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Chairman

Michael Danby MP

Joint Standing Committee on Migration

Parliament House

CANBERRA ACT 2600

Committee Chairman and Members

Romero Centre clients, staff, volunteers and wide network of supporters are pleased to have this opportunity to put on the public record their experience of, and recommendations about, immigration detention. We have played a part in the unhappy history of asylum seekers who were refugees yet treated like criminals and discriminated against. The history needs not only to be told, but to be heard by those in authority, lest we fail to remove the legal framework which enabled injustice and Government condoned human rights abuses to happen.

It is self evident from the views we express, that we value equally the lives of all people and we are ashamed of what was done to innocent men women and children who came seeking protection. The inhumane and immoral system which we describe only in part in our submission must be abolished and where possible, amends made to those who were damaged by it. It is our experience that the detention of asylum seekers divided Australian families, communities and the nation, and sullied our international reputation. This too needs repairing.

National reconciliation needs to happen with the help of community education. It is crucial, we think, that all who were detained, who were deported, who were “encouraged” to return as well as those who were finally granted permanent residence and are now Australian citizens, have a safe place in the history of the Australian nation to make known their suffering and mistreatment. We owe them a hearing, acknowledgement and an apology.

As part of facing the awful facts of what happened, we also encourage Australians who were employed to implement the harsh detention law and regulations to give their accounts. We think that Defence force personnel were misused in Operation Relex. We know some employees were vicariously traumatised by their involvement in, and witness of, incidents and bad treatment of asylum seekers.

Other witnesses to the human tragedy on Manus Island and on Nauru should also speak up – Australian public servants, AFP officers, IOM officials, Chubb security employees, Eures employees and the Nauruans themselves. We pay tribute to the courageous whistleblowers, pro bono lawyers and thousands of ordinary Australians who got involved in the grassroots campaign to “free the refugees” from Australian hell holes.

We hope that the submissions you receive will persuade you of the continuing need for a Royal Commission into the detention of asylum seekers. Only a Royal Commission will adequately protect all who must tell the stories of their lives and who are still unable, and too

fearful, to make their personal submissions to your inquiry. We thank all who have spoken up, and made the significant effort to write submissions, particularly former detainees and their advocates and friends. We understand something about the effort required.

Detention in Immigration Detention Centres is the main facet of Australian immigration detention policy, and we consider ourselves very fortunate that there was no detention centres in Queensland. We are in awe of the exceptional Australians who so faithfully ministered to detainees with their visits and phone calls. Their personal friendship and care, their tenacious advocacy was a precious link to a more normal world. In peace time we have never seen such a significant volunteer effort. We hope that story will be told one day.

The ***commercial outsourcing of detention of asylum seekers to a foreign country***, the so called Pacific Solution, was no solution at all and encapsulated some of the worst features of immigration detention. It also compromised the Government and people of Nauru and Papua New Guinea, both financially stressed Pacific neighbours, who were leant on by our Government. We refer you to our submission to the Senate Legal and Constitutional Committee, 22 May 2006, for our take on what happened and why it should not ever be allowed to be done again.

Call it ***administrative detention*** or a reception or processing centre or what ever you like, being held against your will on the isolated small island of Nauru for two to six years was imprisonment and abandonment. It was infuriating to be told by politicians and officials that what happened on Nauru was not detention. Deliberately outside the reach of Australian law and the Human Rights Commission and public support, detention on Nauru was a unique extra level of persecution of innocent people by our Government. Here children were born and held in atrocious conditions for nearly five years.

That a Government of Australia could do that to little children was a real turning point for many who believed in protecting the weak, the persecuted and the outcasts. Social justice issues drew thousands of conservative Australians from across the national spectrum into challenging the power of the state because the State was oppressing and persecuting innocent asylum seekers. Detention is a major moral issue which engaged many notional and practising Christians and has poignant echoes for those in the Jewish community. The morality of what was done must be confronted.

Detention of the mind is how we describe the ***life in limbo*** which commenced with the release of men women and children from detention centres. More than two thousand refugees were bussed or flown from isolated centres to Brisbane, registered with Medicare and Centrelink, accommodated for one night and left to their own devices. Our volunteers responded to this “challenge” of damaged, mainly illiterate, Afghans, Iraqis and some Iranians, most without English, without friends or a community in Brisbane .

