



**We've boundless plains to share:  
The first report of the  
People's Inquiry into Detention**

*We've boundless  
plains to share<sup>1</sup>:*

# **The first report of the People's Inquiry into Detention**

November 2006



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<sup>1</sup> Line from the Australian National Anthem: *For those who've come across the seas, We've boundless plains to share.*

*This report acknowledges the courage of those who have experienced detention in Australia. We look forward to the day that you can walk in true freedom in this country. You have enriched the lives of many.*

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Queries to [l.briskman@curtin.edu.au](mailto:l.briskman@curtin.edu.au)

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## Foreword

This report is the product of thousands of hours of work by a small group of committed individuals. The Australian Council of Heads of Schools of Social Work had been concerned for some years about the Australian Government's policy of mandatory detention of asylum seekers. The *Tampa* saga had caused outrage among large sections of the Australian community, but the immediate impetus for the People's Inquiry came from the revelations surrounding the treatment of Cornelia Rau.

The Heads of Schools of Social Work were disturbed not just at the abuse of human rights in the specific case, but in the systematic denial of rights to a whole group of individuals in detention. We were angry too at the cold hearted indifference of the government to the suffering of these people. Clearly the cost of the government's policy was being paid out in the abuse, distress and hopelessness of the refugees. We wanted the opportunity for the truth of the experience of the detention centres to be told. Without any resources but their determination and compassion, the Heads of Schools, under the inspired leadership of Linda Briskman and Chris Goddard, established the People's Inquiry.

We were overwhelmed by the positive response from the community, who seemed to be looking for just such a chance to tell their stories. Volunteers gave many hours of work in organising the hearings and typing up the transcripts of interview. Many eminent social work academics and community leaders gave their time to chair the hearings, and many social work students helped to support people to give evidence. Throughout the country, panels heard the stories of people who suffered in detention, and people in the community who suffered with them. Giving evidence became a way of challenging the sense of helplessness that many of us felt in the face of a callous government and an indifferent community. Our words now have a place in the sad history of refugee policy. We are part of the resistance. We are making change happen.

For me the most powerful stories are not just those of the refugees. They are also those of the nurses, doctors and officers who went to work in the centres and who could not surrender their humanity to the cruel policies they were required to maintain. They are those of the naval personnel who risked their careers and spoke out against what they were ordered to do. They are those of the visitors to the centres, who befriended individual refugees, advocated for them to be released, and then welcomed them to the community – for me these are the true heroes of the resistance.

The Australian community owes a great debt of gratitude to Linda Briskman and her colleagues for their tireless efforts to right a great wrong. To the social work profession the People's Inquiry represents a singular achievement as a form of effective social action. All those who have contributed to the success of the People's Inquiry into Detention are to be congratulated.

*Professor Robert Bland, President of the ACHSSW*

## Introduction

In February 2005, when Australian resident Cornelia Rau was discovered in the Baxter Immigration Detention Centre where she had been incarcerated for four months despite suffering from a serious mental illness, some Australians were shocked. Others were not. Thousands of ordinary Australians across the country had formed close relationships with asylum seekers locked in our detention centres. Overwhelmingly, these were people fleeing countries from which the Australian government ultimately accepted they had a well founded fear of persecution.

Some refugee advocates had heard about Cornelia Rau from their asylum seeker friends and had been trying for over two months to get her assistance. For them, and other refugee advocates, her situation was just one more in a long list of appalling stories and shocking incidents inside detention. For them, it was no surprise that someone who displayed disturbed and bizarre behaviour seemed quite normal in the detention context, or that nothing had been done to help her, despite authorities being alerted to her plight.

When the government announced that former Australian Federal Police Commissioner Mick Palmer would conduct an inquiry into the circumstances of Cornelia Rau's detention, the terms of reference were restricted to the circumstances of her detention alone.<sup>2</sup> As Cornelia's sister, journalist Chris Rau, said at the time:

*While she was an unnamed illegal immigrant, the only treatment she got for mental illness was longer periods in lock-up as punishment for bad behaviour. Yet as soon as she was found to be an Australian resident, she was whisked away to a teaching hospital, seen by psychiatrists and medicated. During which leg of her flight from Baxter to Adelaide did she suddenly gain the basic human right to medical treatment? How many cases like Cornelia's will it take until detainees get the care they deserve or, more importantly, are taken out of conditions that themselves lead to mental illnesses?*<sup>3</sup>

There were many community calls for the government to widen the terms of reference of the Palmer inquiry to cover a full inquiry into immigration detention, but these went unheeded. The calls included one from Baxter detainees who stated:

*God sent Cornelia here to send our cry to all Australian people. We are all happy that she be free from such a terrible place. We all pray that she will get well. She remains in our minds and hearts as a heroine for ever and ever.*<sup>4</sup>

In response to the narrow terms of reference of the Palmer inquiry, the Australian Council of Heads of School of Social Work (ACHSSW) initiated the People's Inquiry into Detention. This was based on a view that ordinary Australians have an obligation to act when our government is unwilling to do so. Fiona Redding argues that citizen led inquiries can

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<sup>2</sup> For the terms of reference see [http://www.minister.immi.gov.au/media\\_releases/media05/v05030.htm](http://www.minister.immi.gov.au/media_releases/media05/v05030.htm)

<sup>3</sup> Rau, C., My sister lost her mind, and Australia lost its heart, in *The Age*, 7/2/2005  
<http://www.smh.com.au/articles/2005/02/06/1107625064599.html>, accessed 13/10/2006

<sup>4</sup> Baxter detainees statement to refugee advocates, 2005.

empower people to strive for change and work to engage members of the community who are otherwise disengaged from the democratic process.<sup>5</sup>

### *The People's Inquiry*

The People's Inquiry was established as open, independent, transparent and inclusive, in order to bear witness to events in Australian immigration detention facilities, whose operations were largely shrouded in official secrecy. The inquiry adopted the role of a medium for telling the stories of those people directly and indirectly affected by government policy, who may not ordinarily be consulted<sup>6</sup>. Anyone with experiences of immigration detention was invited to present evidence about any aspect of the detention regime.

### *The response*

The response to the People's Inquiry has been overwhelming. It has travelled around Australia hearing testimony in Melbourne, Sydney, Perth, Canberra, Launceston, Port Augusta, Shepparton, Swan Hill and Griffith. Most presenters have given evidence to a panel of three, although there have been some private hearings. By the time the final hearings take place in Adelaide in December 2006, more than 200 verbal accounts will have been heard and 200 written submissions received. Those who have given evidence to the inquiry include: former detainees, their Australian supporters, doctors, nurses, educators, former DIMA/DIMIA<sup>7</sup> officials, detention centre employees,<sup>8</sup> migration agents and lawyers.

The People's Inquiry is extraordinary not just because so many people have felt able to come forth and place on the public record the stories they have carried with them, but also because people all over Australia have volunteered to help. The inquiry commenced with no money, but a great deal of goodwill, passion, energy and expertise.

Specialist volunteer advisors assist the People's Inquiry in the areas of media, ethics, law, publicity and fund-raising. A Melbourne-based steering group plans and organises activities. Social work and other students on field placements have made a major contribution. Universities and community organisations throughout Australia have provided venues and other support for the hearings. Volunteer counsellors were available to those giving evidence at all hearings. Actors, artists, poets and musicians performed at the launch of each hearing. As the momentum of the inquiry took hold, funding was obtained from a range of sources.

To our knowledge this is the first time that such an extensive citizen-driven inquiry has been conducted in Australia. The success of the People's Inquiry demonstrates that inclusive and flexible forms of inquiry strike a chord with community members through providing a safe platform to voice their concerns. So many people have told the organisers of their appreciation of the opportunity to come forward with the stories they did not previously know how to tell in the public domain. The rallying of dedicated people reveals support for ensuring that the policies and practices that shamed a nation are not forgotten.

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<sup>5</sup> Redding, F. (2005), *What is the point of a citizen led inquiry?* International field study report, RMIT, Melbourne.

<sup>6</sup> Ibid

<sup>7</sup> During the period covered by the People's Inquiry the immigration department underwent name changes and the terms DIMA (Department of Immigration and Multicultural Affairs) and DIMIA (Department of Immigration, Multicultural and Indigenous Affairs) are used in this report.

<sup>8</sup> Australasian Correctional Management (ACM) held the contract to manage Australian detention centres from 1997 until Global Solutions Limited (GSL) was awarded it in August 2003

### *Changes to detention policy*

During the time the People's Inquiry has been gathering evidence, major changes have occurred in Australian government policy. At the time Cornelia Rau's incarceration was discovered, many of those in immigration detention and their supporters were despairing that a change of policy would ever occur. Some people had already been held in detention for more than six years.

In May 2005, Federal Liberal backbencher Petro Georgiou, supported by colleagues including Judi Moylan, Bruce Baird and Russell Broadbent, threatened to introduce a Private Members' Bill to soften the government's mandatory detention policy. On 14 June 2005, Mick Palmer presented DIMIA with the draft of his damning report on Cornelia Rau's detention.<sup>9</sup>

Three days later, The Prime Minister John Howard announced that as a compromise with his backbenchers, changes would be made to detention policy. Families with children were to be housed in the community, those detained for over two years would be subject to an investigation and report by the Commonwealth Ombudsman that would be tabled in Federal Parliament; initial determinations on refugee claims would be quicker, and the applications for permanent residence by holders of Temporary Protection Visas would be fast tracked.<sup>10</sup>

### *Too late for many*

These changes have seen almost all long-term detainees released and some people granted permanent residence more quickly. However, the policy changes have come too late for many. So far ten people have died in immigration detention. Some people will never fully recover from the physical and mental illnesses they developed during their incarceration. Even those who will cope with the trauma of having been in detention have lost years of their lives before being recognised as refugees, some separated from their wives and children for more than seven years.

Furthermore, the tenuous nature of the reforms was demonstrated when in January 2006 a boat of West Papuan asylum seekers arrived in Australia and were recognised as refugees. In a move widely seen as an attempt to appease the Indonesian government, the Prime Minister John Howard moved to harden policy further. Several Islands including Christmas Island and Ashmore Reef had already been excised from Australia's migration zone,<sup>11</sup> thereby denying asylum seekers access to Australia's legal appeals process. Sending asylum seekers who arrived at excised areas to be processed on Nauru and Manus Island had already cost Australian taxpayers \$218 million.<sup>12</sup>

But John Howard now proposed sending all asylum seekers who arrived by boat without valid visas offshore for processing, effectively excising the whole of Australia from the migration

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<sup>9</sup> The final report was M. Palmer, *Inquiry into the circumstances of the Immigration detention of Cornelia Rau: Report*. Commonwealth of Australia, Canberra, July 2005. The report can be found at [http://www.minister.immi.gov.au/media\\_releases/media05/palmer-report.pdf](http://www.minister.immi.gov.au/media_releases/media05/palmer-report.pdf), accessed 3/12/2006

<sup>10</sup> Detention policy changes 'meaningful', *Insiders*, 19/6/2005  
<http://www.abc.net.au/insiders/content/2005/s1395397.htm>, accessed 18/10/2006

<sup>11</sup> *Excising Australia: Are we really shrinking?*, Research note, Parliament of Australia, Department of Parliamentary Services, 31/8/2005, <http://www.aph.gov.au/library/pubs/rn/2005-06/06rn05.pdf>, accessed 4/11/2006

<sup>12</sup> Fact Sheet 71, *New Measures to Strengthen Border Control*, DIMA, Canberra, 8/8/2002

zone. Even those found to be refugees were to be settled in countries other than Australia, a process which could have resulted in their indefinite detention.<sup>13</sup>

Petro Georgiou called it “the most profoundly disturbing piece of legislation I have encountered since becoming a member of Parliament.”<sup>14</sup> Howard only withdrew the legislation after government backbenchers Georgiou, Broadbent and Moylan crossed the floor to vote against it in the lower house and it was clear that Senator Judith Troeth would cross the floor to defeat it in the Senate.

### *Our purpose*

The purpose of the People’s Inquiry into Detention is to place on the public record the impact of the policies and practices that unsettled many in Australia, resulted in criticisms from human rights organisations in Australia and abroad, and, most importantly, had a devastating impact on those directly affected. The emphasis in the report is on asylum seekers, but there are other people who are held in detention and the inquiry has heard some accounts of their experiences. These voices will be included in the final report.

### *The report*

The comprehensive findings from the People’s Inquiry will be published in 2007 (see appendix for terms of reference). This first report highlights a range of experiences of asylum seekers in their journey to detention and the detention experience. It has been presented for public information and consideration and will also form part of the final report. The final report will also include information on the processing of asylum claims and the difficulties faced once released from detention.

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<sup>13</sup> Migration Amendment (Designated Unauthorised Arrivals) Bill 2006

<sup>14</sup> Backbenchers defy Howard on asylum bill, in *The Age*, 9/8/2006, <http://www.smh.com.au/news/national/new-asylum-laws-profoundly-disturbing/2006/08/09/1154802942102.html?page=fullpage#contentSwap1>, accessed 18/10/2006

## Methods of Inquiry and Framing of Report

The People's Inquiry into Detention announced its inquiry in newspapers,<sup>15</sup> and through refugee activist networks. The main inquiry methods were:

- Convening public hearings in metropolitan and rural locations
- Receiving written submissions

In addition, the People's Inquiry has drawn on other information including official documents, reports, journal articles and media and internet sources.

The People's Inquiry has gathered a huge amount of material from a wide range of sources. While a number of themes ran through the information – for example, political involvement at almost every stage, the intimidation of asylum seekers and their supporters and the resilience of those detained – it was difficult to organise the material on this basis.

Instead it was decided to break the material into chapters that reflected chronologically the experience of asylum seekers coming to Australia. These chapters are: the journey here and their initial contact with Australian authorities; life in detention (included in this first report); dealing with the processing of their asylum claims; and life after detention (to be included in the final report). The evidence of asylum seekers, supporters and professionals all fitted within these chapters.

The chapters emerged from the evidence presented to the People's Inquiry. For example, the conveners of the inquiry had not initially envisaged a chapter on journeys to Australia, but included it after hearing the testimony of those who had made them. Within each chapter, several themes were repeated through the evidence of different people. For example, the detention chapter includes sections on assault, mental health, protests, children, deaths and the failure of authorities to stop the human destruction they knew was occurring.

For four reasons, a conscious decision was made not to include material given to the People's Inquiry about the reasons individual asylum seekers left their countries. First, asylum seekers have told their stories repeatedly to government officials, supporters and others. Secondly, almost all asylum seekers kept in long term detention have since been recognised by the Australian government as refugees. Thirdly, publishing their asylum claims would identify individuals. And finally, this report focuses on the actions of Australian authorities, not asylum seekers.

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<sup>15</sup> Jackson, A. Academics to hold alternative inquiry, in *The Age*, 14/2/2005, <http://www.theage.com.au/news/Immigration/Academics-to-hold-alternative-inquiry/2005/02/13/1108229858789.html>, accessed 3/11/2006

# Journeys into detention

## To deter and deny

Eleven days before Christmas 2000, the then Immigration Minister, Philip Ruddock, told the ABC's *World Today* that the government would not launch a major search and rescue operation for more than 160 boat people feared drowned on their way to Australia. He explained the difference between this decision and previous decisions to authorise wide ranging and expensive air and sea searches for individual sailors lost in yacht races:

*Well I'm simply saying they left Indonesia. They have been essentially at sea for more than a week, there's been a tropical cyclone in the area....those sorts of searches were undertaken in circumstances where....people had taken proper precautions in terms of using beacons to enable pinpointing....where you need to mount your search. These people get on to flimsy boats which have little in the way of life saving equipment, have certainly little in the way of navigational devices, and are a very high risk. We believe that 350 people were lost in the period of April and May of this year.*<sup>16</sup>

Despite the loss of lives, asylum seekers continued to attempt the hazardous journey to Australia. They were mainly Afghans fleeing the Taliban and Iraqis fleeing Saddam Hussein - regimes Australia would later send troops to overthrow.

On 26 August 2001, the Norwegian freighter *M.V. Tampa* rescued 438 asylum seekers from a sinking boat. Prime Minister John Howard refused the *Tampa* permission to enter Australian territory despite it being just off Christmas Island. According to the *Tampa's* First Mate, at least 100 of the asylum seekers had diarrhoea and more than 10 were unconscious from dehydration at any one time.<sup>17</sup>

A resident of Christmas Island told the People's Inquiry:

*The Tampa would go up and down on the ocean all day and night because it was too deep to anchor. I remember one islander couldn't go outside because she could see the lighted ship from her place and she felt most distressed about the people on board. Access to the cove, a favourite spot for islanders, was declared off limits to anyone but the Navy. Helicopters flew over the island day and night frightening everyone. The SAS, all in black, did crazy manoeuvres in the cove in their rubber boats.*

Requests from the *Tampa* for medicines were denied and when it issued a mayday three days later, John Howard ordered the SAS to board the ship. He later declared, "There were no cases on board the vessel requiring medical evacuation."<sup>18</sup> Medical officers had examined

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<sup>16</sup> Ruddock defends inaction on refugees lost at sea, *The World Today* 14/12/2000  
<http://www.abc.net.au/worldtoday/stories/s223968.htm> accessed 2/10/2006

<sup>17</sup> To Deter and Deny, *Four Corners*, 15/4/2002 <http://www.abc.net.au/4corners/stories/s531993.htm> accessed 2/10/2006

<sup>18</sup> Ibid

the 438 people on board in less than 30 minutes, in time for him to make a statement to Parliament.<sup>19</sup>

A week after *Tampa* had been boarded by the SAS, the Prime Minister announced that the asylum seekers would be taken to Nauru and New Zealand, and surveillance of the waters between Australia and Indonesia would be increased.<sup>20</sup> *Operation Relex*, as this surveillance operation was named, initially involved five naval vessels and four P3 Orion aircraft. *Relex's* operational decisions were made by *The Prime Minister's People Smuggling Task Force*, chaired by the Department of Prime Minister and Cabinet. Boats that entered Australian territory during *Relex* became known as SIEVs (Suspected Illegal Entry Vessels).

