notice board, to the amusement of detainees.

In Sierra Compound, a peculiar form of "muster" or "head count" was practiced. Twice a day, at midday and at 5 pm, guards would hammer on doors and shout "Get out!" People were expected to assemble in a special yard in the compound – not just in front of the rooms. They had to line up in the sun, without a head covering, for none was available. It was very hot in the sun at Woomera at that time of year, and Mohammad was subjected to what detainees called "sun torture" twice a day for 3 months. After that time, escalating complaints put a stop to the practice.

People weren't always ready to go to the sun muster, and sometimes it took half an hour to finish getting everyone assembled and standing in line, even before the elaborate counting began. Sometimes people were just "lazy" or were sleeping, (often the best way to pass the day in the hot weather.) People usually tried to help each other though to try and prevent problems with the guards. Sometimes they were lucky enough to be lined up in the blazing sun for only 20 minutes,

normally over half an hour, but sometimes it could take 45 minutes to count just 23 people. First the guards had to count the total number of people in the group. (It was always 23). Then they had to match the person's face and number (on an ID card correctly pinned to the front of their shirts) *with corresponding details on the guards' sheets of paper.* The guards all knew everyone, of course. They told the people they were just "following regulations". But the people knew it was for punishment. The guards strung out the procedure for as long as they could, unless they were the kinder guards. People didn't faint or get dizzy usually – it was just very uncomfortable and they all grew hot, tired and thirsty. As Mohammad said, "It was to make us frustrated and upset. To punish you. Why you did wrong. The system (is) to show you are bad guys."

If anyone complained about the sun torture, nothing was done about it during daylight. Then at 10, 11 or 12 at night, a lock-down would be announced. A whole lot of guards would enter the compound. Each guard would "cover" 3 rooms. The man who had complained would be taken by force by another group of guards to the isolation cell, in another part of Sierra compound. Mohammad's friend was taken like this one night. He was only scantily clad, having been woken from sleep. He resisted the guards' attempts to force him into isolation, and pushed them. He was kicked, beaten and punched, and finally dragged away by one arm and one leg. Everyone was scared. The shouting and beatings were very audible. The following day the guards called police, wanting to charge the man for assault. That night Mohammad's friend was in another fight with guards.

At a meeting held in Brunswick in 2002 to raise awareness of refugees in Australia, I questioned one of the speakers, a prominent campaigner for survivors of torture and member of the government's Immigration and Detention Advisory Group, (IDAG) about the "sun torture", after briefly describing it. He just said, "That didn't happen." And that was that. Why didn't he say "Can you give me more information please?", or any of hundreds of possible replies? (His name is P. [REDACTED].)

APPENDIX 5

**A REFUGEE'S APPLICATION TO THE DEPARTMENT FOR REFUGEE STATUS,
AND APPEAL OF HIS REJECTED APPLICATION TO THE RRT: A CASE OF
IGNORANCE, BIAS, INTIMIDATION, AND RACISM.**

I followed the case of one Hazara man closely, and was able to get help for him through "Spare Lawyers for Refugees." After many years his case finally went all the way to the High Court, where I believe a win for him would have set a precedent that could have led to the freedom of many other detainees. Instead, Minister Vanstone offered him a "48B" as a type of "out of court settlement" in an unusual situation where she had been directed by the High Court judge to look into my friend's situation. It took another application, another failure and an appeal the RRT before he was accepted as a refugee. This man was initially refused because of the infamous and widely discredited Swedish Language test (Eqvator) and the fact that his village wasn't to be found on the Encarta (an electronic atlas and encyclopedia with detailed maps for some countries: all the rage in the late 1990s). The country town where I live isn't listed on it either. Cause for some concern.

When my friend, whom I shall call Reza, arrived in Australia, the Immigration Department apparently expected him to be able to talk freely to a woman, his appointed "case officer", or "delegate of the Minister", about his fears of persecution and the story of his escape from Afghanistan. In his culture, he would never have had this sort of discussion with a woman, and in particular, not one who was bare-headed and sitting less than one meter away from him across a table! Yet Australia's immigration system expects such a conversation to take place, totally disregarding cultural mores. Listening to the tape recording of the hearing, I can't help making my own possibly false judgment about the young-sounding woman who wields enormous power over my friend. After finding him "not a person to whom Australia owes an obligation of protection", does she go home to a neat Canberra apartment and chat with her partner about the progress of their renovations? Has she gone straight from school or possibly university to a job in immigration where she sees the world through middle-Australian cultural values, having never known hardship, let alone the violence severe enough to make people flee their homes? The night she refuses Reza's application for a protection visa, do she and her partner decide not to cook that night and instead order "Ribs on the Run?"

I have listened to and transcribed part of Reza's RRT hearing. If the "case officer" was bad, the RRT member was abysmal! I was shocked to discover her condescending, insensitive and disrespectful demeanor and an attitude verging on racist.

Reza had been taken out of an isolation compound to attend the hearing, and was emotionally very fragile. A week before, the scheduled hearing had had to be cancelled because of technical problems with the video link. This time, technicians again fiddled with equipment – which had cost \$60, 000, according to the RRT member. It was again threatening to postpone the proceedings. Half an hour went by. My friend was in the town's court house for the event, accompanied only by an indifferent guard who was there to make sure Reza didn't run away (from the most important appeal of his life!) The RRT member chatted and giggled with others in the background, for 25 minutes! I am sure Reza's nerves would have been extremely on edge.

Reza commented to me that he was "not used to fighting with a woman". I believe he saw the hearing as a battle, and having a woman as an opponent was confronting.

The member alternated various types of voice: she could be saccharine-sweet and condescending, as if talking to children in a day care center. Occasionally saucy and suggestive, she could suddenly change to sly and treacherous.

After his initial statement at the hearing defending his membership of the Hazara ethnic group, which had been disbelieved by the case officer, the member adopted a sharp and strident tone.

Reza asked, "May I tell you other things?" She said: "No! I ask the questions here" – or words to that effect. She said he could tell her later, but she didn't give him the opportunity.

Occasionally, Reza talks for too long a stretch for the interpreter to be able to keep up with translating. The Member reacts with sarcasm and makes jokes with the interpreter. Rather than patiently restating the need to pause, she shouts "Reza! You must stop talking!"

At one stage, Reza simply answers "Yes" to one of her questions. The member says to the interpreter in a stage whisper: "Lovely" The interpreter says, "I love his short answers". The member replies "yes", and giggles.

The member tries to confuse and intimidate, alternating soft and loud speech. For example: (Soft, almost whispered.) "OK, OK. So when it was winter and you were at home, how often would you go to the mosque?"