Life after detention centre and on a ***Temporary Protection Visa for three to seven years in the general community*** is psychological and mental detention. The very welcome abolition of the Temporary Protection Visa for refugees by the Rudd Government is recognition of the duplicity and the damage it causes. Persecuted yes, but only protected for three years. Helping and befriending refugees “dumped” in Brisbane was our major exposure to how immigration detention affected people, and this is what we want to tell in some detail.

Some Nauru refugees who left home in 2001 are still waiting for permanency, and for eligibility to commence family reunion applications. Reunion with loved ones may well take another year or more unless they are fast tracked and national security checks take less than the 9 to 12 months being experienced at present. We ask, why the delay. Our work at the Romero Centre, making amends and compensating for Howard Government decreed discrimination against refugees whose visas are temporary, is unfinished.

Detention in a hospital environment was a softer form of immigration imprisonment, but still detention, some times under guard. The reason for the transfer to the *Toowong Private Hospital in Brisbane* of some 20 long term detainees was usually mental breakdown, self harm, and suicide ideation. The fact that asylum seekers required transfer interstate from a detention centre to residential psychiatric care in a specialist hospital speaks for itself. Detention makes people mentally ill. Medical experts should testify about the success rate of their treatment of detainees.

We note with concern that your Committee's terms of references focus mainly on the hows of detention. After what has happened, the Committee must also question why we choose to detain asylum seekers at all. The fundamental questions are when and how is detention the best way to deal with people who breach migration regulations, and what range of measures are appropriate in a civil society.

We recommend that immigration detention policy be mindful of the principle clearly enunciated by Mick Palmer in his July 2005 report on the wrongful immigration detention of an Australian resident, Cornelia Rau, who was subsequently awarded financial compensation:

“ Protection of individual liberty is at the heart of Australian democracy. When there exist powers that have the capacity to interfere with individual liberty, they should be accompanied by checks and balances sufficient to engender public confidence that those powers are being exercised with integrity.”

It is clear from our submission that we have no confidence that the powers to deprive innocent people of their liberty were exercised with integrity. On the contrary human dignity was not respected, processing was not timely and failed in large measure to take into account refugee suffering and humanitarian concerns. In fact, detention compounded their persecution. We know that alternative models to the Australian detention model have been advocated to the previous Government in 2002 by The Justice for Asylum Seekers network and recommend they be part of your considerations.

We encourage the Committee to sit in Brisbane so that some of us can make personal presentations to demonstrate that the reception and processing of asylum seekers must radically change and that for asylum seekers, detention as we have known it must be abandoned as a concept and administrative process.

Yours sincerely,

Frederika Steen
Information Officer

for staff, volunteers and supporters

31 July 2007
(extension requested and granted)

ROMERO CENTRE SUBMISSION

1 FOR ASYLUM SEEKERS DETENTION IS INAPPROPRIATE

This is the major thrust of our submission.

We see *no reason to detain per se*, in the manner in which this has happened from 1992 onwards, men women and children seeking asylum in Australia. Arrangements to accommodate the arrivals, make health checks, and register their asylum claims can be done for the vast majority of asylum seekers without prison-like conditions, razor wire and security guards in prison like circumstances and in intentionally isolated locations.

We think there is a good reason for this Government to abandon the term “detention” and to *find an alternative term* to describe the reception and administrative processes required when a person crosses our borders to claim asylum and seek Australia’s protection. It should capture our willing compliance with international obligations.

We note that detention did not and does not apply to those who seek asylum after arriving in Australia with passport and valid visa. The different and punitive treatment meted out to those who arrived by boat, without papers, and seeking asylum gives us a two tier system of asylum seeking. It is significantly more punitive for those who arrive by boat. *We recommend humane consistency.*

We see good reason to *remove responsibility for the processing of asylum claims from the Department of Immigration* into a more independent arm of government which does not confuse asylum with immigration, registration and reception with immigration compliance and deportation.

Our reasons are simple.

International conventions, law and protocols to which Australia is a signatory are the legal and administrative framework for asylum seeker and refugee issues. They govern the assessment and adjudication of claims for protection. In our view they must be incorporated into domestic law.