In September 2001, the Liberal Government introduced a raft of legislation which passed through Federal Parliament with the support of the opposition Labor Party.<sup>21</sup> It excised some of Australia's external territories including Christmas and Ashmore Islands from the migration zone and allowed asylum seekers to be taken to Papua New Guinea and Nauru for processing.

On 6 October 2001, the day after the Prime Minister had called an election, *HMAS Adelaide* encountered the SIEV 4, also known as the "children overboard" boat, carrying 223 people, including 76 children. By 2.30 the next morning, the boat was two or three miles from Christmas Island and ignoring warnings to stop. At 4am, the *Adelaide* fired warning shots ahead of the vessel.

The log of the *Adelaide* recorded:

0402            Warning 5.56 mm (cannon) shots fired 50 feet in front of vessel.  
0405            Warning 5.56 mm shots fired 75 feet in front of SIEV-4.  
0409            Warning 5.56 mm shots fired 50-100 feet in front of SIEV-4.  
0414            Boarding party advised by CO that if 50 cal machine gun warning  
                  shots do not stop vessel, boarding party is to aggressively board  
                  SIEV-4.  
0418-0420      Twenty-three rounds of 50 cal (20 rounds of automatic fire) fired in  
                  front of SIEV-4.<sup>22</sup>

Ali Alsaai who was on the boat told the Channel 9 *Sunday* show:

*It was during the night. We didn't know which way the shooting was going but the shooting was too much. [I was] vomiting, very scary, very sick and my daughter....too; two my daughter very vomiting.*<sup>23</sup>

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<sup>19</sup> Smith, Dr H., Border Protection and the Limits of Obedience, in *Defender: The National Journal of the Australia Defence Association*, Autumn 2004, p. 26

<http://www.ada.asn.au/defender/Defender%20Autumn%202004.pdf> accessed 2/10/2006

<sup>20</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>21</sup> Migration Amendment (Excision from Migration Zone) (Consequential Provisions Act) 2001 and Border Protection (Validation and Enforcement Powers) Act 2001

<sup>22</sup> Sidoti, C. *Truth Overboard: One Year After Tampa - Refugees, Deportees and TPVs*, Deakin University 5/12/2002, <http://www.hrca.org.au/one%20year%20after%20tampa.htm>, accessed 28/10/2006

<sup>23</sup> Children overboard: the view from the sea, *Sunday*, 29/8/2004  
[http://sunday.ninemsn.com.au/sunday/cover\\_stories/article\\_1634.asp?s=1](http://sunday.ninemsn.com.au/sunday/cover_stories/article_1634.asp?s=1) accessed 2/10/2006

Despite it being perfectly legal for people to seek asylum in Australia, when *Four Corners* reporter Debbie Whitmont asked Minister for Defence Robert Hill whether it was appropriate to use force against them, he replied:

*Well, we're protecting our borders. That's the point. There are those who wish to breach our borders, to engage in that illegal activity. We're entitled, and furthermore, we believe it's our responsibility to do our best to protect our borders.*<sup>24</sup>



**According to the government, use of force was necessary to protect our borders from these people.**<sup>25</sup>

Shortly after, a boarding party from the *Adelaide* took control of the boat and its course was changed towards Indonesia. The *Adelaide* reported that passengers were “angry and disappointed at being turned north, and that they were ‘irate, aggressive and to some extent hysterical’.”<sup>26</sup> Some were threatening to commit suicide and 14 jumped overboard. They were returned to the boat and the *Adelaide* then left.

The People’s Inquiry heard evidence from one of the people on the boat:

*It's just a small fishing boat. The Navy personnel intercepted our boat where we were on board and were about to reach Christmas Island, but then they shifted the direction of that boat towards Indonesia back again. Those Navy personnel, to avoid the anger of the people on board, they assured everyone that they would be in charge of leading and driving that fishing boat to the Australian shore and then when people distanced*

<sup>24</sup> Four Corners, op.cit.

<sup>25</sup> Photo from Project SafeCom <http://www.SafeCom.org.au/kids-overboard.htm>, accessed 30/10/2006

<sup>26</sup> Senate Select Committee on A Certain Maritime Incident, Chapter 3, paragraph 16  
[http://www.aph.gov.au/Senate/committee/maritime\\_incident\\_ctte/report/c03.htm](http://www.aph.gov.au/Senate/committee/maritime_incident_ctte/report/c03.htm) accessed 2/10/2006

*themselves, they jumped to the cabin and they just destroyed the navigator and the rudder in order not to find our direction and they just left.*

Former Immigration Minister Philip Ruddock described the encounter somewhat differently:

*A number of people have jumped overboard and have had to be rescued. More disturbingly, a number of children have been thrown overboard....I regard these as some of the most disturbing practices that I have come across in the time that I have been involved in public life.*<sup>27</sup>

The following day John Howard added:

*I express my anger at the behaviour of those people and I repeat it. I can't comprehend how genuine refugees would throw their children overboard.*<sup>28</sup>

But at least one crew member on the *Adelaide* saw it differently:

*Able Seaman Laura Whittle....said it was true that one distraught man held out a small girl and gestured as if to throw her into the water. But she says the man was wanting to get the child into the inflatable boat and into safety. This, she said, was the only time she saw a child held out like that. Able Seaman Whittle says she and other members of the *Adelaide's* crew felt betrayed by the way the incident was portrayed.*<sup>29</sup>

Having boarded the asylum seeker's boat, *Adelaide* Commander Norman Banks had assessed it as barely seaworthy. However under *Operation Relax* his options were limited. He told *Four Corners*:

*Our mission was to deter and deny their access to Australia. Taking them on-board *Adelaide*, in other than a "safety of life" situation, would have been a mission failure.*<sup>30</sup>

He then asked permission to tow the boat to safety. According to the *Adelaide's* log:

*The commanding officer advised approval from PM of Australia "to tow vessel to place to be determined."*<sup>31</sup>

Commander Banks told *Four Corners*:

*I recollect there were some conversations where the Brigadier took me into his confidence and explained things – that this was important, and it was going to government, and indeed the Prime Minister, on certain occasions, for decisions to be made.*<sup>32</sup>

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<sup>27</sup> Navy chief enters asylum seeker debate, *7.30 Report*, 8/11/2001

<http://www.abc.net.au/7.30/content/2001/s412083.htm> accessed 2/10/2006

<sup>28</sup> Children overboard: the view from the sea, *Sunday*, op. cit.

<sup>29</sup> Labor looks to capitalise on "children overboard" issue, *7.30 Report*, 18/8/2004

<http://www.abc.net.au/7.30/content/2004/s1179824.htm> accessed 2/10/2006

<sup>30</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>31</sup> Ibid

<sup>32</sup> Ibid

Political interference in naval operational matters was contrary to normal practice:

*Normal military practice was clearly overridden in at least one instance, namely acceptance of the government's requirement for instant reports from HMAS Adelaide on the situation of SIEV-4 such that its captain, Commander Banks, was compelled to respond to requests in the middle of a difficult operation.*<sup>33</sup>

After 24 hours, the *Adelaide* abandoned its tow and the boat began filling with water. Just before 3pm, the boarding party from the *Adelaide* requested that women and children be moved from the boat on to the *Adelaide*. Despite the government's professed concern for the welfare of the children, this request was denied. By 4pm on 8 October, the water level in the boat had been reduced, by an *Adelaide* boarding party trying to render it seaworthy, to half a metre from a height of 1.2 metres. Despite the distress of the asylum seekers, the boarding party began to serve the evening meal. Half an hour later, the boat began to sink rapidly and almost everyone, apart from a few babies and an old woman, was forced into the water.<sup>34</sup>

The People's Inquiry heard from a man on board the boat:

*And then the whole boat just completely collapsed and we sink in the water. We were provided at the beginning to take life jackets and we really didn't know what that was for. The Navy ship provided a few jackets because they knew from the start that the boat was going to sink. At that time the Navy started to send in small rescue boat, but they said they will start in rescuing and saving the little children, but it became too late because people started to swim and to sink and people started to find their way towards that big Navy ship. So they took us on board and thanks God that no one was drowned. The crew of that Navy ship announced that no one had lost his life. And they announced they have no authority, no power to take us for nowhere. But they suggested they will keep us there in the sea until they received an order from higher authority.*



Asylum seekers on the “children overboard” boat were forced into the water as the boat sunk.<sup>35</sup>

<sup>33</sup> Smith, Dr. H., op. cit., p. 25

<sup>34</sup> Senate Select Committee on A Certain Maritime Incident, op. cit. Chapter 3, paragraph 30

<sup>35</sup> Photo from *Truth Overboard* website, <http://www.truthoverboard.com/photos.html>, accessed 26/10/2006

Commander Banks explained why he had refused to evacuate the women and children earlier:

*Because if I disembarked some to the Adelaide I would have failed in my mission aim and I might as well have embarked all of them. In my judgment we still had a boat that was still marginally seaworthy and I still had control of the situation.*<sup>36</sup>

The Senate Select Committee expressed concern at the consequences of the Australian government policy of deterring and denying asylum seekers, particularly “the requirement to avoid embarking unauthorised arrivals on to RAN vessels until the last possible moment.”<sup>37</sup> Despite John Howard declaring, “I certainly don’t want people like that here”<sup>38</sup> when discussing false claims children had been thrown overboard, it was eventually his own policy that forced more than 70 children from the boat into the water.

Military ethicist and former teacher at Duntroon and the Australian Defence Force Academy, Dr Hugh Smith, argued in an article in *Defender*:

*The effect of government policy here was to put lives at risk, not only those of asylum-seekers but also those of naval personnel.*<sup>39</sup>

The Senate Committee also noted the relief evident in a signal sent shortly after the rescue, by Commander Norman Banks.

*All on board are content that their loved ones are with them and it appears repeat appears that no one is missing. An exhaustive search of area has been conducted by RHIBs and only flotsam and jetsam remains.*<sup>40</sup>

Able Seaman Laura Whittle was photographed rescuing a woman and child after she entered the water with no life jacket when she saw the refugees had difficulty swimming towards the life rafts. Almost three years after the boat sank, Whittle said:

*I will never forget the look in their eyes. You see desperation, sorrow and helplessness.*<sup>41</sup>

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<sup>36</sup> Senate Select Committee on A Certain Maritime Incident, op. cit. Chapter 3, paragraph 33

<sup>37</sup> Senate Select Committee on A Certain Maritime Incident, op. cit. Chapter 3, paragraph 41

<sup>38</sup> ABC Radio 2001, cited in Mares, P. (2002), *Borderline: Australia’s response to refugees and asylum seekers in the wake of Tampa*, 2<sup>nd</sup> edition, UNSW Press, Sydney, p. 135

<sup>39</sup> Smith, Dr H., op. cit., p. 26

<sup>40</sup> Senate Select Committee on A Certain Maritime Incident, op. cit. Chapter 3, paragraph 42

<sup>41</sup> Children overboard: the view from the sea, *Sunday*, op. cit.



Laura Whittle rescued a woman and child who had difficulty swimming.<sup>42</sup>

One week into the election campaign, on 12 October 2001, and after more than a week at sea, a boat carrying 238 Afghani asylum seekers reached Ashmore Island. Unbeknown to them, it had been excised from Australia's migration zone a month earlier. The asylum seekers had run out of food, and water had been rationed from two days into their journey. A young baby on the boat had died. Hours before reaching the reef, a woman on board had given birth to her third child, despite a long and difficult labour. In celebration of reaching land, the mother called her newborn child Ashmorey.

One of those on board told:

*Due to extreme happiness the tears were coming from the eyes of all passengers because all of us believed that we finally reached Australia alive. We thought that it was the end of all calamities of our trip.*<sup>43</sup>

Shortly after reaching land, they saw the Navy frigate *Warramunga*. But instead of taking the asylum seekers to the mainland, the Navy kept them on their boat for five days while "the Prime Minister and some of his closest advisers deliberated on their fate."<sup>44</sup> As they waited, Ashmorey's mother was bleeding. Ashmorey's father told *Four Corners* that the Navy doctor who saw her tried to get permission for her to be removed from the boat but this did not eventuate.<sup>45</sup> During the wait, government policy changed dramatically.

Rear Admiral Geoffrey Smith told the Senate Inquiry:

*We received new instructions which were to, where possible, intercept, board and to return the vessel to Indonesia.*<sup>46</sup>

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<sup>42</sup> Photo from *Truth Overboard* website, <http://www.truthoverboard.com/photos.html>, accessed 26/10/2006

<sup>43</sup> Quoted in Rose, A. The forgotten people, in *Dissent*: Sydney University Law Society's Social Justice Journal, July 2006, p. 111

<sup>44</sup> Zable, A. Scorning those in need, in *The Age*, 27/6/2006, <http://www.theage.com.au/news/opinion/scorning-those-in-need/2006/06/26/1151174130006.html?page=fullpage#contentSwap1>, accessed 27/10/2006

<sup>45</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>46</sup> Senate Select Committee on A Certain Maritime Incident, Chapter 2, paragraph 69

A woman on board the boat reported to *Four Corners*:

*One day, they came and said, "The Australia Government has accepted you." We were so happy. Then he said, "We're taking the families to the big ship. The single men will stay on the small boat."*

A man on board the boat told:

*The Navy people came in our boat and said, "We are taking you to the refugee camp," (but they deceived us). They separated the families from singles and transferred families to their Navy ship. Then they asked all the singles to come down inside the boat. We requested them it is not possible for 160 persons to come together in a place, which is enough only for 40 persons. They said only for five minutes we want to tell something to you. So all the 160 passengers came down inside the boat, some sat on each other, some were standing.*

*They kept us down by force for two days where the people cannot breathe, eat or sleep because there was not enough oxygen and there was much smoke of engine. Many people fainted. Each who fainted was taken to upside of the boat like a dead body then Navy people poured water on his face or injected him to become conscious and after he was conscious threw him down in the same tight and smelly place.<sup>47</sup>*

Two days later, the asylum seekers were told they were almost back in Indonesia and that the families had ten minutes to get off the *Warramunga* and back on the boat with the single men.

One of the men on the boat told *Four Corners*:

*Really my heart is broken. Then he repeated again, "Tell the people you have nine minutes." All the ladies and children cries. Really, I also cried. He announced eight minutes. He announced six minutes. He announced four minutes. Three minutes. Two minutes.<sup>48</sup>*

Asylum seekers reported that the families were beaten to force them from the *Warramunga*.<sup>49</sup> One man told *Four Corners*:

*When they bring me back to our boat, when I reached there, there was a soldier. Really, he's crying. I was also crying at that time.<sup>50</sup>*

Another man said:

*By observing this scene some of the Navy people were weeping, one even hit his head to the wall of the boat. Then they broke the engine of the boat, took the oil and generator so we cannot go back to Australia and went by speed boat to the Navy ship which had brought the families, and sailed away.<sup>51</sup>*

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<sup>47</sup> Quoted in Rose, A. op. cit.

<sup>48</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>49</sup> See *Four Corners* and Rose, A. op. cit

<sup>50</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>51</sup> Rose, A. op. cit.

In a speech in Parliament on 9 October 2006, Democrats Senator Andrew Bartlett, one of the few politicians to visit Nauru and a strong refugee advocate, said:

*On 17 October [2001], the Navy moved in after having got their directions from the federal government to act in a way that was now lawful, after legislation had passed this Senate. That is what the Australian Navy did. They separated the women and children and put them on the Navy boat. They then forced the 160 men into the hold of the fishing boat and steered it back to Indonesian waters. They then forcibly put the women and children back on the boat and left them there to their own fate.*<sup>52</sup>

They were rescued by Indonesian fishermen and taken to the island of Lombok, where 45 of them remain five years later.