Reza answers "We Shi'a people pray 3 times a day: morning, afternoon, evening. I mainly went to this mosque where people get together and ...like praying together."

Member, suddenly sharp and loud: "It seems like a very small village to have its own mosque and imam!"

Now softly spoken again: OK. Um, now. You said that you're a Hazara. What is it about ...do you think you look like a Hazara person?

Reza: Yes. I'm a Hazara and I look like a Hazara.

Memb: And what it is about you that looks Hazara?

Reza: From my cheeks, from my eyes, from my nose.

Memb, (provocative, sharp) Well, what about them?

Reza: Yes, Hazara people have got very small eyes, as well as flat nose.

Memb: (disdainful) ...But you don't seem to have a flat nose!

Reza (very upset): Yes, I'm Hazara, and I'm from Afghanistan and that's...I look like Hazara.

Memb (very sharp, all sweetness gone): Well you don't look like some of the Hazara who I've seen.

(Continues, voice sharp, raised, triumphant): And what about the shape of your eyes?

She asks interpreter: "What sort of shaped eyes do the Hazara people have?"

Reza: It's very small and narrow eyes.

Memb: soft. Uh, huh.

Interpreter...sorry, may I ask you? What is the description for these like Chin (Chinese?)

Memb: Almond shape. (Laughs)

Interpreter: Almond?

Memb: Like a nut. You know, the shape of an almond. That sort of shape. (Perhaps indicating)

Interpreter: OK, OK

Memb: Anyway, that's not a word in everybody's vocabulary, I recognize that. (Giggle, giggle.)

Interpreter: It's important because I face this question and it's hard for me to find.

Memb: Yes..but... Mister Reza or... lots of people wouldn't know what an almond was in its...form so... that's how I think of it.

Explains to Reza: *We're just having a talk about um, English words describing shape, Mr Reza. (Giggle).*

Incidentally, Reza looks to me exactly like and also different in his own unique way from other Hazaras I have known.

The selection above is only a portion of Reza's RRT hearing. It is hard to believe that the Member is engaged in conducting a serious inquiry into Australia's protection obligations towards Reza. What does Reza's understanding of the shape of his nose or eyes have to do with the member's understanding of his persecution by the Taliban? How does schooling the interpreter in the use of the word "almond shaped" bring clarity to the consideration of Australia's protection obligations? Does she think that if she doesn't recognize his appearance as Hazara, the Taliban aren't going to either?

When she asks him to define his appearance as a Hazara, she is thinking about his features that may differentiate him from other ethnic groups or races, from the point of view of an Anglo Saxon! She wants him to define himself from the vantage point of an Anglo-Saxon person. As far as he is concerned, he looks normal. He makes this very clear at the hearing. It seems that she doesn't think or want to believe he looks Hazara, and that may be an unstated reason for her refusing his appeal.

Early on in Reza's period of detention, he was visited by a small group of Tajic Afghans. They are traditional enemies of the Hazaras, but Reza thought that here in Australia, all Afghans would work to help each other. They seemed to be friendly. However, they must have later told the Immigration Department that Reza was not a Hazara, but a Pakistani. The group was later discredited by a formally-constituted Australian-Afghan organisation, but it seems their information was not. This information was referred to by the "case officer" and the RRT member, but not actually disclosed.

The RRT member claimed she did not use the group's information to reject Reza's appeal, yet she seemed to give it credence, going by the number of times she referred to it. Prominent migration agent and refugee advocate Marion Le has recently referred to the immigration department's blind acceptance of anonymous tip-offs or dob-ins to discredit people claiming asylum.

APPENDIX 6

MAKING CONTACT WITH REFUGEES IN DETENTION: PHONING IN, PHONING OUT, AND GETTING “BUGGED” IN THE PROCESS.

Most detention centres only had a few telephones for use by detainees. Usually each centre, regardless of size, had something like 2 incoming lines, and 2 or 3 out. Baxter I think has 2 outgoing and 2 incoming phones per compound. The incoming lines depend on phones with batteries, and they are always getting low. It is enormously difficult to ring Baxter and get through first time. If your phone has a redial, that is the best thing to use – constantly. Once I had a message saying a friend had his visa. It took me 25 minutes of repeated dialing and getting the engaged signal at 11 pm before I got through to Baxter to express my delight and congratulations. Detainees are forbidden to use mobile phones. Sometimes, after a lot of dialing to get into a compound, the person I rang is not there, but visiting another compound. My phone call cannot be switched through, so I have to start dialing the Baxter number all over again.

Baxter is probably the worst place to make contact with refugees by phone, of all centres, yet there is no shortage of electronic gadgetry for so called security purposes. I believe it must be government policy to restrict phone contact with the outside world, so that this detail, along with many others, will make people give up and just go home.

In Port Hedland, Curtin and also Perth, detainees had to put people on a list before the centre would allow them to accept that person's call. When Curtin was closed, Port Hedland made room for about 40 more detainees over night. There were no extra phones put on. Similarly with Baxter when about 60 Woomera detainees went there.

At Curtin there was one line only for detainees. They had to queue for a long time, and seemed to be aware of others waiting to speak.

There were terrible problems phoning Woomera in the early days. In 2000, people who were in “isolation” were taken to the DIMA office every 2 weeks or so to make a phone call! Later, ACM had an agreement with a phone company to provide the most expensive calls available! The phones would only take this particular phone company's cards. I rang the company to complain, and so did other refugee supporters. Eventually, mobile phones were issued to the various sections in Woomera. There was one per unit. I don't know if “normal” payphones were ever installed.

I felt sure that my calls to Port Hedland, Curtin and Baxter were monitored. One friend and I used to begin each conversation by acknowledging and greeting a possible ACM listener. We said things like we hoped their pay and conditions were adequate, and that our conversation would prove scintillating.

When a friend was released on court order and no visa, he stayed at my place for the first month. After several weeks, we noticed a peculiar clicking noise on the phone. There were regular clicks, at about one second intervals. At first I thought it was just the phone, which was old. When my friend left, the noises were still there. One day, I rang Telstra about how I might discover if my phone was being tapped. They told me it was illegal for anyone to do that. Then I rang a lawyer's organization in Melbourne, which gave me the numbers of a couple of private firms who might be able to advise me. I spoke to them. They said, “Who would want to do this?” I said “maybe the dept

of Immigration". They suggested I make an appointment to discuss this further. However, for financial reasons I then I rang my local Legal Aid office and arranged to see someone the next day. Curiously, the next day, the noises stopped.

I spoke about this to a well known refugee activist in NSW. She said her phone had made noises too – similar ones to mine. She also believed someone was listening.