The arrival of asylum seekers across our borders necessarily involves the Departments of Immigration and Foreign Affairs, the Attorney General’s Department and the Human Rights and Equal Opportunities Commission. Additional security implications now also engage the Department of Defence. We understand that an inter departmental **Determination of Refugee Status Committee** used to operate in Immigration to consider group arrivals and individual cases with a whole of government perspective. Now Immigration Officers seem make those life affecting decisions. *We see the need for a strong international legal perspective.*

Today’s Department of Immigration and Citizenship is the Government’s manager of visa control, as well as the selection and settlement of immigrants, and resettlement -

for humanitarian reasons- of selected refugees. Our experience suggests that immigration officers work within a departmental culture of selection for permanent settlement and nation building and may be conditioned by the very fact that most applicants for migration do not meet selection criteria including health, age, education and qualifications etc, and are therefore refused.

We suggest that this *culture of selection and refusal*, where the majority of applications fail, was inappropriately carried over into the assessment of asylum claims by many immigration officers, and thereby contributed to initial rejection and long term detention. Some decision makers appeared to be influenced by a compliance and policing culture in the Department of Immigration perceived to be riddled with negative stereotypes and assumptions, often with no understanding of the language and culture of applicants seeking protection, unskilled in the use of interpreters.

Because of what we have seen and heard about the processing by Immigration Officers, we think the *professional adjudication of asylum claims must be independent and totally segregated from any consideration of the details of their ultimate resettlement*. Migration selection criteria including “settlement potential” must not, knowingly or unknowingly, ever be applied to asylum seekers. We think this is more likely to happen *outside the Immigration portfolio, and by officers with a high level of skill and understanding of international law*.

Given the overwhelming authenticity of the refugee claims of “boat people” who arrived from 1999 – 2007, the *benefit of the doubt about claims must always fall in the direction of the asylum seeker, not against them*. A refusal or detention mindset in decision makers can do a great injustice to persecuted people seeking sanctuary.

We submit that asylum seekers are a very different category of people from overstayed students and visitors, or tourists or students working in breach of visa conditions, or persons deliberately and illegally circumventing visa requirements, or persons who have served their time in prison for crimes committed and are to be deported to the country of their citizenship. *Imprisonment of asylum seekers is not appropriate*

Our experience is that people with a well founded fear of persecution and who cannot go home are the most compliant of individuals. The gift they want for their families from our Government is the security of protection and permanent residence. A safe life.

Detention per se

For the man in the street, *detention* has intrinsic connotations of being disciplined, punished and kept in custody, indeed of being held against their will because they have done something bad. Detention of offenders is for the protection of all, for community safety and well being, for the good of society, we are taught.

What we saw on our TV screens dramatic apprehension at sea and the compulsory detention of the latest wave of “boatpeople” from 1999-2007 contributed greatly to a commonly held view that these men women and children were law breakers, criminals and “bad people”. Reports and commentaries implied they were illegal and law breakers. This negative perception was not corrected by Government. *It allowed a misrepresentation of asylum seekers to go uncorrected, unchallenged*.

It was Government Ministers who made the false and improper links between “boat people” , “illegals” and “terrorists” in a post September 11 era, a world of heightened fear of Muslims and specifically of Muslim terrorism . This was at a time when most Australians had no knowledge or understanding of Islam, of Muslims, of Hazara Afghans, or Shia Iraqis. A public attitude was fostered by Government that Muslim foreigners were to be feared and kept out of Australia. Asylum seekers were wrongly branded as criminal because they paid organised crime people smugglers for their escape trip.

The Minister’s words and views undoubtedly influenced some immigration decision makers, especially those who believed they had to serve the Minister as their first priority. Yet our Parliament was told in August 2002 that of the 5 986 persons who arrived by boat, not one was found to be a security risk. Government never corrected the public negative labelling. That was deceitful and wrong. Australians were not told that these asylum seekers were lawful, law abiding “good people” who had fled religious and political persecution and extremism and were deserving of our compassion and help.

2 IMMIGRATION DETENTION- INHUMANE, DEVASTATING AND CRUEL

The world knows what drives refugees to flee their homeland. We think *more can and should be done to protect them closer to home*. Those who arrived on Australian shores, after an exceedingly dangerous sea journey in unseaworthy, overloaded boats, were traumatised by the experience. They were in a state of shock and grief and met by a considerable level of hostility. Even a senior public servant told them to go home, Australians do not want you here. Security guards swore at them and treated them as if they were criminals.