On 19 October 2001, 353 people drowned on the SIEV X after it left Indonesia, including 146 children, despite the unprecedented surveillance of *Relex*. The Navy had received intelligence about SIEV X on 14, 18, 20 October and finally on 22 October, a day before learning of its sinking. At 10am on 20 October the head of *Coastwatch* passed on a warning to Defence from an Australian Federal Police Officer based in Indonesia. He had warned that the SIEV X was grossly overloaded and in grave danger of sinking.<sup>53</sup>

In an article in *The Age*, historian Robert Manne argued:

*It is highly unlikely, although not impossible, that if aircraft had been sent to survey the waters south of Java on the morning of October 20, any lives could have been saved. Yet it is also clear that on the morning of October 20, at a time when the government had learnt from an entirely reliable Australian source that 400 asylum seekers were in deadly peril, and at a time when no one knew whether or not they were still alive, no decision was taken to issue a warning or to mount a search and rescue operation of any kind.*<sup>54</sup>

Some of the 44 survivors say they saw large boats nearby as they floated in the water praying to be rescued.<sup>55</sup><sup>56</sup> They were eventually picked up by Indonesian fishermen. One survivor gave the following account:

*I boarded the boat with 15 other members of my family. Nine drowned and six survived. We clung on to a wooden plank for 20 hours, drifting in the water. Something I witnessed left a very strong impression: a baby with its umbilical cord still attached to the mother was amongst those who drowned. There were 150 children on board – only four are still alive.*<sup>57</sup>

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<sup>52</sup> [http://www.democrats.org.au/speeches/index.htm?speech\\_id=1954](http://www.democrats.org.au/speeches/index.htm?speech_id=1954), accessed 27/10/2006

<sup>53</sup> Manne, R. The Tragedy of Indifference, in *The Age*, 24/6/2002

<http://www.theage.com.au/articles/2002/06/23/1023864527315.html> accessed 2/10/2006

<sup>54</sup> Ibid

<sup>55</sup> Zable, A. Perilous journeys, in *Eureka Street*, April 2003

<http://www.eurekastreet.com.au/articles/0304zable.html> accessed 2/10/2006

<sup>56</sup> Debelle, P., Survivor saw ships in rescuing distance, in *The Sydney Morning Herald*, 20/6/2002

<http://www.smh.com.au/articles/2002/06/20/1023864460509.html> accessed 2/10/2006

<sup>57</sup> Jannah – The SIEV X Memorial, <http://sievxmemorial.org/accounts.htm/> accessed 2/10/2006

On 23 October 2001, the Federal Police representative on *The Prime Minister's People Smuggling Task Force* told the task force that SIEV X had probably sunk in international waters within *Relex's* surveillance zone. However the same day, John Howard said, "it sank, I repeat, sunk in Indonesian waters."<sup>58</sup>

Former diplomat, Tony Kevin describes John Howard's campaign against boat people as "well planned, timed, and executed". He says that Howard and his ministers quickly turned the SIEV X tragedy to political advantage saying it proved the need for robust border-protection policies to prevent such unsafe boats from setting out.<sup>59</sup>

In total three boats sank in interception or towing operations during *Relex*. A witness on another of the boats that sank told the People's Inquiry:

*It was extremely stormy and every time we thought that the wave could come and kill us. We thought we would die. So with all those difficulties, we see the light and then we see Christmas Island, and every single one starts thanking God and sending their prayers and appreciating that they got to the safe place and everyone was, you should have seen them - we were extremely happy.*

*And then two or three Australian Navy boats approached us and they break the bad news to us that the Australian Government was not allowing any refugees into their land any more. Everyone lost hope completely. The boat was not stopped completely, these other boats were sort of following and going along with us. They decided to come inside and search and they found about five or six individuals who had lost their energy completely. They were fainting, as in they were nearly dying, including my own wife. They were not even able to speak.*

*They knew that we had nowhere else to go and we didn't have the energy or the methods to go back. There was another bigger boat waiting a little bit from us. They kept us for about four days on that small boat which was broken, which had a hole and people were actually sitting in the corners of the boat because the other areas were completely covered by water.*

*After about 3 or 4 days when they finally came to take us, they took women and children only. Single men and married men were left in this broken boat by themselves and they said we are going to take you to international waters and then from there you can go wherever you like. The wives were pleading, crying and begging them - that's how it is when you are so desperate. You are holding someone's feet and begging for their mercy and that's what our wives were doing, yet they were kicking them and telling them we have to take these people to international waters, they can go wherever they want to go but we cannot take them. You would kill them, that's the word the women used. You would kill them.*

*So this big boat was trying to take us to international waters and we travelled for about either 9 hours or 12 hours. And the hole in that boat became even bigger and the boat nearly drowned. They realised that these people are in desperate need, they*

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<sup>58</sup> Kingston, M., Media influenced PM's boat stance, in *The Sydney Morning Herald* 21/6/2002  
<http://www.smh.com.au/articles/2002/06/20/1023864479767.html> accessed 2/10/2006

<sup>59</sup> Kevin, T.(2004), *A Certain Maritime Incident: The sinking of the SIEV X*, Scribe Publications, Melbourne, p. 4

*gave them their small life boats and they allowed them to get into the big boat and join their families.*

*And again, when the small boat was completely drowned and they saw the life boats, again they were happy and they were praying and they said they were going to accept us now, they are going to allow us to their country and they were sending thanks and prayers to God and again we spent another 10 or 12 days on water. They finally came and said that we can take you to Christmas Island but we are not going to accept you. We will not allow you stay in Australia, we will take you there only temporarily until the Government decides about you.*

Under *Relex*, four boats were forced back to Indonesia. The People's Inquiry heard about another of them:

*There was a lot of violence, people resisted, capsicum spray was used. When the boat was forced back to Rote Island it sank before it reached the island. Most people were able to wade through the water but three men didn't arrive. Their friends believe they were blinded by the capsicum spray because it was sprayed directly into their eyes. Many of them already had conjunctivitis and it may have been a combination of the conjunctivitis and the capsicum spray that they may have got off the boat and swum or waded the wrong way and been drowned but they did not arrive.*

On 7 November, and in the wake of the 11 September attacks on the World Trade Centre in New York, John Howard drew links between asylum seekers and terrorists, telling a press conference:

*I choose my language carefully....I am not saying that in particular cases people on these boats are terrorists or have terrorist links....What I am saying is that I have no way and unless you have a proper processing system nobody has any way of determining whether or not they are.*<sup>60</sup>

The same day, Labor Party leader Kim Beazley supported the government's harsh policies, and endorsed its falsehood that seeking asylum in Australia is illegal, saying:

*I don't think it's unhumanitarian to try and keep control of your refugee program. I don't think it's unhumanitarian to try to deter criminals.*<sup>61</sup>

The following day, 8 November 2001, 55 year old Nurjan Husseini and 20 year old Fatima Husseini drowned when their boat caught fire during its interception by the Australian Navy and all on board were forced into the water. The People's Inquiry was told:

*Two women drowned, one was a grandmother and the other one was a young woman, pregnant with her first child. I have witnesses who say that she was frightened of jumping into the water, she was terrified. She and her husband stood and held hands and then finally jumped together. When they hit the water they were separated and she was subsequently found not breathing. She was taken on board the naval vessel where*

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<sup>60</sup> Transcript of The Prime Minister, The Hon John Howard MP, Press Conference, Melbourne, 7/11/2001 <http://www.pm.gov.au/News/interviews/2001/interview1452.htm>, accessed 1/11/2006

<sup>61</sup> Liberals questioned over asylum seeker stance, *Lateline*, 7/11/2001, [www.abc.net.au/lateline/content/2001/s412177.htm](http://www.abc.net.au/lateline/content/2001/s412177.htm), accessed 30/12/2006

*they attempted to resuscitate her unsuccessfully and a day later her husband was shown her body and she was later buried on Christmas Island.*

An asylum seeker on board the boat as it sank told the People's Inquiry:

*When these two other boats saw us, they started coming close to our boat and then they were circling around the boat, they exchanged some paperwork. I don't know exactly what they were talking about, but then our boat decided to speed up and these two other boats were travelling on the sides of this particular boat and I just believed that our boat was travelling as fast as it could, and then all of a sudden I was sitting in there with my children and everyone else and we realised that there was a strong fume and then all the boat area was full of smoke and this smoke was becoming thicker and thicker and a stage where it wasn't possible for us to even breathe.*

*We had to go on deck just to get some fresh air and then we realised that due to too much pressure on the engine, the boat itself was on fire and people didn't know what to do, they had to jump either on water or run for their safety. And at that moment everyone was just completely fearful. I managed to take my daughter and jumped in the water with her and she was in very, very bad shape. She had difficulty breathing and she was nearly, nearly fainting. At that time I saw my wife only I didn't see anyone else. I was completely fearful, there was the screaming. You couldn't even hear anyone because the waves were so strong and everyone else was screaming. I kept either floating or swimming for approximately one hour.*

*The boats were right there but they could not do anything because according to them they were basically waiting for the orders to be received. It was nearly dark, at the dark they received their orders and then they decided to save us. The boats came and took as many people as they could and I was very distressed, extremely worried about my family and I was asking them what happened to my family.*



Government policy put the lives of asylum seekers and naval personnel at risk. <sup>62</sup>

Despite the intense involvement of the Prime Minister himself, and his department, in the *Relax* surveillance, John Howard was vague when announcing the deaths:

*By the face of it, it's been quite an unpleasant incident. Quite an unpleasant incident involving children. Er, there may have been a couple of fatalities. Er, I've been told that the vessel was deliberately lit.* <sup>63</sup>

Two days later, on 10 November 2001, John Howard's Liberal Government strode to victory in an election it had looked set to lose before the *Tampa*, and during the campaign for which the Prime Minister had repeated a mantra: "We will decide who comes to this country and the circumstances in which they come." <sup>64</sup>

But there was far from universal support for the government's actions against asylum seekers within defence ranks. Two days before the election, Michael O'Connor, Executive Director of the Australia Defence Association, told *ABC Radio National* that some naval personnel were demoralised by their new role. He said that forcing asylum seekers back into their boats was contrary to their personal training, naval tradition and "their normal humanitarian instincts."

*They did not join the Navy to man prison ships....Despite government propaganda that the asylum seekers transported to Nauru and elsewhere were not imprisoned, the sailors know otherwise....To see the typical asylum seeker as a threat who must not be allowed to land on Australian soil is stretching credulity for the sailors who actually deal with them.* <sup>65</sup>

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<sup>62</sup> Photo from *Truth Overboard* website, <http://www.truthoverboard.com/photos.html>, accessed 26/10/2006

<sup>63</sup> To Deter and Deny, *Four Corners*, op. cit.

<sup>64</sup> Liberals accused of trying to rewrite history, *Lateline*, 21/11/2001, <http://www.abc.net.au/lateline/content/2001/s422692.htm>, accessed 30/10/2006

<sup>65</sup> ABC Radio National, *Perspective*, 8/11/2001, <http://www.abc.net.au/rn/talks/perspective/stories/s411582.htm>, accessed 27/10/2006

Within weeks of *Relex* beginning, Commodore Warwick Gately at Defence's strategic command had raised concerns about *Relex*'s potential to contravene the *Safety of Lives at Sea Convention*, which required Navy crews to assist any person in danger of drowning and bring them to the nearest port. *The Age* reported:

*Gately told Reith that two Navy commanders had questioned the military over the actions. One had removed asylum seekers from a boat which was about to run aground on Ashmore Island. The other had ended a fraught boarding operation against SIEV 3, which had refused to turn back to Indonesia. Some passengers had threatened suicide if they were forced to return and a pregnant woman was about to give birth. Some 54 children were on board. Gately told Reith that decisions by the ADF commanders who acted over safety issues... "have been questioned". But Gately wrote to Reith: "Ship's commanding officers have acted correctly [censored] with a view to ensuring the safety of their own personnel and that of the UBAs, [Unauthorised Boat Arrivals] not by a policy of stopping the UBAs at any cost."*<sup>66</sup>

Dr Hugh Smith argues that while military personnel are trained to make difficult life and death decisions, this is usually in response to enemy action, rather than the policy of their own government.

*Military personnel served as maritime jailers for asylum-seekers, sometimes deceiving them as to their final destination, sometimes making promises that could not be kept, sometimes compelling them to go ashore against their wishes. One senior officer ferrying human cargo to Nauru likened HMAS Tobruk to a slave ship....A senior consultant psychiatrist who was also a Naval Reserve officer concluded that Operation Relex involved personnel in activities highly likely to be harmful to psychological health and moral development.*<sup>67</sup>

The psychiatrist, Navy Reservist Dr Duncan Wallace, spent 30 days at sea on *HMAS Arunta* during *Operation Relex* in October 2001 and described the actions Navy personnel were ordered to carry out as morally wrong and despicable. He wrote a letter to some newspapers saying:

*I participated in the boarding, attempted removal and actual forced removal of suspected illegal immigrant vessels to Indonesia. Nearly everyone I spoke to that was involved in these operations knew that what they were doing was wrong. These actions are ineffective in deterring boat people in coming to Australia and merely serve to harass, frighten and demoralise people who are already weak, vulnerable and desperate.*<sup>68</sup>

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<sup>66</sup> Wilkinson, M., The near fiasco of the Pacific Solution, in *The Age* <http://www.theage.com.au/articles/2002/10/27/1035683304533.html>, accessed 2/10/2006

<sup>67</sup> Smith, Dr H., op. cit., p. 26

<sup>68</sup> Claims Navy staff disagree with asylum seeker policy, *The World Today*, 7/11/2006, <http://www.abc.net.au/worldtoday/stories/s410695.htm>, accessed 30/10/2006

## Detention

The relief many asylum seekers felt as they reached Australian shores was to be short lived. *Australia's Migration Act 1958* states that if an officer reasonably suspects that a person does not have a valid visa, they must detain that person until they either obtain a visa, or leave Australia.<sup>69</sup> Known as mandatory detention, this policy was introduced by the Federal Labor Government in 1989. Former Labor Immigration Minister Gerry Hand stated in parliament in May 1992:

*The government is determined that a clear signal be sent that migration to Australia may not be achieved by simply arriving in this country and expecting to be allowed into the community.*<sup>70</sup>



**Map of Australian Immigration Detention Facilities.**<sup>71</sup> Facilities that have been “mothballed” include Port Hedland, Woomera, Phosphate Hill, Singleton and Cocos Island.

Once intercepted by authorities, asylum seekers were taken to immigration detention centres all over Australia and, from 2001 on, the Pacific Islands of Nauru and Manus Island. Asylum seekers on the “children overboard” boat were initially taken to Christmas Island. A man from that boat told the People’s Inquiry how they were deceived as they were later transferred to Manus Island:

<sup>69</sup> s.189 *Migration Act 1958* (Commonwealth)

<sup>70</sup> Cited in Brennan, F. (2003), *Tampering with Asylum: A universal humanitarian problem*, University of Queensland Press, St Lucia, p. 87.

<sup>71</sup> Map adapted from *Project SafeCom* <http://www.SafeCom.org.au/never-again.htm>, accessed 26/10/2006

*We heard that some people tried to approach us but they just lock the door and prevent anyone from approaching us. Then someone came and assured the group that we will be released easily and quickly. There was an interpreter. He suggested we have met the refugee criteria and we will transfer you to the Australian land. They took some photos and our details and we completed forms. We were so pleased and we started to exchange greetings between each other and we started to congratulate each other.*

*They started to transfer small groups, in a very secretive way without the others knowing and mainly in the middle of the night. We were divided into four groups and they started with the single young people because they tried to take first those who are potential troublemakers.*

*Before we were taken on board of that military jet we were heavily checked and inspected by army personnel and we didn't really know the purpose of that inspection. Then after that long journey we ended up with that big surprise. When we arrived we were struck by the tropical weather, when we looked at the dark complexion of the people we were just struck. Because we kept wondering where is the white Australian man? Then when I looked at the tropical trees and the tropical climate I was just surprised. I had a sense that we were sent back again and we might be in Indonesia. And all our thoughts came in a moment.*

*And then we were taken to the camp. It was fenced and screened from the outsiders and the condition was very hot weather and we were placed in tin sheds where families were screened between each other with curtains. Even the ground of that camp was really scary because there is always little animals digging and making holes and caves inside.*

*We found we were in Manus Island in Papua New Guinea. Then later it's been explained to us via interpreter that it is a transit station to assess whether we are eligible to go to Australia or not. When we asked about the estimated time, we were told it's roughly six months. We were just shocked by hearing such a long period. Then we suggested to them but someone from you came around before and said we are going to an Australian land and they said you misunderstood - we have told you we are taking you to a place to apply to Australia and we doubt ourself to a moment but I mean it's hard to doubt that 22 people all misunderstood.*



**Shortlived relief: These asylum seekers, rescued from the “children overboard” boat, were later taken to Manus Island.<sup>72</sup>**

Another asylum seeker whose boat had also sunk during *Operation Relex* and who was initially taken to Christmas Island told the People’s Inquiry:

*They came with an interpreter and they told us that tomorrow we will transfer you to Nauru. Nauru is a very horrible place with no proper drinking water, the weather is very hot, the situation is extreme, very bad. We send you there so you can suffer, so you could be forced to go back to your country. And that's what happened.*

*I had never seen such a place in my entire life. It was scorching hot; you couldn't even see trees out there. It was just stone everywhere and it was such a horrible place to live in. There wasn't enough drinking water and the water itself was completely sour. They took us to these rooms and even the windows were covered by plastic, no electricity, not enough food and we couldn't see anything except for stone.*

*After two or three months we heard that the Minister of Immigration was visiting. So again people are very hopeful thinking that he is going to come and show some sympathy. All the women and children in that scorching weather, they went outside and they are queuing there to welcome him. And then when he comes he doesn't even say hello to us, he just walks inside and then he comes outside and tells us that we will try our best to get you out of this country because you are the people who came by window. You didn't use the door, you came by window and you don't deserve to stay here and we will use any method to get you out.*

<sup>72</sup> Photo from Project SafeCom <http://www.SafeCom.org.au/kids-overboard.htm>, accessed 30/10/2006

Once detained, some asylum seekers were released months later. However for others, imprisonment lasted up to seven years. One asylum seeker told the People's Inquiry:

*We came here seeking safety, security, protection and finding a homeland where we can settle down. And that is quite a lot of sacrifice, and we risk our life. We knew full well how risky and what risks were associated with that journey. But the big shock that we entered with were the circumstances and the treatment inside the detention centre.*

Another asylum seeker said:

*After we arrived in Australia the picture that we had in our mind it just been changed suddenly in one night, because the Australian authority start to treat us like criminals because they transferred us to the Detention Centre in the middle of the desert. Far, far away from any people. We were just behind all the razor wires and security around us all the time, day and night, watching us.*

A visitor to Baxter described it to the People's Inquiry:

*It is a high security prison, there is absolutely no doubt about it. An electrified fence runs along the whole outside. There are cameras everywhere, inside the place you're always under scrutiny. All doors and gates are centrally controlled, officers have to push a button and they can only open one at a time, so if any other door or gate in the whole place is open you have to wait. They use this military language through the whole place – Oscar, Victor, Tango. It's bizarre.*

Numerous Australian and international reports have criticised the indefinite, non-reviewable incarceration of people who have committed no crime, and the conditions inside the detention centres. For example, in 2005 Amnesty International concluded that mandatory detention placed Australia in breach of the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, the Convention relating to the Status of Refugees and the Convention on the Rights of the Child.<sup>73</sup>

In 2002, the Inspector of Custodial Services for Western Australia, Richard Harding, told *ABC Radio National*:

*These places are worse than prisons. The detainees who commit an offence and end up in the WA prison system, all prefer it in terms of the human interaction, in terms of the location, in terms of the relative respect with which they are treated by staff.<sup>74</sup>*

Other reports critical of detention have been completed by the Human Rights and Equal Opportunity Commission (HREOC),<sup>75</sup> former Australian Diplomat Philip Flood,<sup>76</sup> the

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<sup>73</sup> Amnesty International Australia: *The impact of indefinite detention: the case to change Australia's mandatory detention regime*, AI Index: ASA 12/001/2005

<sup>74</sup> ABC Radio National, *Worse than prisons? Managing Detention Centres, Background Briefing*, 6/10/2002, <http://www.abc.net.au/rn/talks/bbing/stories/s697195.htm>, accessed 13/10/2006

<sup>75</sup> Including Human Rights and Equal Opportunity Commission (HREOC) (1998), *Those who've come across the seas* and HREOC (2004), *A last resort? National Inquiry into Children in Immigration Detention*

<sup>76</sup> Flood, P., *Inquiry into Immigration Detention Procedures*, Commonwealth of Australia, February 2001

United Nations Working Group on Arbitrary Detention<sup>77</sup> and the Commonwealth Ombudsman.<sup>78</sup> However, in August 2004, the High Court of Australia ruled that non-citizens without valid visas could be held in detention indefinitely if they wished to leave Australia but no other country would take them.<sup>79</sup>

The People's Inquiry heard evidence on the experience of detention from asylum seekers who had been Australian detention centres, Australians who had visited detainees; and professionals who had worked in Australia's detention centres. The picture painted of life in detention was startlingly similar - whether centres were now closed or still operating, whether they were in remote locations or in metropolitan areas, and whether they were run by Australasian Correctional Management (ACM) or Global Solutions Limited (GSL).