Here are some figures for the numbers of people in detention around the start of the time I began contacting refugees there. They demonstrate how inadequate the numbers of phones are in the various detention centers. I'm not sure where the "Atlas of Discovery" gets the figures from – they are not referenced.

<http://www.jaconline.com.au/atlasofdiscovery/downloads/AOD-pp078-079.pdf>
 Figures for detention in Australia and islands in Dec 2001:

Christmas Island:	211
Cocos Island:	131
Manus Is:	216
Nauru:	1118
Curtin:	601
Port Hedland:	467
Perth:	22
Woomera:	1030
Villawood:	378
Maribrynong:	86

Total: 4260

Figures for "unlawful non-citizens" in Australia's immigration detention facilities vary. "Facts and Figures" from "Refugees and Asylum Seekers" put the number of people detained in immigration detention facilities in Australia at 3,400 in November 2001. (Presumably, this doesn't include the Island detention centers listed above). (Volume 193: Issues in Society During 2001-02, edited by Justin Healey. http://www.spinneypress.com.au/193_book_desc.html).

Either way, there was never an adequate number of phones for detainees to use, despite repeated requests by detainees and refugee supporters.

– which DIMIA demanded he produce otherwise he'd find himself back in Maribyrning. By this time, a woman who seemed to know her way around DIMIA - but was not a migration agent - was helping him considerably. She even went with him to the dreaded interviews, to make sure they didn't try and put him into detention. DIMIA assured S that he could apply to come back to Australia once in Nepal. There was a huge amount of paper work and other requirements. The woman kept in touch with S for a while, but whenever she gave instructions that he should find work, and get this or that paper, he delayed replying. It was the same in response to my emails to him. Finally he stopped emailing altogether. I believe he was too depressed to do what was necessary to reapply. Also - why go to all that trouble when DIMIA put so many hurdles in his way when he was *in* the country?

It is Australia's loss that this likable and diligent young student was sent packing. I don't know what has become of him. Nepal is a very unstable country. Why was DIMIA so brutal with him? I wonder if the contract between DIMIA and ACM/GSL specifies that numbers of asylum seekers or people without valid visas (no matter how unfair their situation) - will be provided by DIMIA? Of course this is "commercial in confidence" information, but why should it be sanctified, over and above human rights?

Here is his last email to the woman who helped him so much:

> Dear (name) hellow..iam completely shock ,So sad
 > ,I really dont know what to do?Now how long next
 > process will take?What paper do they need?Every single
 > day i was waiting with hope but..now made me so
 > depress.(name) even iam with my family how much iam
 > missing Australia its hard to explain.what will
 > happen?now really really worrying me.i will write u
 > again, my mind is not working at all, i just need to
 > walk as u said.regards

I also know about a man who went back voluntarily to his country of origin, as a last resort. He was so tired and worn down by the troubles in detention. I am reasonably sure no one else has written about him or followed his progress, or lack of. He ended up in jail for 6 months, fled to a neighbouring country, and was living a hand to mouth existence, with little decent clothing, no place of residence and no regular supply of food. This man suffered enormously in detention - as did they all. But he kept his sanity to a large degree - as far as I could tell. Now - in the neighbouring country, he attempted suicide, and hears voices. One of the voices is malevolent, and seems to drive him to desperate action. I believe he may be quite mentally disturbed now, However, I am not even sure he is still alive.

APPENDIX 8

MY FIRST VISIT TO AN IMMIGRATION DETENTION CENTRE, MID-2002.

My son had been writing to some refugees in Maribrynong, and we decided to go and visit them. It was hard to find the centre at first – it was at the end of a long driveway, not at first apparent from the address in Hampton Rd. What struck me were the cameras strategically placed near the entrance, the high steel barred fence topped with cruel razor wire, (I had not seen any before – but it was impossible not to recognize it) and the cage-lock (like an air-lock) that people and cars had to pass through before entering or leaving the center. Before entering, we had to ring a silent buzzer that apparently alerted guards inside the centre. We had to buzz them again when we reached the end of the cage: some 10 meters. There were some plants growing in desultory fashion in small gardens beyond the metal and wire cage, despite an atmosphere suggesting nothing living could survive there for long. Next door was a student hostel servicing Victoria University. Sadly, many overseas students from that university ended up in Maribrynong for petty reasons to do with minor visa infringements.

When we reached the visitors' center we also had to buzz the guards inside – even though they could see us through the glass. When the door clicked, it meant it was open and we could go through.

My son and I were required to fill out forms stating the exactly spelt names of the people we wished to visit, our phone number and address, the reason for our visit (to identify and thereby prevent easy access for lawyers?) and our relationship to the detainees. Then we had to place all our belongings in a metal locker. We were only allowed to take a few coins (for canned soft drink or fake tea and coffee from a machine) and sealed cigarette packets into the visit area where we could meet detainee friends. No food was allowed in but books sometimes were. On my first visit, I was permitted to bring bottled water for myself – none was provided for visitors. On later visits, even this was refused. Visitors had to ask for a plastic cup and get water from the taps in the toilet. Still later, bottled drinking water was provided for visitors and detainees.

That first day, lining up behind an Asian man who had waited in the queue to show ID and have gifts of food checked by guards (this was distributed to detainees after the visit, to make sure that the normal human custom of delight in sharing food didn't occur), the guard shouted at him for attempting to leave chocolate wrapped in foil (ie the normal packaging for bars of chocolate) for his detained friend. I was badly affected by the paraphernalia of the high-security prison-like detention center. I was unprepared for something so utterly devoid of human kindness. Without thinking, I said loudly to the guard "I suppose his friend will make a file out of the foil and saw his way through the razor wire!" The guard snarled at me "You watch your tongue! I have been a guard for 30 years, and I know what they can get up to!" (This despite the then minister, Philip Ruddock always insisting detention centers were purely for administrative purposes and not punitive. The guard obviously made no distinction between prisons and detention centers.)

When my turn came to be "processed" by the guard, he told me to return to my locker the books I had hoped to share with my friends. They had been specially chosen from my local library, and showed glorious colour photographs of my friend's country. The guard made it clear I was being punished for my facetious remark.

On subsequent visits, I had to make myself remember not to respond to the many slights and insults that some guards delighted in handing out to visitors and detainees. (For instance, the toilets were only for visitors. If detainees needed one, they had to be escorted back to their

quarters, and they may or may not be allowed back to the visit center, and the time had probably run out anyway).

Once we were cleared, signed in, endured the backs of our hands being stamped with invisible ink and a coloured and numbered plastic band placed around our wrists, we had to pass through another locked room and walk through a metal detector. Sometimes people's glasses, footwear or belts triggered the detector. Once through the next locked door, we were in the visits area. Luckily there was an outside section with a few potted plants and real air. The inside part had a floor covering, low circular white tables, the 2 drinks cabinets and stale air moved around by some distant motor. The guards watched us through the glass, and sometimes walked through to the outside, where they could smoke.

Then began the wait. Detainees weren't called as soon as we arrived at the center. After 25 minutes our friends came out – who knows how many locked doors they had to wait behind? They were always searched in a room on "their" side of the visitors' centre.

It was a delight to meet our friends. The man in front of me in the queue was visiting them too, it turned out, which was lucky as we needed him to translate. We had a very enjoyable conversation, the contrast between the warmth of our interaction and the bizarre cold and barely functional setting strangely disturbing. One man was an expert chess player and my son (not bad at chess) enjoyed playing against him on subsequent visits.

When it was time to leave, we had to go back through the locked doors, have our bits of plastic wristband attended to and our stamp viewed under UV light. We signed the visitors' book again, collected our belongings and fought our way through all the locked gates to the free and fresh outside. Back in Melbourne, where life is normal. Outside "Commonwealth property, no unauthorized entry", leaving behind people who will never see this part of Australia. They probably shuffle back to overcrowded rooms with barely the essentials for life, their depression and anxiety returning. Existence for now is all that is permitted.

What I witnessed and experienced as a visitor is vastly different to what detainees have to endure for interminable days and nights without an end in sight. Yet after that first visit of 2 hours or so, I emerged shaken and feeling somewhat dehumanized myself. From the visitor's perspective, there seems to be minute and compulsive attention to ephemeral detail but a complete abrogation of the duty to care for people at a human level. Innocent people not charged with any crime, nor suspected of any, are treated as if they were hardened criminals. Even though some guards stood out as caring people, on the whole, my feeling is that zoo-attendants have more concern for the well-being of their charges.

APPENDIX 9

VISITING BAXTER

Approaching Baxter Detention Centre in the desert outside Port Augusta (1,000 km from Ballarat), I am reminded of pictures of harsh World War 2 prison camps. Double high steel fences divide a "no man's land" of 100 or so metres. This area is brilliantly flood-lit at night, and in these modern times, equipped with heat and movement detectors. Video cameras beam down at the entrance, along the fence and near various outhouses, intent on recording every coming and going in minute detail. Signs warn of Commonwealth land ownership, prohibiting trespass and "shooting over the land". Other signs warn against the use of cameras of any description or mobile phones. Electric fence warnings complete the picture of intimidation.

Although this is my fourth visit to Baxter, I find the brutality of the physical environment no easier to endure than the first time. Baxter is a multi-million dollar jail whose design was resurrected, apparently, by former Immigration Minister, Philip Ruddock, despite previous experience from the Australian prison system that it was likely to contribute to inmates' severe depression. Since the closure of the Port Hedland detention center, it is "home" to the biggest group of asylum seekers in Australia, mandatorily and indefinitely detained by a refugee policy that it was hoped would bump up the coalition's chances during the last election.

There is an elaborate system of checking for all visitors to Baxter: photo identification, invisible stamp on back of hand, wrist tag with letters and numbers, metal detector doorways and wands, coats and any food items for the visits center run through an X-ray machine. There are usually long delays getting through the checking system: sometimes up to an hour, and this is taken out of the allowed time for visits. My details are keyed in and checked on a slow computer. Sometimes the pre-arranged visits become lost in the system. Visitors are assured it is their fault.

Each time a locked door opens, there is a characteristic chilling science-fiction "beep". Visitors must now wait together in a locked cage before the complicated centralized system of locks allows passage to the "visitors' compound". Outside its fence are some signs of life in a tidily wood-chipped shrubbery. There is no garden on the inside, and my refugee friends would mostly not see this one.

Some guards (they prefer to call themselves "officers") try to joke and make light conversation, but it is hard to respond, knowing the intrinsic part they play in an horrendous system of punishment of men, women and children who have come to our country merely to seek refuge. "It is unfortunate to lock up children," says the Prime Minister, but we must "continue to deter would-be people smugglers".

After further transits through a locked guards' room and some sort of squashy security passage, I can finally enter the visits area. I emerge shocked, upset and not a little humiliated by all the security paraphernalia I have had to endure.

When, as if miraculously, my friends do appear from beeping doorways, my dark feelings drop away as we greet each other like long lost friends, which indeed we are. This time, it was a joy to finally meet one young man with whom I've been in regular contact via letter and phone for 2 ½ years. It was strange to talk to him knowing his voice so well, but not his looks: photos of refugees are not allowed in detention.

It was also wonderful to meet friends that I had met before, but distressing to observe how much more pronounced was the air of hopelessness and despair in their faces and body language than last time. I ask myself what must an Australian citizen have done to incur a similar 4 year prison sentence? Rape? Murder? But my friends, despite government propaganda to the contrary, have committed no crime, nor are they charged with any. And there are still children locked up here, some for 4 years, some born into this prison environment. I saw and spoke to them. For how much longer must my good friends endure *this wretched and unnecessary suffering*? At this time of pre-election sensitivity by candidates and politicians, please, readers, do all you can to bring pressure to bear to stop the terrible policies and let the people out!

Helen Lewers
July 2004

APPENDIX 10

A LETTER SENT BY EMAIL AND POST LAST YEAR TO SENATOR AMANDA VANSTONE, ANSWERING HER FALSE CLAIMS ABOUT THE SUITABILITY AND ATTRACTIVENESS OF SO-CALLED "COMMUNITY DETENTION". NO REPLY FROM THE SENATOR WAS FORTHCOMING, DESPITE HER OFFER TO SUPPLY MORE DETAILS IF REQUIRED.

(Address)
14/07/2004

Sen the Hon Amanda Vanstone
Minister for Immigration and Multicultural and Indigenous Affairs
Minister Assisting the Prime Minister for Reconciliation
Parliament House
Canberra ACT 2600

Dear Ms Vanstone,

RE: CHILDREN IN DETENTION. "RESIDENTIAL HOUSING PROJECTS".

Thank you for your letter, undated, post marked 7th July, received on 12th July 2004. I do indeed have further questions and am glad to have been invited to contact you again.

I shall quote in italics from your letter and brochure and include a comment or question underneath each one. I look forward to ongoing discussion with you about the matters discussed herein.