Detention centre fence - "Far, far away from any people."<sup>80</sup>

## A life fuelled with little cruelties

A theme which emerged from the evidence presented to the People's Inquiry was how often those detained were humiliated. A mental health professional who worked with asylum seekers in Woomera and Baxter told:

*Each story on its own risks being dismissed as not very important if you only hear one of them, but when you link them all together you recognise that a detainee's life is just fuelled with these little cruelties. I think that's one of the things that drive people mad in the detention setting.*

<sup>77</sup> Report of Justice Bhagwati, Regional Advisor for Asia and the Pacific of the United Nations High Commissioner for Human Rights, *Mission to Australia*, 24 May to 2 June 2002

<sup>78</sup> *Report of an Own Motion Investigation into the Department of Immigration and Multicultural Affairs Immigration Detention Centres*, March 2001

<sup>79</sup> See *Al-Kateb v Godwin (2004) 208 ALR 124*

<sup>80</sup> Photo submitted to the People's Inquiry

On entering the detention centres, all asylum seekers were given ID cards and assigned numbers. They used their number for all official transactions within the centre.

*The first day we were given a number and I was told that from now that's how I will be known. You will be ABC123. That was one of the most difficult things for us because having your normal freedom taken away from you and at the same time you lost your name. One of the most difficult things for me too was that there were three different headcounts. There was one at 6 in the morning, one at midnight and another one at 2 in the morning, so no matter who you are, even a baby, they will have to wake you up, you show your card or you shout your number loudly.*

At a brief initial interview with DIMA, asylum seekers were “screened in” or “screened out” of the protection visa process. Those who appeared to have a *prima facie* case for asylum were provided with legal help to lodge an application for a protection visa. Those “screened out” of the process were kept in separate areas of the detention centres so that they could not be told by others how to access legal help. Many asylum seekers were held in separate “closed camps” and were not able to access telephones, newspapers, TV or mail for periods of up to 12 months. Many of these people eventually did access legal help and were later recognised as refugees.

A former psychologist at Woomera explained the “screening out” process:

*During that [first interview], detainees have got to say the magic words. There are phrases they have to use.... they're in fear of their life, they are requesting asylum, they have to state in some way the nature of the fear of going back to the country they have left. This is when the problems really started, when they're screened out, they're all segregated. You're not allowed to tell them they have been screened out, you're not allowed to tell them their rights. You're not allowed to tell them they.... in actual fact can....reapply.<sup>81</sup>*

Having survived their boat journeys, one of the first things asylum seekers wanted to do was to contact their families and tell them they were safe. “Screened out” detainees were unable to do this while they were kept in isolation. Even those “screened in” early in 2000 at the Woomera detention centre were unable to contact their families because there were no public phones in the centre. Mail contact was also frustrated. An asylum seeker who spent time in Woomera told the People’s Inquiry:

*We told them that we would like to maintain contact with our families. So we wrote letters and we gave it to the people in charge of the camp. They didn't take any action about sending these letters for around four months. We were waiting for correspondence from our parents, and we found out later that they kept these letters. So we have done a hunger strike for three days. Later on they gave us a set formatted letters with little square and all we can write in that square. Nothing but a short segment suggesting we are fine and okay and in Australia. That action was only in place six months after our detention.*

*One phone was installed six months after we were transferred there. At the beginning there was nothing. It was after a long, huge pressure before they installed that. You*

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<sup>81</sup> Clennell, A., Care bears, go-slows and magic phrases, in *The Sydney Morning Herald*, 14/5/2002 <http://www.smh.com.au/articles/2002/05/13/1021002431544.html>, accessed 11/10/2006

*have to buy a phone card of \$20 which can last only seven minutes. And there is only one phone and you have to go in a long queue. There was one phone for the whole camp, approximately 1500 persons.*

An Adelaide solicitor who visited Woomera described the physical conditions:

*Two working toilets for 700 people, both leaking, sand on the floor to “mop up” the leaking effluent, four working showers, hot water only available after midnight, not allowed to take food from dining room for children or sick adults, no coffee/tea/food between meals, only water, no air conditioning, fly screens, or heating. Temperatures during the day reach 45 degrees, at night it falls below freezing; there are millions of flies, inmates have to queue for meals, medical attention, phones (two for 1300 people) for up to two hours. Persons seeking medical attention (including painkillers for broken leg, raging fever, tonsillitis, etc) each have to queue in the open for up to 1 1/2 hours to obtain their medication in front of the nurse. Nails may only be cut by the nurse, who will do ONE person per day, women must queue each day for their ration of tampons/ disposable nappies, there is no baby food or formula, one woman with a six month old baby who was struggling to maintain breast feeding was advised to feed the baby powdered chicken stock mixed with water, food is beyond description; many will not eat it.<sup>82</sup>*

A former Villawood detainee told:

*I had a lot of cockroaches in my room where I used to wake up in the morning and there were cockroaches in my chest and in my hair. For three months I asked either to be moved to another room or to have the cockroaches exterminated. They refused. We will do it some other time.*

In August 2004, DIMA confirmed that maggots had twice been found in food served to detainees at Baxter. Immigration Minister Senator Amanda Vanstone responded by saying that Baxter was “the best detention centre that I have seen in the world in terms of conditions. I don't have any evidence of unhygienic conditions in Baxter.”<sup>83</sup>

Asylum seekers were also subject to daily humiliations. A nurse who had worked at Woomera in 2000 told a public meeting in 2002 about instances she had witnessed:

*I've seen and heard the guards laughing at the pain and suffering of the people imprisoned in Woomera. Singing to the Iraqis who have had a rejection; “I'm leaving on a jet plane, goin' back to see Saddam Hussein”. Witnessed the guard making a detainee beg for soap. No English did this woman speak, she had learnt the word soap from someone. To the guard she said, “soap”. The soap was proffered and withdrawn when she reached for it, again and again until she said please. Imagine being intimate with your husband to have a guard burst into your room at any time, and then imagine the further humiliation when he shares his story with anyone who'll listen.<sup>84</sup>*

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<sup>82</sup> [http://www.ChilOut.org/information/conditions\\_in\\_detention.html](http://www.ChilOut.org/information/conditions_in_detention.html), accessed 9/10/2006

<sup>83</sup> Maggots found in food at detention centre, in *The Sydney Morning Herald*, 24/8/2004  
<http://www.smh.com.au/news/Immigration/Maggots-found-in-food-at-detention-centre/2004/08/24/1093246511221.html> accessed 9/10/2006

<sup>84</sup> ChilOut Information Night, 3/6/2002.

[http://www.ChilOut.org/information/first\\_hand\\_account\\_of\\_woomera.html](http://www.ChilOut.org/information/first_hand_account_of_woomera.html), accessed 9/10/2006

A man who spent six months in Port Hedland detention centre told the People's Inquiry:

*From time to time somebody from the offices they have in the camp come and say, "You are here because you are not wanted by the Australian people in their country. We try to keep you away from people because people don't want you. And always remember the way you came to this country was a type of invasion way, not a polite way to come into a country so that's one of the things why people don't really like you. And if anybody wants to go back home then we are more than happy to send them but don't ever think that you are going to get in Australia." People start to get scared of how they are going to get out, will they be accepted or will they be challenged.*

A submission to the People's Inquiry from Human Rights advocacy worker at the Brimbank-Melton Community Legal Centre, Charandev Singh, stated:

*In The Australian newspaper on 22 November 2000, a confidential source with access to the full contracts disclosed that ACM was "making a net profit of \$1 million per month when the Woomera and Curtin detention centres were full" and that ACM in his opinion was "running Woomera absolutely on the cheap, milking every last dollar out of the contract without living up to standards." <sup>85</sup>*

Many asylum seekers worked in the detention centres to occupy themselves and earn "merit points", which could be used at canteens within the centres to buy items such as cigarettes and phone cards. They worked as kitchen hands and cooks, gardeners, cleaners, gym instructors and hairdressers for one merit point (equivalent to one dollar) per hour. <sup>86</sup> Detention supervisors chose which detainees could earn merit points. The People's Inquiry heard from a former Villawood detainee:

*You only get paid in phone card and cigarettes if you are lucky enough to get a job. Otherwise you end up trying to pick up cigarettes from the floor.*

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<sup>85</sup> Spencer, M. "Penalty 'forced cover-up' – New claims in Woomera child sex-abuse case" *The Australian*, 22/11/2000 p.1. (Cited in Singh, C. (2002) "We are human beings, we are not animals" – *The relentless commodification and obliteration of lives within Australia's privatised Immigration Detention Centres*)

<sup>86</sup> ACM Detention Services Operating Manual, Policy 19.9 Issue 8, *Merits Point System* 12/8/2002



Woomera detainees protested in February 2002, with one man throwing himself on the razor wire.<sup>87</sup>

The People's Inquiry heard many stories about the policies and procedures applied within detention centres. The two main themes that emerged from the evidence were of unreasonable rules, and of rules constantly changing. A visitor to the Baxter detention centre told:

*When she went in to visit her husband she would take in food. She went in at lunchtime with a bottle of tomato sauce to put on the kids' lunch and this guard wouldn't let her take in the tomato sauce because it was in a glass bottle. He said, "It has to be in a plastic bottle." So when she came back for her evening visit I was there and she had the sauce in a squeeze tomato sauce bottle and he said, "You can't take that in because it's not in the original container," and she said, "Oh, come on, you're not serious," and he said, "Yes, it's not in its original container. There could be anything in there."*

Another visitor to Baxter told:

*You could take paper and then you couldn't take paper. You could take a cane basket and then the next day you couldn't. It's just these completely arbitrary ridiculous rules. They wanted to count photos on the way in and on the way out and one time I'd taken these photos in and they hadn't counted them, but on the way out they insisted they had to count them even though they didn't know how many had come in. The latest thing about the photos was that I could take photos in, but not photos of me, only ones without me. Someone else could take in a photo of me, but only if I wasn't there, and they would seriously tell you this sort of stuff and you just have to stand there.*

<sup>87</sup> Photo from Project SafeCom <http://www.safecom.org.au/archives2002.htm>, accessed 5/11/2006

Even visitors who questioned the rules learned there were consequences. One visitor who argued when told she couldn't book a visit although there were places available said:

*Then I said "I'd like to talk to the supervisor about it," and he just looked at me and said, "Oh, I see. You think you're going to go over my head. Well it doesn't work like that, I'm in charge here." The supervisor let me book, but then the next time I came to visit, I was outside waiting at the gate with the camera zooming in on me and they said, "He's busy, you have to wait." It was really hot out in the sun and he made me wait for 25 minutes and it was a lesson to me that these people have got enormous power over something that's very important to you, and they are quite prepared to use it.*

Staff members also had difficulty dealing with some of the policies. A former ACM nurse told the People's Inquiry:

*I remember in Curtin fights with the Stores Department over the issue of thongs. The person would present in bare feet and they have cut feet and when you say "Where are your shoes?" They would say, "They're broken." I would say, "Go to stores." They would say, "I've been to Stores." Stores would look up their book and say, "This man was issued with thongs six weeks ago," and I'd say, "Yes, here they are, they're broken." And they would say, "He was issued with footwear six weeks ago," and so the fight would be on.*

She also told the inquiry:

*There was one family who had three children and a fourth child born in detention all under about six and they had no photographs of the baby, no photographs of the children. I went to DIMIA and asked if it were possible, even if the nurses funded it, to buy them a disposable camera and take the family into a DIMIA office so that we could take a couple of photographs that could be put in their file, so that one day the child would have pictures. They said it was against Government policy and when I asked what policy that was, I was told that I was a nurse, could I please leave the DIMIA office.*

Items considered by GSL to pose a risk to security, and therefore banned from entering detention facilities include: crochet hooks, rollerblades, tape recorders, soccer boots, DVDs, wallets, nail polish, pencils and pens.<sup>88</sup> A former ACM officer, who worked at both Woomera and Baxter, told the People's Inquiry that a woman detainee had been using a crochet hook to do craft work. She had been asked by another officer to give it up because it was a weapon. When the woman argued that it was only a crochet hook, the officer called for backup and three officers threw the woman down and handcuffed her to take it away.

One visitor to Baxter told of an unwell detainee not being provided with food and water on a nine hour return trip.

*Three guards took him to Adelaide for investigation for his illness and on the way down it was a fairly warm day. They stopped at McDonald's and had lunch but they would not get any lunch for this detainee. On the way back they stopped at*

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<sup>88</sup> Global Solutions Limited, *Items not permitted into a facility*, reviewed 14/6/2005

*McDonald's again and this man said, "Look, can you guys get me something to eat. I'm very hungry" And he said to them, "Look, I will give you some money when I get back. Could I just have some chips and some Coca-Cola." That's all he asked for, and they said no. So these men sat there eating their McDonald's in front of him. He was handcuffed to them while they were eating. And then he said, "I'm thirsty." So they stopped the car and they went to a petrol station and they said, "Go and drink the water out of the hand basin in the toilet."*

Detention staff who showed compassion toward the detainees were pressured and ostracised by other staff. In an ACM memo presented to the People's Inquiry, one detention officer was counselled after being reported by other officers for being too friendly with a detainee.<sup>89</sup> A nurse who had worked at Woomera in 2000 told a public meeting in 2002:

*At one stage some of us had our names, addresses and telephone numbers translated into Arabic and Farsi so that we could give them to the people we'd gotten to know and care about and support them on their release. We had to have them in Persian and Arabic so the guards couldn't understand what it was if they saw it. More than one nurse lost their contract for this reason. ACM's response to this was to completely ban all nurses from saying goodbye to anyone when they were given a visa. That was so hard. We were also told how our phones would be tapped and ASIO was watching us. God it was bizarre. The paranoia and suspicion were incredible.<sup>90</sup>*

As their detention continued, and Australia sent troops to fight the regimes they had fled, many detainees had bad news from home, compounding their misery. A former ACM nurse told the People's Inquiry:

*The other situation that happened quite commonly was that detainees would get extraordinarily bad news of tragic and hideous deaths of family members and this happened reasonably frequently. There were a couple of occasions when we would be advised before they were given the news so that you could be aware that they might need support. You would hear that their father had been disembowelled and the body dumped outside the family home in Afghanistan. There was tragedy on tragedy in these people's lives and we weren't able to offer support at all.*

In a 2002 speech, Julian Burnside QC explained how the son of Nurjan Husseini and the husband of Fatima Husseini, the women who died when their boat caught fire and sank, were allowed out of detention to attend the inquest into their deaths:

*The matter went on for the whole week, and the last day of it was Friday 8 November which happened to be the 12 month anniversary of the day on which the two women drowned. To mark the 12 month anniversary of the deaths, a support group had organised a small memorial service to be held in the park immediately adjacent to the Fremantle Court.*

*They got permission from the Court, they got permission from ACM, they got permission from the police, they got permission from the Department of Immigration, that these two men should be allowed to step out of their cells and into the park, under*

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<sup>89</sup> ACM Memorandum 29/8/2002, *Alleged Overfamiliarity with Detainee*

<sup>90</sup> ChilOut Information Night, 3/6/2002.