Yours sincerely,

Helen Lewers

cc "Bob Brown Senator" <senator.brown@aph.gov.au>,
"Andrew Bartlett" <senator.bartlett@aph.gov.au>,
"Carmen Lawrence MP Fremantle" <Carmen.Lawrence.MP@aph.gov.au>,
"DIMIA [REDACTED]"
"Catherine.King" <Catherine.King.MP@aph.gov.au>
"Senator Nettle" <senator.nettle@aph.gov.au>
"Gauthier, Kate (Sen A. Ridgeway)" <Kate.Gauthier@aph.gov.au>
"HREOC Commissioners" <paffairs@humanrights.gov.au>
"Mark Latham" <M.Latham.MP@aph.gov.au>
"John Forrest" <J.Forrest.MP@aph.gov.au>
"Kevin Andrews" <Kevin.Andrews.MP@aph.gov.au>

Dear Ms Lewers

You wrote to me on the issue of children in immigration detention. Although you have received a reply to your initial letter, I thought you might be interested in some further information on what the government has been doing to assist women and children (to) lead a more independent lifestyle while they are in immigration detention.

It is not clear to me what you mean by “independent”. Do you mean “independent from their husbands and fathers” or “independent from a high security prison environment”? If you mean the former, then that is of no advantage to any family. If you mean the latter, then you have merely replaced their living quarters by “mini-high security detention”.

As you know, when the Labor government introduced mandatory detention in 1994...

Whilst true, this does in no way absolve the Howard government from its responsibility of continuing not only the mandatory, but also the indefinite detention of innocent men, women and children who are entitled to claim asylum under the UN refugee convention, to which Australia is a signatory.

... there were no alternative accommodation arrangements made for women and children. All detainees were accommodated in high security detention facilities. In fact, in 1994 there were over 300 children living in these detention centers. By 1999-2000 it became very clear that the number of people arriving by boat without authority was increasing dramatically.

The UN refugee convention does in fact give people legal authority to seek asylum. During the year 1999-00, 95.2% of “unauthorized arrival” children were later recognized as refugees.⁴ In this period, there were 600 children in detention centres⁵: double that of the 1994 number, but not what you would call a dramatic increase requiring a panic response.

Our detention centers filled to capacity and new centers had to be built in a short space of time to process the thousands of asylum seekers arriving on our shores. Fortunately most of these people were processed quickly and were found to be refugees.

As of July 1 2001, of the 631 children in detention, 184 had been detained for 3-6 months, 71 for 6-12 months, 29 for 1-2 years and 3 for 2-3 years. Over the past few years, more than 2000 children have been incarcerated for an average one year and eight months.⁶ It all depends what you mean by “processed quickly”

They were then released into the community on protection visas.

In fact since 2001, children were generally released on a three year *Temporary* Protection Visa, which meant that they were not eligible for permanent residence in Australia. While better than no visa, it is arguable whether or not the TPV can be truly called a “protection” visa.

There remained however a few hundred people who were not assessed as genuine refugees. As is their right under our law, most of these people commenced appeals to overturn their negative decisions.

⁴ A last resort? The National Inquiry into Children in Immigration Detention. The facts about immigration detention in Australia.

⁵ *Ibid.*

It is instructive to remember that the Australian government also commenced appeals in many cases *against* decisions by the courts to overturn negative decisions, thereby contributing to the lengthy detention of women and children. In addition, the DIMIA case officers and RRT members often had little cultural sensitivity towards those seeking asylum, so their decisions, often subjective, were often unfair.

Included in this group were a number of women and children, including some unaccompanied minors.

In August 2001, faced with a situation of potentially prolonged detention,

The unfair situation of prolonged detention is something that could easily have been addressed by your government in a humane manner. It must be well known to you that asylum seekers who arrive in Australia with visas and then apply for asylum are allowed to live in the community. They pose no security risk, nor do they abscond. In fact in general, people who wish to invoke a compassionate response in their country of asylum would see it to be not in their interests to abscond.

the government decided to trial a new form of voluntary accommodation for women and children. This provided a more family friendly environment while appeal processes were concluded.

Without the close contact and support of husbands and fathers, how can the RHPs even begin to pretend to be "family friendly?"

This trial was a great success

By whose criteria? Certainly not the women and children eking out an existence in them, and certainly not the older sons and fathers left behind in detention. It is sad to reflect that about the only bonus for children to be living in this situation is that the mothers could finally take charge of cooking for their children, as both the food and its provision were not suitable for children in the main centers.⁷ In addition, children were spared the agony of watching depressed adults succumb to the horrors of a detention regime designed to be macabre enough to deter would-be "people-smugglers". Is this what you mean by a "great success?"

and the government decided to expand what then became known as the Residential Housing Projects (RHP).

I have enclosed a brochure that describes in some detail what the RHPs are about. We currently have one RHP operating in Port Augusta in SA

I understand that the residents are now requesting to return to the main detention center.

and in this year's Budget we announced two new housing projects in Sydney and Perth.

I am shocked to think that the cruel detention policies and practices are to be expanded.

You may also like to know that as of 5 July 2004, there was only one child remaining in a mainland detention center who came unauthorized by boat. This child could be accommodated in the RHP, but the parents have not yet agreed to the move.

⁷ A last resort? Physical Health.

This statement is misleading: The Minister's figure does not include children detained in Nauru, (19 will remain even after this week's transfers) Christmas Island and Port Augusta. At the latter is/was (depending on when they move back to the main detention center) a 2 yr old girl (born in detention), 4 yr old girl, 6 yr old girl, 9 yr old boy, a 12 yr old girl and a 17 yr old boy.⁸ It does not include children whose parents are being detained because of visa irregularities, or children who arrived by plane.

I hope this information is of help to you. Should you require further details please do not hesitate to contact me.

Minister, I watched you on Andrew Denton's show express fondness for your dog. I am sure you look after it more kindly than you do children in detention – be they on- or off-shore, in "RHPs", having arrived by boat or plane, or those whose parents have visa problems.

BROCHURE

FRONT PAGE

Name: *"An alternative for women and children."*

Women and children can be accommodated in a mini-high security prison, an alternative to the big one known as Baxter.

Subtitle: *The Port Augusta Residential Housing Project.*

Why is it called a "project?" The Oxford Dictionary defines a project as: plan, scheme, planned undertaking (esp by students) for presentation of results at a specified time. When is the specified time at which the results will be presented, and what are these results expected to be? Is it, like Mandatory Detention, also indefinite?

Photo of houses in a leafy suburb.

I do not recognize this photo, yet I have seen the place where women and children are interned in Port Augusta. The one I have seen is surrounded by a high fence topped with a double row of barbed wire. It looks a cold place. There is little to suggest it is home-like. Tall orange lights illuminate the area at night as at the Baxter detention center. When I approached the driveway, guards appeared to warn me off. The refugees are not allowed to communicate with anyone outside the fence. The guards won't let them.

Heading: *What is the Residential Housing Project?*

"more 'self sufficient' lifestyle" – hardly, when guards are present at all times, and influence parenting and what women are allowed to purchase

"more 'home-like' environment" – only because of the smaller scale than Baxter. In the housing, families are too hot in summer and cold in winter. Windows are shut and locked by guards at 11 pm.