[http://www.ChilOut.org/information/first\\_hand\\_account\\_of\\_woomera.html](http://www.ChilOut.org/information/first_hand_account_of_woomera.html), accessed 9/10/2006

*guard, a distance of 20 metres and attend the memorial ceremony for the deaths of their loved ones. Fifteen minutes before the ceremony began, Mr Ruddock withdrew permission for them to attend. I have to say that is one of the most heartless and despicable acts I've seen committed by a Minister of the Crown in recent years. The two men were deeply hurt by it.*<sup>91</sup>

Despite the misery inside the detention centres, DIMA made huge efforts to present them as comfortable and humane. A submission to the People's Inquiry from the Public Interest Advocacy Centre argued that scrutiny of detention centres by outsiders is tightly controlled by DIMA. For example, GSL must report the presence of media or protestors at a detention centre to DIMA within one hour. This is the same timeframe in which it must report a detainee's death, a mass breakout, a bomb, fire, cyclone or earthquake. Media or protestors must be reported to DIMA faster than a suspected case of unlawful detention or a minor being on hunger strike.<sup>92</sup>



**Easter Sunday 2005 - protests at detention centres must be reported to DIMA within one hour.**<sup>93</sup>

A former ACM nurse told the People's Inquiry:

*There was quite a public show put on for the arrival of HREOC [Human Rights and Equal Opportunity Commission] when I was in Curtin. They potted plants all over the*

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<sup>91</sup> Julian Burnside Q.C., 16<sup>th</sup> Lionel Murphy Memorial Lecture, Wednesday 20 November 2002, NSW Parliament House Theatre  
<http://lionelmurphy.anu.edu.au/16th%20Memorial%20Lecture%20WEB%20EDITION.doc>, accessed 30/10/2006

<sup>92</sup> Detention Services Contract, Schedule 3: Immigration Detention Standards, Performance Measures and the Performance Linked Fee Matrix, Attachment A: Incidents. (Cited in PIAC (2006), *Immigration Detention in Australia: The loss of decency and humanity*, Submission to the People's Inquiry into Immigration Detention, July.

<sup>93</sup> Photo from MDC Watch <http://home.vicnet.net.au/~mdwatch/>, accessed 30/10/2006

*place. In 2002, after the riots in April, somebody had decided that detainees would be issued all food in plastic takeaway containers and all the dining room furniture had been packed up and it just sat as a big empty area, which was a shame because that was the one area where people socialised, there was no other communal facility. But the day before HREOC arrived, the tables and chairs were all put up again and the detainees were told to sit there. They recognised this was a show and they said, “No thank you, we’ll just take our food as we always have, in boxes,” and there was a lot of anger verbalised towards them.*

*Also there was a brochure that ACM put out which had an amazing photograph of child detainees at Curtin on bicycles with their helmets on doing bike education in front of a swimming pool with a whole lot of potted palms in the background. It was very clever editing. The above ground pool was in the staff quarters, the potted palms were in administration, the bicycles came I believe for four days whilst the children had bike ed and then were returned, so these things had been combined in a very attractive way for a brochure.*

### **She was showing me the scars on her feet**

Another theme which emerged from the evidence presented to the People’s Inquiry was the level of assault within detention. The inquiry was presented with a 2002 ACM stocktake of armoury and equipment at Woomera. It shows that at that time ACM held the following equipment: 48 standard ring batons, 48 “grenade grip” batons, 55 riot helmets, 48 riot vests, 48 riot shields and 48 each of guards for legs, forearms, elbows and groins. It also held 54 pairs of handcuffs, 32 “rescue tool” knives, tear gas and 85 gas masks, 2 cameras and 3 video cameras. The equipment was used by officers in Centre Emergency Response Teams (CERT).

A visitor told the People’s Inquiry she had witnessed the CERT teams training at Baxter:

*Just before Easter one time we were just in the Visitors’ Centre and then we hear this big military manoeuvre going on – we looked through the little crack in the corrugated iron and there were about fifteen of them and they’ve all got their riot gear on just marching around in formation shouting, “Hup, two, three.”*



Riot equipment stored at Woomera detention centre in 2002.<sup>94</sup>



Riot equipment stored at Woomera detention centre in 2002.<sup>95</sup>

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<sup>94</sup> Photo submitted to the People's Inquiry

<sup>95</sup> Photo submitted to the People's Inquiry



The inside of a water cannon truck at Woomera. <sup>96</sup>

An asylum seeker who spent time at Port Hedland told the People's Inquiry:

*Everyday, everyday, everyday troubles, everyday fighting, everyday crying, everyday people trying to kill themselves, everyday riot, big riot between the guards, they brought another forces special for riots. They have baton, helmet, they put in TV. Too many persons injured.*

The ACM policy on the use of force and restraints for Woomera's Residential Housing Project, in which only women and children were detained, stated:

*Where a situation arises that requires deployment of riot equipment, unobtrusive and non-intimidatory video filming of the subsequent event **must** take place.... Instruments of restraint, such as handcuffs, chains, irons and straightjackets are never to be applied as punishment....Cuffing belts are only to be used with the consent and direction of the Centre Manager....Where equipment is issued or used it is to be orally reported to the DIMIA Business Manager within one hour....Wherever possible the Centre Manager must consult with the DIMIA Business Manager prior to the issue of riot equipment to Detention Officers.* <sup>97</sup>

Other ACM documents also presented to the People's Inquiry shows that during a typical two week period in Woomera in 2001: one person escaped, two people were under regular

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<sup>96</sup> Photo submitted to the People's Inquiry

<sup>97</sup> ACM Woomera Residential Housing Project, Operating Procedure, Procedure 10.14RHP, *Use of Force and Restraints* 7/11/2002

observation, there were two incidents of damage, nine people were taken to hospital and two to the medical unit, two people self-harmed, one was on hunger strike, one compound mounted a passive protest and restraints were used on ten people.<sup>98</sup>

A visitor to Baxter spoke about the prevalence of physical assault in detention.

*I was talking to the men that we visit just last Sunday and I told them that I was coming to this inquiry and I said I know that some people have been assaulted and they looked at me and they said “everyone's been assaulted at some time.” One man told me that he had one hand handcuffed to his ankle and one wrist handcuffed to the other ankle at one time when he was in Management. A woman told me that she and her husband and child were dragged by their feet and she was showing me the scars on her feet from that incident.*

One Port Hedland officer, Graeme Hindmarsh, was convicted of assaulting a handcuffed 47 year old Iranian detainee in 2001.<sup>99</sup> In 2005, *The Bulletin* published photographs of Port Hedland detainees injured in December 2003 protests. Professor David Wells, from the Victorian Institute of Forensic Medicine, concluded that the injuries had probably been caused by a baton or stick, saying, “To produce injuries like that in a person who is otherwise healthy does require a significant amount of force.”<sup>100</sup>

Despite the fact that detention centre staff have, on rare occasion, been charged with assault and dismissed, there are at least some instances where police refused to even investigate detainee allegations of assault. One visitor told the People’s Inquiry:

*The detainees do not wish quite often to take any action against these guards because they're scared that they will not get their visas or that revenge will be put upon them. One of the young men that I visit, when they had the Baxter convergence, he climbed on the roof to see what all the fuss was about and when he got up there, he had a look for a minute or two and then he came down because they told him to come down, and they beat the crap out of him.*

*A couple of weeks after that I went there and he showed me the bruises and he was really badly hurt. I said, “Do you want me to do something about it?” and he said, “No, because I'll get in trouble. It's not worth it.” But over the next few weeks, each time he was still in a lot of pain, I'd still ask him, “Do you want me to call the police?” Then in the end he said, “Yes, call the police.” So the next day I rang the police in Port Augusta and the police said, “We're not going to do anything about it. We're sick of going down there. We've got more important things to do. I don't want to know about it,” and put down the phone.*

## **The environment is so toxic**

The evidence presented to the People’s Inquiry showed how people’s mental health deteriorated with their incarceration. Although they had escaped persecution in their own countries and had therefore experienced trauma and hardship before coming to Australia,

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<sup>98</sup> ACM Incident Log, 2001

<sup>99</sup> Byrne, M. (2005), Tales from the desert camps, in *Griffith Review*, ABC Books, Edition 8, May, p. 184

<sup>100</sup> Davies, J. A. and Byrne, M., Black and Blue Justice, in *The Bulletin*, 5/7/2005, p. 16

most asylum seekers did not have mental health problems before being put into detention. A visitor to Baxter told the People's Inquiry:

*Out of the four men that I visited, when I first started seeing them nearly three years ago, they were all perfectly healthy, mentally fine people. At the moment three of them are mentally ill. One of them is moderately mentally ill. One of them is slightly mentally ill and the other one is very, very ill and I'm fearful for his life as a result of the psychosis that has come about from being in detention.*

A former ACM nurse told the People's Inquiry:

*There was a young man in his late twenties who was always almost too eager to befriend you each time you returned. When I went back to Baxter at Easter time he didn't appear to be anywhere and I wondered if he'd got a visa. I went to see him and he was sitting in his room almost catatonic. This was a guy who'd been right up with all the activities, he always wanted to be involved and he said when new arrivals came, whether they were staff or detainees, I always was very keen to find out what was going on, perhaps offered some interest or hope, a new friend or possibilities for something, and he said now I feel I have no interest in anything and I wonder if I will ever engage with anybody in my life again and I found that extremely alarming.*

Despite signs of mental illness that would have been resulted in intensive treatment for other members of the Australian community, the People's Inquiry heard that asylum seekers often received inadequate and inappropriate treatment.

A former ACM officer told the People's Inquiry that when she raised concerns about the mental health of a bed-ridden detainee with her supervisor, she was told to "tell the fucking lazy bitch to get out of bed and help herself". When she emailed her shift manager that something had to be done, she was told to "poke her with a stick to see if she's dead."

At a presentation to the Port Augusta Community in February 2003, a former manager of Baxter claimed detainees had "access to full range of medical services and facilities", including "psychological/counselling services".<sup>101</sup> However, in July 2005, it was revealed that two psychologists practising at Baxter had been unregistered, in breach of the Psychological Practices Act.<sup>102</sup>

An asylum seeker told the People's Inquiry:

*They make big problems because some of them they are a long time ago. They feel only depression. They lost their control. I saw some persons drinking shampoo just to kill himself. I saw a person, there was a big tower, I don't know for what it was. He was going up over there just to jump. I saw person take the razor. Not just one person, several persons. He harmed himself and the blood...I saw persons they became like mad. From everyday that person he was crying, he was kicking the doors. I saw the special room for those they lost control.*

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<sup>101</sup> *Baxter and the Community*, powerpoint presentation, Greg Wallis, DIMA Manager, Baxter IDF

<sup>102</sup> ABC new on-line, *Baxter psychologists unregistered, letter reveals*, <http://www.abc.net.au/news/newsitems/200507/s1404501.htm> accessed 11/10/2006

A 2004 Global Solutions Limited document presented to the People's Inquiry outlines a five stage management process for Baxter detainees who "have demonstrated unacceptable behaviour or who have demonstrated behaviour that has threatened the security and good order of the facility". The five stages are: placement in the "management unit" and then through four stages of increasing freedoms, including visits, phone calls, "time out" of room and the ability to earn merit points, in Redgum Compound. The document states that detainees who "demonstrate consistent good behaviour [are] rewarded by progression on to further stages of opportunity." Stage one and two of Redgum compound are reviewed after seven days, stage three is reviewed after fourteen days. Room searches are conducted on a daily basis.<sup>103</sup>

One asylum seeker who had been in Baxter told the People's Inquiry that he was put in Redgum compound for throwing plastic cutlery on the ground:

*They took me with the force to Redgum and I have a razor blade with me, hide it in my pocket. This is life. They harm ourselves because they don't listen to us, they don't give us our rights. I hold the razor blade in my hand and I said I want to talk to the boss. Really plenty officers come. They said okay we will talk to you. If you throw the razor blade. I did because they promised me. When I did they took me to management unit. I spent a few days more there and they took me to Redgum again and they said to me you have to stay two months and one day there. I said, Why? Because this is the process of the Redgum. I said I will not finish this punishment. He said it is not punishment. I said this is punishment, this is punishment.*

A psychiatrist told the People's Inquiry that behavioural management strategies used to deal with detainees in psychological distress were amateurish, primarily punitive and "completely inconsistent with mental health management." He explained that in isolation rooms within psychiatric wards people "have to be observed every five minutes and if they have been there for more than an hour, then that generates a 'critical incident'." However, many asylum seekers were kept in management units for months.

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<sup>103</sup> Global Solutions Limited, *Baxter IDF Generic Management Plan – Daily Routines/Behaviour*, reviewed 7/6/2004



National Library of Australia nla.pic-an24382195-v

People placed in Management have their movements monitored 24 hours a day...<sup>104</sup>



National Library of Australia nla.pic-an24382192-v

...even in the shower.<sup>105</sup>

A report by psychiatrist Dr Michael Dudley, the Chair of *Suicide Prevention Australia*, argued that the Australian government's policy of indefinite mandatory detention for onshore asylum seekers contradicted its policies on suicide prevention and "amounts to state-

<sup>104</sup> Photo from *Project SafeCom* <http://www.SafeCom.org.au/cornelia-rau.htm>, accessed 30/10/2006

<sup>105</sup> Photo from *Project SafeCom* <http://SafeCom.org.au/baxter.htm>, accessed 30/10/2006

sponsored trauma and child neglect and/or abuse.”<sup>106</sup> He calculated the men’s and women’s rates of suicidal behaviours in detention centres as 41 and 26 times the national average, and male rates as almost twice the rate of male prisoners. The report concluded that, “Self-harm in detention...is driven by the extremity of detention and the detention environment.”<sup>107</sup>

Figures obtained from DIMA by *The Age* newspaper showed that between July 2002 and June 2005, 900 asylum seekers in detention tried to harm themselves. Immigration Minister Amanda Vanstone questioned the veracity of the statistics saying they included multiple acts by the same person and “very, very minor incidents”.

*I think (some) people who want to stay in Australia will always resort ... to a very unattractive type of protest in order to draw attention to themselves and hopefully to pressure a government to give them the outcome they want. But Australia has a very good record of not giving in to such protests.*<sup>108</sup>

Dr Simon Lockwood, the longest serving medical officer at Woomera, told *Lateline*:

*Because no-one died, DIMIA or the bureaucrats believed that no-one made genuine attempts, but I can tell you being the doctor that was looking after those people and saving their lives, that that wasn't the case. And there was a lot of times there where I thought someone was going to die.*<sup>109</sup>



**“A very unattractive type of protest”.**<sup>110</sup>

<sup>106</sup> Dudley, M. J., Contradictory Australian National Policies on Self-Harm and Suicide, in *Australasian Psychiatry*, Volume 11 October 2003, p. S102

<sup>107</sup> *Ibid*

<sup>108</sup> Topsfield, J., Vanstone plays down self-harm, in *The Age* 20/9/2005

<http://www.theage.com.au/news/immigration/vanstone-plays-down-selfharm/2005/09/19/1126982001952.html>, accessed 9/10/2006

<sup>109</sup> Woomera detention centre doctor speaks out, *Lateline*, 27/10/2004, <http://www.abc.net.au/lateline/content/2004/s1229335.htm>, accessed 25/10/2006

<sup>110</sup> Photo submitted to the People’s Inquiry

A mental health professional told the People's Inquiry that every adult he had seen in detention had been on anti-depressants or anti-psychotic drugs and that he had never seen such universal mental ill-health outside of psychiatric patient populations.

*You could have the Rolls Royce of mental health services in Baxter and I don't think it would make a scrap of difference, because the environment is so toxic that you can't treat anything meaningfully. I think that half a dozen of the most damaged people that I've ever seen are the adults that I've seen in Baxter and Woomera, both parents and single men.*

*The thing is that it is all caused by being in detention. Provided you get them in time, you take these people out of detention and they're not depressed any more. Of course the interpretation of that from DIMA is to say they're putting it on, "Isn't it convenient for them, the thing that was going to cure them from their depression is taking them out of detention." The reason it's going to cure them is because detention is a place that drives people mad and yeah, they want to get out of the place that is driving them mad.*

## **People just lost their patience**

Another theme which emerged from the evidence presented to the People's Inquiry was how detention created a culture of violence and self-harm. The inquiry heard that complaints about treatment and conditions to detention authorities were largely ineffective.

A former Villawood detainee told:

*Immigration during the whole time are not interested. We had monthly meetings where we brought up things like quality of food, quality of the health care and they just ignored it. Ignored it totally. Every month was the same agenda, they did nothing and they made people really uptight and anxious.*

A visitor to Baxter said:

*We for years do our best but nothing bloody well changes. And while we do our best, we watch people get very, very, very sick - trying to kill themselves and wish they were dead. It doesn't matter how many times we say that, it just seems to be water off a duck's back.*

A visitor to Villawood said:

*If I saw the same level of abuse, neglect and distress in the children in the service in which I work, as I have seen in the children in detention, and I failed to make a mandatory notification, under the law of this country I could and probably would be prosecuted and yet I have made mandatory notifications on so many children in detention and they have gone nowhere.*

A mental health professional working with asylum seekers in detention told the People's Inquiry:

*To only report within the system has proven to be, except in a few cases, a complete waste of time.*

With formal mechanisms for complaint ineffective, and indefinite detention taking its toll on people's mental health, asylum seekers turned to the only forms of protest and expression of frustration available to them – demonstrations, hunger strikes, self-harm and property damage.