Does a home-like environment have guards, security cameras, alarms on windows, no contact with friends and neighbours in the adjacent community, no husbands, fathers or older brothers present. Are children frisked before and after school in a "home-like" environment?

Heading: *Why was it set up?*

"more home-like family-friendly environment" – If my home was like this, I would be very depressed. The furnishings may be more "homelike" but the residents would no doubt be more interested in staying with their families – which is why so many are opting to return to the main area.

⁸ ChilOut website: www.chilout.org (Children Out Of Detention) is a group of parents and citizens opposed to the mandatory detention of children in Australian immigration detention centres.

“women and children can have the company of other women and children” – They could do this in Baxter and Woomera. In fact, they are obliged to live with other women and children with whom they are sometimes not compatible: religious and other customs may be different. When the housing is fully-occupied there may be 2 or more families per house. Tensions result.

The housing “project” at Woomera was “strongly supported by the local community”. What strong support do you refer to here? Please explain. Do you mean the support of refugee advocates? I suspect you don't, as most supporters come from a long way off.

Heading: *Who can live in an RHP?*

Eligible women and children, provided satisfactory health and character checks, - don't you trust the high security measures in place?

women to be able to participate in a “positive way” – Does this refer to the fact that women are required to undertake menial jobs in return for slave-like wages?

and comply with security requirements – ie – don't escape – but isn't this a high security place?

Heading: *What are the houses like?*

Sympathetic, blend with, surrounding natural and urban environment – Does this refer to the barbed wire and strong orange lights?

Each house heated in winter and cooled in summer – but mothers and children can't sleep for the noise of the air conditioner in summer, and are not allowed to open windows at night. The children are cold at night in winter.

Heading: *Are the residents allowed to visit their families?*

Within the site – yes. Transport provided to visit Baxter – once per week. Adult male relatives at Baxter can also visit RHP. – Twice per week for a few hours only.

Heading: *What recreation activities are available?*

Excursions: picnics, trips to local shops, other town facilities, eg library, swimming pool, cinema, gym, Adelaide Zoo, (I wonder what the frequency of these “excursions” is?) Baxter (!) Supermarket – for purchase of groceries and personal items. When women meet a friend at the supermarket, they are permitted to exchange greetings but any other conversation will result in cancellation of future supermarket trips! A woman was prevented from buying a punnet of strawberries by a guard, who considered it too extravagant!

Heading: *Are children provided with education?*

School aged children in RHPs can attend local schools.

They are delivered to school and brought home by uniformed guards. Children are searched before leaving home and before returning each afternoon. (Are they suspected suicide bombers?) Younger ones can attend pre-schools and playgroups (how often?) At the weekend – sports training, competitions, school camps (frequency?)

Heading: *What sort of security is there?*

“discreet electronic security” – ie cameras, heat detectors

24 hour “security staff” (ie guards)

My question: what is the probability of a woman in the housing “project” wanting to escape: she is in a strange land, with small children clutching her skirts, with a husband locked up in Baxter. She is not a

criminal, despite your government's best endeavours to convince the Australian public otherwise, is normally of professional background, is scared and depressed. Just where do you imagine she would want to go?

Heading: *Has this project been successful? Yes. The Government is satisfied with existing arrangements and in the 2004 Budget announced funding of \$27.4 million over four years for RHPs and other alternative detention arrangements.*

So – this “project” is successful because the government is satisfied with it?

The HREOC inquiry into children in detention was carried out before the RHPs were created in Port Hedland and Port Augusta. However, the “housing project” at Woomera was in place. Your brochure says you thought it was “successfully operated” and “strongly supported” by the community. It did not however, satisfactorily protect children’s human rights, as pointed out in the HREOC report. Although the report found that it offered improved day-to-day living conditions for children, it (and other alternatives) raised their own problems.⁹

It pointed out:

1. Significant restrictions remain. Children and parents were not free to make their own decisions about where children go to school, where they play and so on.
2. Fathers in two-parent families were not allowed to take part in the program, nor were boys aged 13 and over until late 2002.
3. This meant that housing projects lead to the separation of families, which can further undermine a child’s sense of safety and well-being.¹⁰

It might be worth reminding you that the Inquiry found that Australia’s immigration detention policy creates a fundamental breach of a child’s right to be detained as a measure of last resort and for the shortest appropriate time. In addition, long-term detention significantly undermines a child’s ability to enjoy a variety of other important rights.¹¹

The Inquiry found the best interests of the child must be a primary consideration in all actions concerning children. Children have the right to family unity. They must be treated with humanity and respect for their inherent dignity. They must enjoy to the maximum extent possible – the right to development and recovery from past torture and trauma. Asylum-seeking children must receive appropriate assistance to enjoy their rights – including the right to be protected under the Convention relating to the Status of Refugees.¹² Residential Housing Projects clearly do not meet human rights requirements for children, and the Inquiry found that this was due to the manner and nature of mandatory detention itself. The courageous course of action for your government would be to abandon this abhorrent policy and let refugees go free in the community. I am sure your government would be rewarded electorally should you opt for this choice.

Helen Lewers
14/07/2004

⁹ A last resort? Australia’s detention policy – does it protect children’s human rights?

¹⁰ *ibid*

¹¹ *ibid*

¹² *ibid*

APPENDIX 10

ATTEMPTS AT MYTH-BUSTING: COMMON MISLEADING OR FALSE STATEMENTS MADE BY AUSTRALIAN'S ELECTED REPRESENTATIVES, AND ATTEMPTS TO PUT THEM STRAIGHT.

I have sent many letters and emails to politicians from Liberal, ALP and National parties asking them to support the Petro Georgiou reforms. I was disturbed to find widespread ignorance even amongst our political representatives, the very people who have voted in ever harsher changes to Immigration policy. Australia has earned the dubious status of having the most restrictive refugee legislation amongst developed countries.

Some of the fallacious arguments and comments I have received are:

... advise that all women and children in detention centres are permitted to live within the community outside of the detention centres,

...however, this requires that the male member of the family is required to remain in detention for processing, this would have a strong influence on the female detainee's decision to remain with their spouse.

... need to advise that they (long term detainee's ((sic))) are long term because they have been processed and found not to be of refugee status,

...and they are given the opportunity to appeal this decision through Australian courts, this is of course a lengthy legal process as there are many chances to appeal, hence the lengthy period of time spent in detention.

...The policy of mandatory detention is essential for many reasons, which include the welfare and security of all Australians, and it does send a strong message to all persons wishing to immigrate to Australia that there is a process to follow.

...The Migration Act, 1958, requires that any person, who arrives unlawfully in mainland Australia, be detained until guaranteed a Visa or removed from Australia. The law applies equally to adults and children. There are three problems with doing away with mandatory detention.

... experience across the world has shown that persons detained in the community "disappear" not to be seen again.

... without mandatory detention and the Pacific solution, the floodgates would be opened again to unauthorised arrivals.

... people who arrive without authorisation (and come from safe countries) seek to take the place of a genuine refugee who is desperately in fear for their life.

...All efforts are made to ensure detention of children is a last resort and for the shortest possible period. The Department is committed to ensuring that children held in immigration detention receive appropriate care. Where possible, the Department endeavours to find alternate detention arrangements for special needs groups, including women and children.

...Australia is a signatory to the UN convention on the rights of the child and is committed to meeting its obligations for the care of children in detention.

...On balance, the government is committed to the policy of mandatory detention although there might be some scope for more compassionate decisions. Therefore, I will not be supporting the Private Members Bill and neither will the Government.

Rebutting the myths and legends

1. Children in Detention

The member of parliament who made the comment about Australia being a signatory to the UN convention on the rights of the child must be in blissful ignorance that the HREOC Inquiry was completely damning of the Australian government's behaviour towards children in immigration detention. The following findings totally contradict the notion that Australia "is committed to meeting its obligations for the care of children in detention":

From "A Last Resort?" - summary guide to the National Inquiry into Children in Immigration Detention by HREOC.

"The Inquiry was established to examine whether the laws requiring the detention of children and the treatment of children in immigration detention met Australia's obligations under international law, especially the Convention on the Rights of the Child." (p 4) (p66)

Major Findings.

The Inquiry has found that Australian laws that require the mandatory immigration detention of children, and the way these laws are administered by the Commonwealth, have resulted in numerous and repeated breaches of the convention on the Rights of the Child.

Major Finding 1:

Australia's immigration detention laws, as administered by the Commonwealth, and applied to unauthorised arrival children, create a *detention* system that is fundamentally inconsistent with the Convention on the Rights of the Child (CRC).

Major Finding 2:

Children in immigration detention for long periods of time are at high risk of serious mental harm. The Commonwealth's failure to implement the repeated recommendations by mental health professionals that certain children be removed from the detention environment with their parents amounted to cruel, inhumane and degrading treatment of those children in detention (CRC, article 37 (a))

Major Finding 3:

At various times between 1999 and 2002, children in immigration detention were not in a position to fully enjoy the following rights:

- (a) the right to be protected from all forms of physical or mental violence (CRC, article 19(1))
- (b) the right to enjoy the highest attainable standard of physical and mental health (CRC, article 24(1))

- (c) the right of children with disabilities to 'enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community' (CRC, article 23(1))
- (d) the right to an appropriate education on the basis of equal opportunity (CRC, article 28(1))
- (e) the right of unaccompanied children to receive special protection and assistance to ensure the enjoyment of all rights under the CRC (CRC, article 20(1)).

2. Some reasons for the failure at the application and appeals stages of the refugee determining process

- the refugee-determining process is badly flawed and arbitrary. Many of the department's "case officers" do not have the appropriate background to be sitting in judgement of someone from another culture.
- It is well known that DIMIA used a widely discredited Swedish language test to try to prove many Afghans were in fact from Pakistan, and therefore couldn't be refugees.
- When refugees arrive in a strange country, often not speaking the language and used to vastly different customs, it is very hard for them to be relaxed and open about telling their recent history. They have mostly suffered trauma and have a distrust of officials. Yet the Australian Immigration system makes a judgement on culture-specific aspects such as a person's bearing and amount of eye contact, in order to determine truthfulness. If refugees change their story as they become more at ease with and more trusting of the refugee-determining process, this also goes against them. There are also many problems with translators. Because refugees come from troubled countries where there are many factions, the translator chosen by the department may or may not be generally sympathetic, and may or may not translate truthfully, in a situation where every nuance is important.
- Many people are not aware that the single member RRT (Refugee Review Tribunal) is not required to have any expertise in the law or other cultures or any particular educational qualification. Even football tribunals have 3 members, one of them an ex judge! RRT members have short, fixed term appointments and can reapply for their positions. Their appointments are recommended by the Minister. All this would not help ensure their independence from government or DIMIA. In this way, unfair outcomes can easily occur.
- In some instances, DIMIA officials have prevented refugees from making appropriate appeals, saying, for example, that large sums of cash are needed to access Australian courts. The DIMIA manager [REDACTED], was one person who propagated this falsehood. At that time, most refugees didn't have access to lawyers or even lay advocates, and would have relied on the information provided by Mr [REDACTED], so will no doubt escape the need to give an account of his actions.

Sometimes, application and appeal forms have not been faxed by prison companies or DIMIA officers in time to meet deadlines. At times, this has seemed deliberate. Quite often in the early days, refugees were not informed of their rights from the start, and the practice of keeping newly arrived refugees in solitary confinement helped ensure that their ignorance would remain. Also, it is difficult for refugees to find a lawyer to represent them. Sometimes just making a phone call is difficult in detention, where phone and phone-card availability is notoriously lacking.

- In many cases, Immigration Ministers have appealed against refugees who do win in court. In one such case, a young mother's case was successfully appealed against by Mr Ruddock 2 or 3 times. The young woman was in despair, and attempted suicide. She has now been released on a temporary visa, and is proving an enthusiastic and highly successful student.

Her son is progressing well in school. Why was Mr Ruddock so relentless in his rejection of her?

3. Why lock up boat people when people who arrive with a short term visa and then claim asylum are not locked up?

There are 8000 asylum seekers already living in the community whom nobody wants to lock up for the duration of their application and appeals process. These people have arrived in the main by air, and on a tourist, business or student visa, etc. Once in Australia, they claim asylum and wait for their future to be worked out. Nobody tells the Australian community they are likely to abscond, or be a source of terrorism, or are "illegals" or they "jump queues", "forum-shop" or are merely "economic refugees". If these 8,000 people aren't a "threat to national security" or a "threat to our borders", aren't we simply over reacting to the "problem" of boatpeople?

Australians are very comfortable with the practice of "bail" for people charged with a crime and awaiting trial. Nobody fears that they will abscond. Maybe some of them do. One can only assume that the legal and policing systems are able to deal with that event.

APPENDIX 11

A LETTER TO TONY ABBOTT (29/05/2005) AFTER HIS ABC TV INTERVIEW WHERE REFUGEE POLICY WAS DISCUSSED, AND HIS REPLY TO THAT LETTER (10/06/2005)

Dear Mr Abbott,

I have read an interview with you reported on News.com, entitled "Abbott firm on mandatory detention." The article mentions ABC TV, so I assume you were interviewed on Insiders today.