**A Woomera detainee in razor wire during a 2002 visit by the United Nations. <sup>111</sup>**

A visitor to Baxter told the People's Inquiry:

*If someone wants to go to the dentist, they put requests, they put requests, nothing happens. If they smash a window, they go to Management, a few days later, they're going to the dentist. When I first got involved I used to say, "We'll do it the right way, we'll contact all the right channels." I think the time I really learnt was when they had some people in isolation. They left them for weeks, no phone, newspapers, TV and I knew they were going to hurt themselves. I rang up DIMIA in Canberra, I rang DIMIA Baxter, ACM Canberra, ACM Baxter, HREOC, Amnesty, the Ombudsman, the Minister's Office, the Opposition's Office, telling them all to do something. No-one did anything. Then they cut themselves and a few days later they were out of there and it's just honestly the truth. That is the only thing that actually achieves anything in Baxter.*

One man who spent years in a number of detention centres told the People's Inquiry:

*Why when I ask no one come, when we damage or do something wrong or we want to harm ourselves everyone come. Why? This is their system like that.*

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<sup>111</sup> Photo submitted to the People's Inquiry

The Western Australian Inspector of Custodial Services, Professor Richard Harding, inspected detention centres in 2001. That year he told a meeting of the International Corrections and Prisons Association:

*It is no coincidence that riots occur in a system that lacks accountability. Anyone who knows the simplest thing about prison riots knows also that unacceptable conditions against which there is no recourse....are the precursor to riots. We do not have riots in our detention centres because we have a riotous group of refugees. We have them because we run appalling systems.”<sup>112</sup>*



**Damage to Woomera following a riot, November 2002.**<sup>113</sup>

A man involved in the June 2000 breakout from Woomera, in which hundreds of detainees broke through the detention centre fences, told the People’s Inquiry:

*We started to lose hope completely because we have noticed there is no single individual released from the detention and there was no single visa granted to any applicants. People had all their nerves completely destroyed. People just lost their patience and lost their command and they started to involve in demonstrations protesting the treatment and the process and many of them involved in breaking the fences and the razor wires.*

*I was among those people, and we ran up to the Woomera town. The main purpose is not to go anywhere but to bring the attention of the public that there is people who were locked here and were mistreated by the system. If they were under normal*

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<sup>112</sup> Prison watchdog slams refugee conditions, *CNN*, 30/10/2001, <http://archives.cnn.com/2001/WORLD/asiapcf/auspac/10/30/aust.refugees.disgrace/index.html>, accessed 9/10/2006

<sup>113</sup> Photo submitted to the People’s Inquiry

*treatment, definitely they wouldn't have involved themselves in such needless violence. They suggested some promises that soon we go back to the detention centre the ordinary process will take place and they will start looking to our cases and they will start to release people but unfortunately that soon when we listened to their promises, when we get back again they broke their promises.*

Two months later, ACM nurse Mark Huxtep witnessed a CERT team arriving after detainees had walked around a compound chanting for their freedom. He told ABC radio:

*They were certainly something to behold. They seemed to be everywhere at once. They were dressed in dark blue overalls with like riot gear, and helmets, riot shields, batons, they had covers over their elbows and knees, they were prepared for a full-on conflict. All huge men, and they arrived on the scene, and it was just intimidating to witness it, and I was on their side of the fence.<sup>114</sup>*



**Woomera detention officers in riot gear.<sup>115</sup>**

As two detainees, deemed to be the ringleaders of the protest were removed, the incident escalated. Officers fired tear gas and water cannon at the detainees. Mark Huxtep said a guard told him he was sorry he hadn't had the opportunity to use his baton to hit someone over the head. At 5am the next morning, a CERT team moved in to remove some detainees. Mark Huxtep said:

*I had one lady come and see me subsequent to the riots and talk about the removal of the ringleaders. The CERT team came in the middle of the night, picked up the wrong person from under the bedclothes and dragged them out, swearing, and had them by the back of the pants and the hair, threw them on the dirt, and when they realised it*

<sup>114</sup> ABC Radio National, *Background Briefing*, op. cit.

<sup>115</sup> Photo submitted to the People's Inquiry

*was an elderly lady, told her to, you know what off, and went back inside and got the correct person. And she was terribly distraught, describing how her mother was picked up by the hair and clothes, and thrown outside in the dirt in the middle of the night.*<sup>116</sup>

Fences were later breached and buildings set on fire. When news of the riot was reported, Immigration Minister Philip Ruddock blamed it on detainees whose claim for refugee status had been rejected. He told the ABC:

*We will not succumb to any pressure in relation to people who had no entitlement to be released into the Australian community.*<sup>117</sup>

Another nurse who witnessed the riot told a public meeting in 2002:

*The riot of August 2000 was a horror I never expected to see in my country. Water cannons and guards with body armour, burning buildings, smoke and stones. The day after I watched the shell shocked families come wandering out of the rubble, their children skirting around the debris, the tears...and the guards recriminations started. I watched in disbelief as a loud roar shook the earth and sky and an airforce bomber flew low over the camp, practising manoeuvres, terrifying those war shattered people. I could have been anywhere except Australia.*<sup>118</sup>



Water cannon and CERT teams were part of children's everyday life.<sup>119</sup>

<sup>116</sup> ABC Radio National, *Background Briefing*, op. cit.

<sup>117</sup> Ibid

<sup>118</sup> ChilOut Information Night, 3/6/2002.

[http://www.ChilOut.org/information/first\\_hand\\_account\\_of\\_woomera.html](http://www.ChilOut.org/information/first_hand_account_of_woomera.html), accessed 9/10/2006

<sup>119</sup> Picture from ChilOut website [http://www.ChilOut.org/gallery/childrens\\_art1.html](http://www.ChilOut.org/gallery/childrens_art1.html), accessed 26/10/2006

An asylum seeker told the People's Inquiry about a riot at Port Hedland Detention Centre:

*The riot happened because people were really tired. They were trying to move one of the family and the boy, 16 or 17, did resist and said he didn't want let my father be treated like that. The boy was taken away, they started beating up the boy. People were really unhappy about everything else anyway, so people got really upset and started breaking things and took the hammer on everything and for a couple of hours the officers were not allowed in the compound and there was lot of things were broken, the kitchen was destroyed.*

*A couple of weeks later they brought the police in. We had to run and go back to our room and there was a security guard in front of every room. Everyone has to get out of their room, and then lay down and put their hands on their back for hours before you can do any move. I remember hearing that there was this Palestinian detainee and they had beaten him and there was a lot of abuses that day, so I think that was another turning point for the time in detention. From that time any little thing that happened people get really angry.*

## **Mum was in very bad condition**

A further theme in the evidence presented to the People's Inquiry was the devastating way in which detention affected children. Since the year 2000, more than 2000 children have been kept in detention centres for an average one year and eight months. "One child was locked up for five years and five months before he and his mother were deemed to be refugees (the outcome for 93 per cent of families)." <sup>120</sup>

Both the deterioration in the mental health of their parents and the conditions of detention itself exposed the children held in detention to trauma. A mental health professional told the People's Inquiry:

*You couldn't really design an environment more destructive to child development than immigration detention. The parents are all crippled by their experiences to a point where every case that we are involved in was notified to the local state welfare child protection services and in every case the child protection services found that abuse was proven. Sometimes that was all at the hands of the detention centre, but also often it was at the hands of the parents who we have no reason at all to believe were anything less than competent parents at the time that they arrived in the country, but by virtue of the detention experience they've had they have been so damaged that they are either incapable of caring for their children or were actively damaging them.*

*I guess the other main abuse that the children were subject to was the witnessing of unrelenting violence, not just the spectacular stuff that happened during the riots but people cutting themselves and writing their names in blood and the kinds of comments that their parents were making to them, like you know "I'm dead, do your best to be a good girl and get on with your life," that kind of stuff.*

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<sup>120</sup> Letting the children go, in *The Sydney Morning Herald*, 10/7/2004  
<http://www.smh.com.au/news/Immigration/Letting-the-children-go/2004/07/09/1091065972725.html>, accessed 9/10/2006

A psychiatric assessment of children and families in detention found that all of ten children aged between six and seventeen fulfilled criteria for post-traumatic stress disorder and major depression with suicidal ideation. Eight of ten pre-school children assessed displayed developmental or emotional disturbance. Seventy per cent of the pre-schoolers assessed had spent at least half their life in detention. The study cited the following example:

*In the richer environment in which assessment occurred, 'A' aged three moved busily from one activity to another, eagerly seeking to use toys in a way that suggested he had never before seen a puzzle, or scissors, and that he was uncertain what to do with a picture book. His mother initially smiled and then wept as she watched his pleasure at exploring the toys and the room.*<sup>121</sup>

Another study on the impact of detention on children found that children had witnessed self-harm and suicide attempts, including people cutting themselves, jumping from buildings and attempting to hang themselves. Some had witnessed self harm by their parents or their parents being struck with batons.<sup>122</sup>

Children in Baxter were unable to attend local schools until early 2003. One visitor told the People's Inquiry:

*As I arrived in this visitor's centre, the first person I met was a lady who appeared to be of Middle Eastern ethnic origin, but was as happy as anything. And I thought she was a visitor. It turned out that she actually was an inmate who had been with her family in detention for over four years. And she was happy because she had been advised that she and her two teenage children were about to be released. What particularly impacted on me was that these two children had spent the last four years out of touch with freedom of any kind, except that for the last six months they had been on day release to go to Port Augusta High School where in the morning they were bussed in, and bussed out immediately classes ended. I find it difficult, as an educator, to believe that had been a very considerably normalising experience for them - knowing at the final bell, they were back into the bus to Baxter.*

Another visitor told the People's Inquiry that even on the school bus, asylum seeker children were treated differently.

*This day I rang and the guard was very gruff and he said, "She is in a meeting". I said, "What do you mean, a meeting?" He said, "She's in a meeting with all the other children. Ring back in an hour". Finally she came to the phone, a very distressed little girl. She said, "We had to go to a meeting because on the school bus going into town, you are not allowed to laugh and talk and we were laughing and talking" she said, "and some of the big kids were shaking the fence when we got back to detention". Well, why wouldn't they? They had been out, they had been free and they were shaking the fence.*

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<sup>121</sup> Mares, S. & Jureidini, J. (2004) Psychiatric Assessment of children and families in immigration detention – clinical, administrative and ethical issues, in *Australian and New Zealand Journal of Public Health*, Vol. 28, No. 6, p. 520

<sup>122</sup> Steel, Z. et al. (2004) Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia, in *Australian and New Zealand Journal of Public Health*, Vol. 28, No. 6. p. 532

*And she said with such distress, "It wasn't me, it wasn't the little kids, it was the big kids, but we had to go to the meeting as well". I said, "What did they say to you in the meeting, how did they treat you?" And she was nearly crying and she said, "They were rough, they were so rough". I talked to her for some time, tried to calm her down and as soon as I got off the phone from her, I rang a senior officer in the Department of Immigration. I told him exactly about my conversation because I was so disgusted that a six year old child in my country was being bullied and there was nothing I could do about it.*

The People's Inquiry also heard from a child who was in Woomera for six months:

*There was a school but they teach us English and there were some boys that they know English from before, so when I used to go maybe one week and I started to leave it because there was no interpreter there. During the day I play marbles, just marbles. I hate them now. Sometimes they give us good food like chicken, sometimes they give us very bad food. Like sometimes they gave us meat and we could see the maggots. So the whole restaurant were like throwing the food.*

*One time my little brother went into the toilets and he saw a guy cutting himself with sharp knife. When the strike happens there was a big line and they said nobody goes into the restaurant. If somebody goes there to eat we will kill you, we'll bend his caravan, you know. And did you see the guy in the newspaper? He got up and he threw himself on that - I was standing there. He was bleeding fast.*

*The same day, people start walking around the camp and saying these are our wants for freedom. And all the officers were throwing this gas into their eyes, so me and my family were sitting next to the caravan and this officer was behind us, they just throw two next to our room. My mum had to put us in the room but I don't know what happened, the gas was in the room. We couldn't see nothing, we were coughing, that was the worst. Mum was like, I could see her she was all right. But she was in very bad condition. My dad told her don't come cos he has been in the same camp. But she couldn't live in Iran by herself.*

Although child protection is a state responsibility in Australia, the federal immigration department has responsibility for children within immigration detention centres. This was challenged by social work academics who reported suspected abuse of children in Woomera to South Australia's child protection service in March 2002.<sup>123</sup> They drew on the South Australian government's own policy that "emotional abuse is behaviour towards a child which destroys self-esteem, confidence and a child's sense of worth,"<sup>124</sup> but the South Australian government failed to challenge the Federal Government.

A nurse who worked at Woomera in 2000 told a public meeting in 2002 how children were subject to the same punitive behavioural management strategies as adult detainees:

*Sierra was the punishment block. Maximum security, total intimidation. I personally witnessed a 12 year old spread eagled against a wall, unable to move, under guard while the rest of them laughed. He was a cheeky kid. They called him a little cunt and told him if he didn't watch himself he'd be going on a holiday to Sierra, his response*

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<sup>123</sup> Davies, J.A., Child abuse experts act on Woomera, in *The Age*, 21/3/2002.

<sup>124</sup> Cited in Goddard, C. and Liddell, M. (2002), 'Abuse in the desert', *Community Care*, May, p. 45.

*landed him in maximum security. He was treated for abrasions to his neck from being dragged by the scruff, a complaint was filed but no further action taken by DIMA or ACM.*<sup>125</sup>

A submission to the People's Inquiry from Human Rights advocacy worker at the Brimbank-Melton Community Legal Centre, Charandev Singh, quoted one asylum seeker asking:

*Where is the freedom and what is the difference between the countries we fled and the Australian detention centres? ACM attacked us and we have no right to speak. They put our children in places not suitable for animals and we do not have the right to speak. Some bashed our children as one of them did to my child and I could not speak.*<sup>126</sup>

A visitor told the People's Inquiry about an incident which the UN Human Rights Committee found breached the rights of both a three year old child and his father, who were placed in an isolation cell together:

*They took part in a hunger strike at Villawood because of the way they were being treated. At 2am, a removal team forced their way into the recreation room and took all of the people out, including him and his three year old son. One of the officers tried to legcuff and handcuff the little boy who was screaming, being woken from a sleep by these strange men in riot gear and attacking them. One of the other officers was so moved by the little boy's writhing as they tried to leg-cuff him with these ties that he objected and stopped the officer doing it and said "you can't do this to a kid".*

*They whipped them on to a private aeroplane at Bankstown Airport and flew them over to Port Hedland, the father and the son, in the early morning hours. They arrived at 4pm the following afternoon local WA time, and locked them in an isolation cell and kept them locked up for thirteen days in this isolation cell. They would only let them out once or twice a day for ablution and toilet and the father explained that he had to let the little boy defecate and urinate on a pile of clothing in the corner of the room because there wasn't a toilet provided and the guards wouldn't respond to his pleading to let the little boy go out to the toilet.*

*He would take the clothes out when they were allowed out once or twice a day and wash them and dry them - they would dry very quickly - and then put them back and the little boy would have to use that. On the first day they were there they were not fed or watered from the time they left Sydney until well after they arrived at the Port Hedland centre which was about 15 hours.*

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<sup>125</sup> ChilOut Information Night, 3/6/2002.

[http://www.ChilOut.org/information/first\\_hand\\_account\\_of\\_woomera.html](http://www.ChilOut.org/information/first_hand_account_of_woomera.html), accessed 09/10/2006

<sup>126</sup> Samira, Amal, Layla, Mariam, Amani and Paula Abood: "Seeing Through the Darkness: Testimonials of Refugee Women". A paper presented by Paula Abood to 'Imprison and Detain – Racialised Punishment in Australia Today. University of Technology, Sydney, 24/5/2001. Available at: <http://www.transforming.cultures.uts.edu.au/imprisonforum/speakers/abood.html> (Cited in Singh, C. (2002) "We are human beings, we are not animals" – *The relentless commodification and obliteration of lives within Australia's privatised Immigration Detention Centres*)

An ACM Incident report provided to the People's Inquiry shows that on the April 7 2002, two children, a 12 year old and a 14 year old boy attempted to hang themselves in Woomera. It states:

*Both boys are solid friends and are with each other all the time....at 1640 hours Officers were alerted by other children in November that two children were at the playground equipment and [A] had a green sheet tied around his neck. Officers attended and they observed [A] on top of the monkey bars with a green bed sheet tied to the bars but not around his neck. Detention Officer....spoke with [A] and told him to come down he refused and stated that he was not coming down unless he got a VISA. At this he wrapped the bed sheet around his neck and started to climb down the rail he was grabbed by officers before the sheet became tight.*

*[B] tried to walk away from officers stating that he was going to cut himself with a razor. As Officers spoke with [A] and started to escort him to Medical, [B] climbed up on to the monkey bars and wrapped the sheet around his neck. Officers spoke with [B] and asked him to come down but he refused the bed sheet was wrapped around his neck but was not tied with a knot. Officers had placed themselves around him with a number of other Residents at some point he slipped and Officers grabbed him as he fell. Officers stated that at no time did the sheet become tight around the neck of [B].*



**Children witnessed assaults.** <sup>127</sup>

The 2004 HREOC report on children in detention concluded that children in detention were subject to “cruel, inhumane and degrading treatment”. In response, Immigration Minister Amanda Vanstone declared that releasing the children would send the wrong message to

<sup>127</sup> Picture from ChilOut website [http://www.ChilOut.org/gallery/childrens\\_art1.html](http://www.ChilOut.org/gallery/childrens_art1.html), accessed 26/10/2006

people smugglers.<sup>128</sup> Other politicians also justified the detention of children as a deterrent. A visitor told the People's Inquiry:

*I recently had a lobbying session down in Parliament. We showed them evidence of the mental health implications of this especially for children. We showed them evidence that detention constitutes child abuse and we said "Do you believe that child abuse is justified?" And they said "Of course not, there's absolutely no justification for child abuse, but we have to stop the boats".*

From 1 January 1999 to 26 December 2003, 71 babies were born in detention to mothers who arrived by boat.<sup>129</sup> Dr Chris Goddard, who visited an eight month old born in detention in 2003 wrote:

*As part of my work, I have seen prisons and secure units. I have seen children dying of child abuse, with fractures too many to count. I have seen children torn apart by sexual abuse. I have seen things I had to see, that I will never forget, that I found impossible to understand. This time I have seen something that I should never have seen. I have been to see an eight-month-old girl, small for her age, smiling at her parents, soon to be walking, her every move watched by guards. I have seen an infant behind grey wires and electric fences, in a high-security prison on the edge of Australia's dead heart. I have seen her parents found guilty, without trial, of wanting freedom. I have seen parents so proud of their first-born, but so close to despair. I have seen an infant given a number. I have seen a baby girl kept in a cage.<sup>130</sup>*

## **He felt as though his heart would burst through his mouth**

Another theme which emerged from the evidence presented to the People's Inquiry was the inadequate medical care in detention, which in some cases led to death.