(<http://www.news.com.au/story/0,10117,15443496-29277,00.html>)

The article contained a number of inaccuracies, but this could be the result of faulty recording or transcription, so I would like to give you the benefit of the doubt, and the chance to correct any mistakes before I take this further.

My comments below are in bold type*.

"...Mr Abbott said the Government had been trying to minimise the impact of mandatory detention by releasing some long-term detainees into the community while their cases were decided."

(No it hasn't!

You may in fact be referring to the so called "return pending" visa. This would only apply to a handful of detainees, and most won't want to accept it, even if they are invited to apply for it by the Minister. None have so far been released!

For people unwilling to return to their home country because of persecution fears, this visa, allowing DIMIA to deport them any time it sees fit, will be like living with a Damocles sword dangling over their heads. People in detention who have previously been offered the chance to return "home" even with a small cash incentive have not done so because they know their lives are in danger there. They seem to always choose life, even though life in detention is barely living. These detainees will not accept this visa under any circumstances.

For stateless people, the visa will not offer any life of certainty. The government may deport them to anywhere, at any time., and this is a condition of the visa. There may be one or two long-term stateless detainees who would gladly give up a life of torment in detention for a day of "freedom" in the community. Going on the experience of people issued with temporary visas, people on the "return pending" visa will suffer similar stress levels, with greatly exacerbated symptoms because of the greater uncertainty.

"...What people need to remember is we're talking here about very difficult situations," Mr Abbott said.

"We're talking about, in some cases, people who are in very difficult personal circumstances. It's not always easy to know exactly what is going on in their lives,

* [Colour was used in the original letter and email to differentiate Mr Abbott's quotes and my response.]

Not easy to know what's going on in their lives? Not a great deal - not much happens in detention! In fact, I am sure that one of the factors leading to such high rates of mental instability in detention centres is the lack of meaningful activity. This leads to detainees spending much of their time, day and night, pondering their sad fate.

"it's not always easy to know exactly what's happening in their home countries or even which are their home countries."

Afghanistan, Iran, Iraq, African countries, Sri Lanka ----Mr Abbott, are you saying you don't know what's going on there??? Or perhaps you are referring to DIMIA or related agencies, such as the RRT. If you believe they don't know what's going on there, then DIMIA is in even a worse situation than I realised. I would be more than happy to send you copies of reports from Amnesty International, Human Rights Watch, and even the US State Department, should that be of assistance to you or the Department of Immigration. Australian newspapers themselves usually carry informative sections on international events.

"These are difficult personal situations and the idea that you can resolve these questions in a moment is just wrong."

Agreed - a "moment" by my standards might be too short. But Howard/Ruddock/Vanstone's moments: 5-6-7 years - ???

Thank you for raising this matter. It is for this very reason that Petro Georgiou and others want to present one of the private members bills. Elsewhere in the interview, you state:

"But the Government was committed to its policy of detaining people until their cases for asylum were decided,"

The Georgiou suggestion has been developed, not to abort (forgive the expression) mandatory detention, but to make sure people are only detained for a limited period while their cases are being determined. I believe he and others want to reduce the 5-6-7 year moments. They probably support the principle of habeas corpus - an act created in 1679 to ensure that people who have not committed an offence should not be detained, and to prevent long periods of detention. However, I would like to stress that Georgiou and others are not calling for an end to mandatory detention. They only want to make it more humane.

This brings me to my next point, and here I am referring to a report of your conversation on ABC news online (<http://www.abc.net.au/news/newsitems/200505/s1379472.htm>)

where you state:

"But nevertheless, it's always got to be something which is judged by human standards, not by God's standards, because let's face it, we don't really know what God's standards are.

(I am sure you would invite theological arguments here from Catholic scholars, who believe the bible and church teachings are all about "God's standards")

"All we can try to put in place are best of human standards."

Is a system where innocent men, women and children are punished - and don't try and say being in a detention centre for more than a few days is not a punishment - in order to deter criminal activity in the form of people smuggling - the best of human standards?

Is a system where people - men, women and children - have little or no meaningful activity during their incarceration, and this can be for up to 7 years so far - the best of human standards?

What about:

- a faulty and ad hoc approach by the department in the assessment and processing of visa applications and appeals
- RRT (single members only) appointed by the government, bypassing the requirement for them to have any expertise in international affairs or the law. Despite this, the RRT makes life and death decisions
- a department that usually appeals against court wins by asylum seekers
- a department that manages detention centres at arm's length - by contracting a private prison company to run detention centres
- a department that is suspicious of refugees from their arrival, considering them guilty of wanting to squander the good will of the Australian people, until proven otherwise.
- a department that has greater powers to search and enter peoples houses than the police or ASIO
- a department that turns a blind eye to the solitary confinement of men, women and - yes - children, at the behest of the prison company
- a "temporary visa" that doesn't allow the holder to make plans in Australia - despite having proven refugee status. The holder is forced into a limbo state, not really being able to form permanent relationships, marry, reunite with overseas family members, visit family overseas, study - even gaining employment is difficult. Will any employer want to employ someone who is here indefinitely?
- the turning away of refugees from our shores by the use of the Australian Navy, and all the forceful measures that entails
- the possible involvement of Australian authorities with a neighbouring country in shady methods of deterring asylum-seeker carrying boats
- the financial pressuring of cash-strapped island states into accepting and "detaining" refugees intercepted on their way to Australia
- allowing refugees caught up in the so called "Pacific Solution" to be abandoned for many years
- a department that mistakenly detains up to 200 Australian citizens over some years
- a closed inquiry into departmental mistakes that "will look into all problems" thereby allowing the Minister responsible to take no responsibility
- a government that continues to vilify refugees as "illegals", "forum shoppers", economic refugees" and "queue jumpers" despite the international legality of refugee application and that often there are no "queues" in source countries
- and that's just for starters!

Dear Mr Abbott, can you honestly tell me that you have done your bit to ensure your government's refugee policy and practices are "the best of human standards?"

If not, will you support the Georgiou bills? I look forward to your reply.

Helen Lewers
(Address)

(10/06/2005)

Dear Ms Lewers

On behalf of Mr Abbott, I would like to thank you for your recent email.

Mr Abbott appreciates the time you have taken to convey your views to him and has asked me to raise your views with the Minister for Immigration and Multicultural and Indigenous Affairs, Senator the Hon Amanda Vanstone, who has portfolio responsibility for this matter. I have therefore forwarded your email to Senator Vanstone for her consideration.

Thank you again for taking the time to write to Mr Abbott.

Yours sincerely
Paris Kostakos
Adviser