In October 2001, Immigration Minister Philip Ruddock described medical care in detention:

*In terms of the way in which people are detained our approach is humane, people do get a higher level of service and I would say in relation to dental and medical services, the level of service available to detainees would be of a higher order than many people in regional and remote Australia receive.<sup>131</sup>*

But a submission to the People's Inquiry stated:

*Health care costs are a very significant expense to ACM. The potential that health care access and treatment for detainees may be compromised by management in the interest of cost containment is a risk that is heightened by the fact that health staff are*

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<sup>128</sup> Letting the children go, in *The Sydney Morning Herald*, 10/7/2004  
<http://www.smh.com.au/news/Immigration/Letting-the-children-go/2004/07/09/1091065972725.html>, accessed 9/10/2006

<sup>129</sup> HREOC, *A Last Resort*, Chapter 3, section 5.3,  
[http://www.hreoc.gov.au/Human\\_Rights/children\\_detention\\_report/report/chap03.htm](http://www.hreoc.gov.au/Human_Rights/children_detention_report/report/chap03.htm), accessed 2/11/2006

<sup>130</sup> Goddard, C. Baby Ghazal's got a new name: No. 390 in *The Age*, 13/4/2004  
<http://www.theage.com.au/articles/2004/04/12/1081621892083.html>, accessed 1/11/2006

<sup>131</sup> Ruddock denies "disgraceful" condition of detention centres, *ABC new on-line*  
<http://www.abc.net.au/news/regionals/northwa/monthly/regnwa-30oct2001-2.htm>, accessed 13/10/2006

*in the employment of ACM, are subject to strict secrecy agreements with their employer and often work in highly isolated clinical contexts.*<sup>132</sup>

One of those delivering medical care, a former ACM nurse, told the People's Inquiry how medical services at Baxter were inadequate:

*Five days a week a doctor would attend, but the doctors did not go into the compounds. You couldn't have people from one compound at medical with another compound, so they finally decided that each compound would have one day. There were six compounds so it was less than a day a week per compound, and because of this tedious process of driving people around and back before the next lot could come and much opening and closing of gates through central command and only one gate open at a time, the number of people you could actually process at a medical centre diminished to about 8 or 10 in a day.*

*When a person came to the nurses in the compound medical centres you'd say, "Yes, you need to see the doctor", you'd look up the computer, "Your day is Tuesday, well there's not an appointment for another three Tuesdays." These were things like a foreign body in an eye, things that needed to be seen and so even though in theory there were doctors available, in practice there really weren't.*

A visitor to Baxter told the People's Inquiry about the consequences of this for one detainee:

*In May 2003, my friend said "so and so has got a sore back". The next day he said "so and so has got a really bad stomach as well," then the next day this guy couldn't go to the toilet anymore and by the end of it he couldn't actually move and he'd asked for the doctor. He'd been to medical so many times. Finally, on the third night the other guys said "Look, if you don't do something we're going to smash the place up - get him a doctor." So there was a CERT, which is where they get in the riot gear, and then at 4 o'clock the next morning he was taken to Port Augusta Hospital and had an operation to get his appendix removed because it had burst. He had to be transferred to Queen Elizabeth Hospital in Adelaide because he had developed peritonitis, which can kill you.*

One month before Philip Ruddock praised the medical services in detention, a Thai woman, Phuongtong Simplee, had died at Villawood detention centre after being held there for three days. A report to the NSW State Coroner by forensic pathologist Allan Cala was presented to the People's Inquiry. It shows that the woman told detention staff she was a heroin user, and that they believed she could experience withdrawal while detained. She was observed vomiting on many occasions and her weight fell from 38kg to 31kg in the three days. The report states:

*I have concerns that over the three day period from the time of her admission to death no person has made a decision that this woman was too ill to be in a detention centre and needed on-going care in a hospital....There are a number of public hospitals within 30 minutes of the centre....Had this woman been recognised as requiring*

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<sup>132</sup> See Spencer, M., "Doctors unite to slam refugee policy", *The Australian*, 24/1/2002, p.1 and 4 (Cited in Singh, C. (2002) "We are human beings, we are not animals" – *The relentless commodification and obliteration of lives within Australia's privatised Immigration Detention Centres*)

*hospitalisation, and treated with simple measures as outlined, she may well have survived.*

The People's Inquiry also heard from a visitor about the January 2003 death of a young asylum seeker mother of three, Fatima Erfani:

*There was this enormous pressure for them to return to Afghanistan and they would say to me what should we decide. Just that enormous pressure of sending them off to this indefinite period of hell in Nauru or back to a country where they just knew it wasn't safe. Fatima had been diagnosed with high blood pressure, she was being treated for that and she was on medication. She was young. During this period, her blood pressure was getting quite high and then they made the decision to return to Afghanistan. It was just a terrible decision for them to have made and Fatima's whole life kind of collapsed really.*

*Then she started having these really, really bad headaches After two or three days of these blinding headaches, she got taken up to the Christmas Island Hospital and saw a doctor and he just thought she was in some kind of Migraine cycle and she was given Mersyndol. Her blood pressure at one point was 220/120 which is pretty high.*

*The ACM nurse was really, really worried because she could just see that it was getting worse and according to her statement to the coroner, she went back to the hospital and said she's not getting any better and I am really worried. I think about the fifth day, it was about 11 in the morning, she collapsed and didn't regain consciousness, and a plane was brought to Christmas Island to take her to Perth and she was admitted to Sir Charles Gairdner Hospital - by that stage she just had this massive cerebral bleed and she was kind of brain dead basically.*

*I fronted up at Sir Charles Gairdner where her husband was keeping vigil and I wasn't allowed in to see him. He was begging them inside please let my friend in to stand with me, but there were ACM guards at the door. They had to turn the life support off. He had to make this big decision and he wanted me there but there were ACM guards and in the end I was removed from the hospital because I was just coming on in this rage.*

*I rang DIMA in Canberra and they said no, you are not going. They said something like it's the Minister's orders that you are not to go in and visit. Ali Reza said afterwards, he said his pain was so great at that time by his wife's bedside, that he felt as though his heart would burst through his mouth, and he just wanted me with him because I was at that stage his only friend.*

*He went back to Christmas Island and her body was to be returned to Afghanistan with him but the body went. We saw him off at the airport on Christmas Island and the kids and it was just the most tragic thing. This young man with his three children going back to Afghanistan to nothing. And he rang a day later from Dubai saying Fatima's body has just been left on the tarmac in the sun at Dubai airport. And he could see from where he was, the kids, one of them was three and they could see their mother's coffin on the tarmac.*



**Mother of three, Fatima Erfani was in her twenties when she died while in detention.** <sup>133</sup>

An ACM policy document presented to the People's Inquiry shows that detention operators recognise the risk of deaths in detention centres. It states:

*Initial response of an Officer who discovers an apparent death will immediately apply first aid and initiate a CERT-1 – Code 4 and call for immediate medical assistance. Should the detainee be discovered hanging, Centre Operating Procedure 10.18 “Cut Down Procedure” is to be followed. Resuscitation on the dead detainee should commence immediately and continue until relieved by qualified medical personnel or paramedics.* <sup>134</sup>

However Viliami Tanginoa, a Tongan who had lived in Australia for 17 years after overstaying his visa, deliberately dived to his death at the Maribyrnong Detention Centre in December 2000 having spent eight hours perched on top of a basketball hoop in the rain. The People's Inquiry obtained a copy of the Victorian State Coroner Phillip Byrne's Record of Investigation into that death. It states:

*I remain puzzled why virtually no-one appreciated Mr Tanginoa was at imminent risk of some form of self harm....It may be due to a fundamental misjudgment of this gentle, quiet, apparently uncomplicated man....Mr Tanginoa's response to an endeavour to place further mattresses is graphically depicted on the audio visual tape in evidence. He stood up and became quite agitated. Quite frankly, it should have been patently obvious and management should have been alerted that great risk of self harm was by this time, very probable. It should be noted that this was almost two hours before Mr Tanginoa plunged to his death....I do not see any strategic, informed,*

<sup>133</sup> Photo from Project SafeCom <http://www.SafeCom.org.au/fatima.htm>, accessed 30/10/2006

<sup>134</sup> Australasian Correctional Management Pty Limited, Singleton Immigration Reception And Processing Centre, Emergency Management Plan, Emergency Procedure: 5.16, Issue Date: 08.10.01 *Death Of A Detainee*

*cohesive, active structured management plan....In fact what I see is a haphazard, unmethodical, wholly inadequate approach....If one action epitomises the ineptitude of the approach adopted by ACM, it is the action of David Randich, Operations Manager (not an underling), bouncing a basketball in the courtyard in the vicinity of Mr Tanginoa....If expert negotiators had been involved, I am satisfied the tragic event would have been prevented. Whilst the immediate cause of Mr Tanginoa's death was his own action....Another cause was the inaction of centre management.*

## **Something evil is happening in this country**

Visitors to asylum seekers in detention told the People's Inquiry how they had come to be involved in the refugee issue.

*I first became interested in the refugees when we watched the evening news with horror to be told that children were being thrown overboard. Well we all knew that no mother would throw a child overboard. I had been to the Middle East a lot and I know that no Arab woman would throw her child into the water. No mother, Jewish, Arab, Christian, so we knew we were being sold something that was insidious and evil and the horrible part of it is that the public went along with it. There was an election coming up and the public went along. It was quite horrible. Then I went to my local synagogue and our Rabbi said this: Something evil is happening in this country and he said if I were you, I would all get out to Villawood and see what's happening, and he said I am going out, I'm wearing my kippah to let them know who I am but we have to find out what's happening.*

Another visitor said:

*I have to be honest and say that I went to have a look. I guess it's like everybody who's been visiting. You go once and you can't not go again, even though it's so awful and it's so hard and all those kinds of things. I know what we experience is nothing compared to what our friends do - but visiting Baxter has cast a dampness on my whole life. I know I'm not the only person who has experienced that. Peter has never visited and once I started this - Peter asked, "Would you like me to come with you?", and I said, "Actually, no, I need you at home so that when I come home," as I do, "and cry all night, I need somebody who hasn't been there that doesn't - I need support."*

*We've got three, late teens, early 20s, boys, and they're just exactly the same as these guys are. One of my boys got engaged and I was so thrilled, but at the same time I felt almost guilty and sad that these guys that we visit, they should have that experience and they don't. They are supposed to be out there working, meeting people and all those kinds of things that they just don't do. A couple of our young guys in particular, every visit it's, "But there has to be more." I sit and I think, I don't know what else I can do unless I write another letter. What am I going to do? What am I going to do? That's really, really hard.*

Many visitors described meeting asylum seekers face to face as something that changed their lives. They described feelings of shame and grief at the situation of the people held in detention and guilt when enjoying freedoms not available to asylum seekers. Once they met

people, they felt they had to become more involved in advocating for them. They also reported that feeling powerless to help asylum seekers had affected their own mental health.

A submission presented to the People's Inquiry quoted from an activist's diary entry of a meeting through the razor wire at Port Hedland on the 27 January 2002:

*There was a mass of children and women in the courtyard and when they saw us the children ran to the fence and started chanting "Freedom! Freedom! Freedom!" and the women asked us why Australians hated them so much and we started to cry and say "We are so sorry" and they started to cry. People who spoke English approached the fence and started pouring out their stories. They kept saying please tell Australians we are human beings, we are not animals, we are not criminals. We want Freedom... They called us brothers and sisters.*<sup>135</sup>

One visitor said:

*The overriding thing is the shame that this is Australia. There's no way of really expressing how hurt we all feel by this happening and our powerlessness to do anything about it. Once you've been into Baxter you have to keep going. There's that obligation. So it takes over your life. It's like nothing else is more important. That obligation keeps you going beyond your burnout and through it and I think you'd have to say that that equals a mental health problem. I have to say that my mental health has suffered. That's a combination of things - sadness, shame, lack of sleep, anxiety, absolute fear that your friends will be deported and there's nothing you can do.*

Another visitor told the People's Inquiry:

*For varied periods of time, that's at the forefront of the supporters mind, what we are doing in regard to this situation. It's just ongoing. You wake up having dreamt it. I would turn up to work absolutely exhausted, every day. I'm one of the "new wave" of refugee supporters. With a sense of shame, I can say that a few years ago, I knew nothing about refugees. But when you start to come face to face with them, well, that was a different experience. And then it's impossible to just forget about it and move on. Because, you know, these are real human beings who have come from terrible experience, but then to get to my country and being treated just unnecessarily terribly and unjustly. In some ways it's a sense of duty. Absolute duty.*

*It has been exhausting and there's a sense, at times, of despair, just think, well, I'm going to be alright, but these blokes are in trouble. I recently was involved in an interview by a researcher who was looking at refugee supporters and how they've sprung up all over Australia and the sort of things they have experienced. And it wasn't until half way through that interview that I realised maybe I was carrying around an awful, great weight myself, psychologically underneath, because halfway through the interview, I just broke down and cried, and just couldn't stop it. You don't get through this thing and then it's like it's all finished, its over, and everything's hunky-dory. It continues on, so, for me, it's just get your feet in the door and bingo, you're into another world and it stays there.*

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<sup>135</sup> Cited in Singh, C. (2002) "We are human beings, we are not animals" – *The relentless commodification and obliteration of lives within Australia's privatised Immigration Detention Centres*

Visitors also spoke of the way the asylum seeker issue had increased their political awareness:

*Since 2001, I have had to move from believing that the worst excesses were overseas or back in history, not here in Australia and I have had to come to an understanding that Australians are as capable as anyone on earth of bigotry, racism and the ability to ignore injustice. And Australian politicians are just as capable as any politicians of lies, half-truths and blindness to atrocities that are done in their name. I am 63 years old and many of my contemporaries developed their social conscience during the Vietnam War.*

*I guess I have to say that I have left my run a bit late, nevertheless that doesn't detract from my conviction at the moment and I am also really delighted to see the younger people who seem to have that mature understanding and it gives me a good hope for the future. After one of the Baxter convergences in 2003, Mike Rann, the South Australian Premier, complained about the ferals and meatheads which were at the protest. Well, I was one of those and I spoke to young people and I didn't come across any that would go by that description, because where he saw rebel rousers I saw wisdom, maturity and understanding and courage too.*

### **They had the power to change that policy**

Ordinary Australians who had met asylum seekers face to face wrote letters to, rang and visited politicians. However, many visitors described how their representations on behalf of asylum seekers fell on deaf ears.

*We have brought the most shocking damage to these children. There are many people in the Department of Immigration who have to take responsibility for the abuse and neglect - and I use those words very strongly - abuse and neglect of children in detention. But let's be very frank here. It's come right from the top and we all know who is responsible and I do not resile from that and I take it to the very, very top and I will never, ever forgive them for what they have done. There have been children emotionally murdered in our country in detention.*

*In the years that I have been advocating for children in detention, I have rung Philip Ruddock's office, I have rung the Prime Minister's office so many times and I have hit a brick wall. No one wants to know and no one has acted and I think that is absolutely disgraceful. When people like me who were going into detention and were seeing this damage and were notifying them, they had the power to change that policy, to hear people like me.*

*I have worked as an early childhood professional for over thirty years and to not be able to keep children physically and emotionally safe in detention, children I know were suffering, has been the most shocking, brutal thing that's happened in my life and I will never forgive this Government. I will never forgive those in a position of power who refuse to act, who have done nothing. I am sorry - I feel like I need to explode on this issue. It is disgraceful and despicable.*

While Dr Simon Lockwood was providing medical care to detainees in Woomera, a 12 year old boy tried to hang himself and a woman wrote a suicide note in blood. He told the *Lateline* program:

*I saw so many proud and fantastic people just break down to a level that you would find hard to believe, grovelling on the floor in my clinic room and saying, "Please help me get out of here." I found that really difficult to cope with. I'd sometimes go home towards the end there and I'd cry myself.*<sup>136</sup>

But he initially decided not to go public with his concerns about the mental health of detainees, instead spending two hours briefing a meeting of DIMA officials in Canberra. He told *Lateline*:

*And then towards the end of the meeting one of the bureaucrats said to me, in front of everyone there, "That sounds all well and good to us, Simon, but we don't want to make it so nice for them in detention that they won't want to leave." I knew that I'd spoken for two hours probably for nothing.*<sup>137</sup>

In October 2002, the Inspector of Custodial Services for Western Australia, Richard Harding, told Background Briefing:

*So when one went into Curtin, one was greeted by people climbing up trees and doing symbolic hangings of themselves because of their frustration that they could not make themselves heard, they could not get their points about conditions listened to. Now who should have been listening? It should have been DIMA. But they weren't because DIMA and the operators in this gulag situation in the middle of nowhere, were each interested in the same thing: just keeping the whole business under wraps, kind of functioning, but not really interested in improving performance...They are of course very much under the direct political influence in this regard. It's always the government that wants to cover these things up. The governments are the ones who, in the end, always have to take the blame. When private providers don't perform, it's because governments are enabling them not to perform. The Department is not capable of looking after the interests of detainees, children in particular, adults also.*<sup>138</sup>

In March 2006, *The Age* reported that on completion of ACM's contract to run detention centres, DIMA had paid ACM \$5.7 million it was not contractually obliged to pay. The Australian National Audit Office found:

*DIMIA was not able to provide evidence of the criteria it used to make its determination to pay ACM \$5.7 million in contract completion payments. The basis on which DIMIA made these payments was doubtful.*<sup>139</sup>

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<sup>136</sup> Woomera detention centre doctor speaks out, *Lateline*, op. cit.

<sup>137</sup> Ibid

<sup>138</sup> ABC Radio National, *Background Briefing*, op. cit.

<sup>139</sup> Detention Manager gets \$5.7 million payout, in *The Age*, 2/3/2006  
<http://www.theage.com.au/news/National/Detention-manager-gets-57m-payout/2006/03/02/1141191798603.html>, accessed 16/10/2006

A submission to the People's Inquiry stated:

*The detention contract also contains provisions for the splitting of additional cost savings (or profits) between ACM and DIMA.*<sup>140</sup>

A visitor told the People's Inquiry that he notified the Acting Immigration Minister of an incident which he felt had endangered a detainee's life. Not only was his complaint ignored, but he was warned against pursuing it.

*In June of 2001 at the Curtin Detention Centre, people started to self-harm when they were locked in isolation cells and later, a 27 minute ACM or DIMA video of that incident found its way into the hands of the advocacy movement. They subsequently managed to interest the Lateline program in taking that up and it went to air on the 22nd April 2002 in which a very small amount of the total video was used.*

*Many of us were convinced that a man was dying on the floor and he received no medical attention, despite the fact that two nurses were present. You could clearly see them in the video, standing well back from this man who was cyanosed on the floor and his friends were so distressed that one of them attempted rudimentary CPR himself and the nurses just made no attempt to intervene. They just stood there some little distance from the victim with no-one impeding them and you could see it all clearly on the video.*

*The next day in Federal Parliament there were questions on this and the Acting Minister for Immigration, Minister Ellison, made a statement that information had been provided by DIMA and others, that the nurses and medical staff were prevented from rendering appropriate medical assistance to the injured detainees. So I immediately rang the Minister's office as a journalist who had seen the whole video tape. I had watched the whole tape several times. I informed the Minister's office that either the Minister had been grossly misinformed or he was deliberately distorting the truth, because the 27 minute video clearly showed the two nurses standing well back and making no attempt whatever to render medical assistance.*

*The only response I got was an immediate telephone call from Canberra, asking me what my home address was. They said we will courier the Minister's response as he has an urgent letter for you but it's got to be private and not sent on email. When I received that message, it was a warning, a caution, that if I was in possession of unlawfully obtained Commonwealth material I would be subject to the Crimes Act and it would be in my best interest to hand it over immediately. I didn't have the material and didn't do anything about it and nothing came as a consequence. But it was clearly a stop writ in a way, I believe he was warning me that I might be prosecuted unless I shut up about the story and there it was.*

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<sup>140</sup> See Cl. 3.2 "Sharing of Cost Savings" in the Detention Services Contract between the Commonwealth of Australia and Australasian Correctional Services Pty Ltd, 27 February 1998. Also see Macken, J., Companies that rule the refugees, *The Financial Review*, 15/12/2001 (Cited in Singh, C. (2002) "We are human beings, we are not animals" – *The relentless commodification and obliteration of lives within Australia's privatised Immigration Detention Centres*)

## Conclusion

One Iraqi asylum seekers remains detained on Nauru at the time of writing. He was on the “children overboard” boat that arrived in 2001. Another Iraqi asylum seeker is due to return to Nauru but is presently hospitalised in Brisbane for mental health problems. Seven Burmese asylum seekers were sent to Nauru in September 2006.<sup>141</sup>

Forty five of the people from baby Ashmorey’s boat remain in Lombok, and more than 250 other asylum seekers are in various locations in Indonesia having been returned by the Australian Navy or unwilling to risk the journey after the sinking of the SIEV X.<sup>142</sup> These asylum seekers cannot work and their children cannot attend schools. In February 2006, one of the men on Lombok stated:

*We lost our hope, our family, friends, relatives and our own life. We request Australian Immigration to be responsible for the Lombok refugees who were returned from Australian water, and to treat us in the same way as the Nauru refugees, that have been interviewed by Australian Immigration. We are Australia’s responsibility. We came to Australia and asked for asylum and Australia knows this because it pays International Organisation for Migration to provide us with food and shelter.<sup>143</sup> Many asylum seekers in Lombok are on the threshold of erosion physically and psychologically because of disappointments and endless obscurity in our life. We do not know how long we will remain here and this causes tension in every individual’s mind. We hope that humanitarian communities pay attention to our problems and do not let us to be kept in isolation and be forgotten.<sup>144</sup>*

Many of those who have been released after spending years in detention centres still have no certainty about their future. Some have been released on Removal Pending Bridging Visas that require the person to present themselves for removal from Australia at any time. Others are on Bridging Visa E, which renders them dependent on charity since it prohibits them from working, studying or accessing Centrelink payments.

The Australian Defence Force program *Operation Relax II* is currently underway, mandatory detention still exists and although some centres are no longer operating, they have been “mothballed” for use if needed in the future. People assessed by Australian authorities as having a well founded fear of persecution still live with uncertainty when they are granted three year Temporary Protection Visas instead of permanent residence. For those who have left families behind, this visa means they are unable to sponsor them to come here, or to leave and re-enter Australia, so they cannot even visit them in a third country.

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<sup>141</sup> Jackson, A., Burmese asylum seekers sent to Nauru, in *The Age*, 19/9/2006, <http://www.theage.com.au/news/national/burmese-asylum-seekers-sent-to-nauru/2006/09/18/1158431645273.html>, accessed 5/11/2006

<sup>142</sup> Zable, A. Scorning those in need, in *The Age*, 27/6/2006, <http://www.theage.com.au/news/opinion/scorning-those-in-need/2006/06/26/1151174130006.html?page=fullpage#contentSwap1>, accessed 27/10/2006

<sup>143</sup> The Australian government pays about \$3 million a year to the International Organisation for Migration and the UNHCR for the upkeep of people in Lombok.

<sup>144</sup> Rose, A. op. cit.

At a time when “Australian values” are being publicly debated, the evidence presented to the People’s Inquiry stands as a condemnation of those Australians who constructed and implemented policies which damaged and, in some cases destroyed, the men, women and children who fled brutal regimes and asked for our help. It condemns those who, in the face of overwhelming evidence of the destruction such policies were causing, not only failed to change them, but continued to defend them. It stands as a vindication of the thousands of ordinary Australians, activists, community and religious leaders and the few brave politicians who dedicated themselves to fighting these injustices. But above all, the evidence presented to the People’s Inquiry demonstrates the extraordinary resilience and courage of those who survived their treatment at the hands of the Australian government.

# Appendices

## 1. People's Inquiry into Detention Terms of Reference

This is an open Inquiry into the practices and procedures related to the observance of the human rights of those detained in immigration detention facilities whatever their ethnic background. It is a transparent process in which people can tell their stories and give evidence of their experiences of detention. In particular we will investigate and assess:

- The question of the accountability of immigration detention policy and practices to Government and community;
- The impact of detention on the wellbeing and mental health of detainees;
- The adequacy of and accountability of services provided for detainees;
- Issues relating to privatisation of the operations of detention;
- The question of whether duties of care have been breached and the process of redress and potential civil liability of those involved;
- The behavioural management policies, procedures and techniques used with detainees;
- Deportation methods and outcomes;
- Decision making practices of DIMIA and private detention operators in relation to detainees;
- The financial costs of detention;
- The efficacy of alternative models of processing asylum seekers; and
- Any other matters at the discretion of the convenor.

## 2. The People's Inquiry at a glance

- Convenors: Professor Linda Briskman and Professor Chris Goddard
- President: The Hon Marcus Einfeld AO QC
- Transcribing coordinator: Lyn Mitchell
- Legal advisers: Nicholas Pullen and Sarah Talbot of Holding Redlich
- Media adviser: Madeleine Byrne
- Ethics adviser: Professor Richard Hugman
- Mental Health adviser: Professor Robert Bland

and many volunteers throughout Australia.

### **Hearings in:**

- Melbourne
- Sydney
- Canberra
- Perth
- Launceston
- Swan Hill
- Griffith
- Port Augusta
- Shepparton
- Adelaide (forthcoming)

### **Convened by:**

- RMIT University
- University of New South Wales
- Australian Catholic University
- Curtin University and Edmund Rice Centre
- University of Tasmania
- The Uniting Church Community Issues Group
- Charles Sturt University
- Rural Australians for Refugees (RAR)
- RAR and Cutting Edge Youth Services
- Flinders University

### **Evidence (174 oral testimonies) from:**

- 74 former detainees
- 75 supporters
- 20 professionals
- 5 former detention and immigration staff

**Panel members who heard evidence:**

Ms Kandie Allen-Kelly

Professor Margaret Alston

Ms Heather Barton

Professor Peter Bayne

Professor Robert Bland

A/Professor Natalie Bolzan

Professor Linda Briskman

Ms Lydia Brown

Professor Peter Camilleri

Ms Stephanie Cauchi

A/Professor Mike Clare

A/Professor Fran Crawford

The Hon Marcus Einfeld AO QC

Ms Sophie Ellis

Professor Barbara Fawcett

Dr Angela Fielding

Ms Catherine Forsayath

Professor Chris Goddard

Professor Richard Hugman

Professor Jim Ife

Dr Sabina Leitman

Professor William Maley

Ms Jennifer McKinnon

Professor Gavin Moonie

Professor Carolyn Noble

Dr Lynelle Osborne

Dr Diane Sisely

Mr Maurice Todd

Professor John Warhurst

Professor Ailsa Watkinson

Professor Jerzy Zubrzycki

Dr Joanna Zubrzycki

**Written submissions:**

200 received

**Funding received includes:**

Australian Association of Social Workers

Australian Council of Heads of Schools of Social Work

Avant Card

Becher Foundation

Canberra Southern Cross Club

Centacare, Adelaide

Mackillop Family Services

RMIT Refugee and Asylum Seeker Project

Rural Australians for Refugees (Great Lakes)

Search Foundation

Student fund-raisers, Melbourne and Wagga Wagga

In-kind and financial support was also provided by a wide range of organisations for venues and catering. Spark and Cannon made available their Melbourne facilities for volunteer transcribers.

For additional information on the People's Inquiry into Detention, please refer to our website at <http://www.peoplesinquiry.org.au>

### 3. Volunteers with the People's Inquiry

When the People's Inquiry into Detention was announced, many people volunteered to assist. Below are some of the reasons volunteers wanted to help.

**Fiona Redding:** *Over the last few years, I had found myself becoming increasingly disturbed by the attitude of the Government towards asylum seekers and refugees, and the promotion of concepts like "being un-Australian", without actually first determining what it is to be "Australian". The Tampa, the ensuing promotion of a "fear of invasion", mandatory detention and the almost complete lack of any public debate really concerned me. When it was eventually found that an Australian resident and an Australian citizen were detained and deported, it seemed that finally the situation was going to be appropriately addressed.*

*When it soon became apparent that this was not the case, and I heard about the People's Inquiry into Detention, I felt that this was an excellent outlet to focus my concerns, and maybe get the information to a wider audience. Additionally, I felt that I had some useful skills that I could bring to the Inquiry, and as it transpired, this was the case. I also got to work with some amazing people, who I never would have met otherwise, and I got to speak with people first-hand about their experiences; as asylum seekers, as detainees, as temporary protection visa holders and as people trying to make a new life in a new country.*

*The PID is filling a huge gap in the wider detention issue, as it is enabling the stories of everyone involved with the system, not just those Australians 'accidentally' detained or deported, to be heard and placed on the public record. While this, clearly, is not a discussion that Australians are willing to have now, at some point in the future the outcomes of the PID will mean that the people involved with the system and their experiences will be appropriately remembered and reflected upon.*

**Lyn Mitchell:** *It must have started with the Tampa, but then later being told the people threw their children overboard – I felt that either they must have been so desperate or something else was wrong. Then watching Alexander Downer being asked if this was true or whether the photograph was taken after the boat sank and his sheepish giggly reply made me very suspicious. I decided I needed find out more about what was going on. So I went to a forum held in Collins Street chaired by Carmen Lawrence with other speakers such as Louise Newman and Marie Tehan. The speeches made me realise what was going on and how distressed I felt about it. I also went to another talk by Julian Burnside which made me so upset that this was going on in my country.*

*Then I was given an email address on a piece of paper and told that a group were putting together a report on asylum seekers and needed someone to do transcripts. I took that piece of paper home and within two days knew I must make contact even though I was sure they would have so many typists it wouldn't be necessary for me to go onboard. How wrong I was! So I was able to commence on the work and got more and more familiar with what was really happening and just how terrible the situation was. Sometimes I sat at the computer for so long I nearly fell over when I got up. It was as though I was listening to something that was happening right at that moment and I couldn't get up and leave it. It was emotional and a big learning curve for me.*

*I used to wonder why the German people didn't do or say anything if they knew what was happening in their country during Nazi rule. How could they allow that to happen and not feel ashamed even when it was a previous generation? I no longer ask that question. I feel so ashamed of what is happening in my country and what is still going on. And yet my voice goes unheard so one way of helping is to type up these horrendous stories. I am often distressed with what I am reading and then get so angry that our leaders can be so cold and heartless. They do not seem to realise that asylum seekers are human beings with feelings and emotions and treat them in a way that is far worse than that of criminals. Certainly no one would ever think of treating animals in that way. What is happening in this country and why are people so uncaring? I don't understand that at all.*

**Sophie Ellis:** *It was recently, while I was trawling through DIMIA media releases, that I realised with intensity what the People's Inquiry was all about. I had stumbled across a plethora of articles on Griffith including: "Operation nets 22 near Griffith" and "nine illegals located in Griffith." The headlines didn't surprise me; I've grown accustomed to them as they pop up everyday in our media. It was their content that took me aback. For the first time, the "two south Koreans" transferred to Villawood and deported meant something to me. I was familiar with their story and their circumstances. I felt I knew them, and the human tragedy of it all suddenly replicated before me, in the lives of all the other unknown, faceless people who have shared the barbaric experience of detention as well. The public hearings in Griffith, like those that have been conducted all over Australia, bring these stories into the open. They allow brandings such as 'illegals,' 'detainees,' 'South Koreans,' 'Indians,' and numbers, to dissolve, and for the stories of people to be heard and told. Stories that I have been both shocked and deeply humbled by.*

**Lydia Brown:** *I first heard about the People's Inquiry into Immigration Detention about eighteen months ago. At that time I understood asylum seeker policy in terms of news flashes. Images of barbed wire, hunger strikes and suited, fierce looking politicians glaring through my TV screen shouting 'children overboard!'*

*Eighteen months ago, in my mind, asylum seeker policy was a confusing, impersonal, political haze. It felt detached from the safe, giving community I was used to and I felt there was nothing I could do. Then I heard about the people's inquiry. People from across the nation were being invited to tell their own personal story relating to Australia's Immigration Detention Policy. Those on temporary protection, people who have experienced detention, asylum seeker advocates, healthcare professionals, friends, employers, public servants and interested citizens were all invited to speak about what they knew.*

*No twisted political message, few impersonal facts, just simple human stories. At the Canberra hearings earlier this year I think everyone who attended experienced a sharp mix of feelings. People who had experienced detention spoke of the fear, frustration, uncertainty, abuse connected to their time in detention. Breakdowns, deaths, and deceit, at times the reality painted seemed like some twisted, stylised, sadist novel.*

*Others spoke of small things. Someone was not allowed to give their homemade banana cake to a detained friend on their birthday. Many spoke about their life post detention. Family reunion, work, recognition. Piecing together a strong new life. Documenting the human stories of detention and temporary protection helps people overcome that confused, impersonal, news-flash haze that used to veil immigration policy in my mind. It helps people understand in human terms.*

**Ailsa Watkinson** (University of Regina, Canada): *With my involvement I felt like a lobster plunged into the boiling water (as opposed to being in it from the beginning until the full boil). I did feel like I was submerged into a fast boil. I was truly shocked. I had no idea this was going on. We have not heard about it. Even now when I do talk about it in my classes - no one has ever heard about the way Australia's government treats those seeking asylum.*

*When I was on the panel in Perth my reaction and feelings were similar to the feelings I felt when listening to the stories of sexual abuse survivors. I did a study into the needs of survivors a number of years ago. It was not my intention to hear their stories but I was told some of them anyway. It left me raw and I experienced the same feelings I had then - the same feeling of dread (I didn't want to know what they were about to tell me), distress and despair.*

*I have checked my diary on those days and made such notes as "I was struck by many things - it's such a devastating time. But in particular I was struck by the fear of the people we heard from. When describing their journey to what they thought was safety they said 'I was scared' over and over. They said the same thing when describing their treatment once here". "We heard from many volunteers/agency workers who it seems to me are also traumatized by this. They are 'unsung heroes'. Every detainee we spoke to is mentally damaged as well. It's draining".*

*I was particularly outraged to hear how people could be dragged back into the detention centres for working. It is so ludicrous! They have no means to support themselves. But they do have the wherewithal to find work and rather than consider it an accomplishment or something to celebrate they are punished for it! The costs, both monetary and mental, surrounding the mental health of all the people detained also had me fixated. It is beyond cruel to do what the Australian government is doing to those already traumatized by having to leave their country and family. It's torture. And the effects will rest with the asylum seekers and the Australian people. What is to be gained? I wondered about the possibility of suing the government for the deterioration of mental health. I was happy to see it succeed for young Shayan. But he will never be the same and neither will his family and all the others who worked with him.*