Anecdotal information from refugees suggests that a thousand men women and children in that dangerous last crossing from Indonesia. Those who made it were distressed at finding others had not arrived. Had they arrived, they’d be Australians today. We suspect that Government records contain information about boats known and observed to have departed Indonesia, and boats known and believed lost at sea. We know Government has the passenger lists and names of many who were missing, believed drowned, and never laid to rest. *Government records should be made available to researchers so history will be based on facts not cover-ups.*

Asylum seekers who survived the boat journey were detained and held behind the razor wire fences in Port Hedland, Curtin, Woomera and later in Baxter. It shocked them. Immigration detention translated into denial of their personal liberty and delay to achieving the very freedom they sought. Many said they felt imprisoned, caged like animals.

“ Why you keep me in a cage? We are not animals! ”

a twelve year old boy screamed at us, a child survivor of multiple suicide attempts. He begged us to get his friends out of detention. Birds, peace doves , featured in the

gut wrenching poems, letters, stories and art works, with freedom of flight an important symbol. Detention staff collected and even commissioned sketches and paintings from talented artists expressing their anguish. To scale models of the Tampa and Palapa were crafted and sold by refugees on Nauru.

Refugees they were, from the time they fled their persecution, a status confirmed by later assessment of their claims. Yet our Government held them in appalling physical and social conditions in the initial years of this wave of boat arrivals. They told us they felt betrayed and defiled by the abuse and bad treatment by some people in authority. From a position of powerlessness, making a complaint was hardly an option for most. No solace at all can be found in the absence of formal complaints. Answering back, giving cheek, challenging an instruction could all be punished by *solitary confinement, euphemistically called "management"*. *It was a travesty of justice and decency.*

The detention regime controlled by "Canberra" permitted solitary confinement for trivial and minor offences as determined by those with the power, with no recourse or challenge and apparently little supervision. The brutality of windowless rooms, 24 hour surveillance with no privacy, unreliable 30 minute outings per day, no external communication, and timeless disorientation is nothing less than torture. It is hard to comprehend that it happened in Australia. Victims who were brutalised and tortured must be heard and receive justice. To this day most have not forgotten the names of the perpetrators or the instances of punishment which were torture. *We say there is no place in a civilised country for the practice of torture.*

Untold and cumulative grief marks the days, weeks, months and years of separation from family, from freedom and from some sort of normality. Not knowing, not being able to find out if family was safe and not being able to tell those left behind that they had not drowned on the journey to Australia was an unbelievable burden of grief. We know that the nightmares recur, again and again, with screams disturbing family and neighbours and creating marriage breakdowns and changes of address. Tormented men sleep in their cars.

The detention regime described to us was of a poorly run prison. Many staff were former prison officers attracted by lucrative contracts and not trained at all to manage non criminal detainees or asylum seekers or foreigners, Muslims from diverse backgrounds and with unfamiliar languages. Some were blatant racists. Some were sadists. Thank goodness some were civil and kind. Working conditions for employees seemed to contribute to high staff turn over. It was a *toxic, stressful environment* for them also. It was said that it was the more greedy and abusive among them who extended their contracts and caused the most grief.

Outsourcing detention management from the Australian Protective Services, an arm of Government, to "for profit" organisations was an ideological decision of which the consequences were not understood. Adequate and specific contract specifications about the level and nature of services which would protect the human rights of asylum seekers apparently were missing. So were precise specifications for the adequate and appropriate recruitment, training and supervision of staff. Effective monitoring and evaluation by Immigration was not realised. Immigration detention run by

international commercial operators in remote Australia and set up in haste as boat arrivals increased, was a disaster in the making. *Outsourcing must be reviewed.*

Cruelty and in humanity shown by some ACM and GSL to the sick and the weak is a subject of many conversations. Were Australians really like this? Adults complained that they were not permitted to take food even to sick children in their rooms; a bed in an air conditioned donga could not be given up to the man in a tent suffering fever: an aspirin or Panadol was the panacea for all ills, even a detached retina or a broken arm. Dignity and kindness were so often missing.

There were some humane guards and officers, but the culture and the system was not. Some men still use the detention centre number by which they were officially identified in detention as their pin number. It reminds us uncomfortably of the concentration camp number Jewish concentration camp prisoners had tattooed on their arm. What happened to asylum seekers was fact *systemic denigration and depersonalisation of human beings* whose parents had given them a name, which the system replaced with a number. Apparently the “foreign” names were too hard to pronounce and remember.

The appalling living conditions and social environment for women and children and Unaccompanied Minors is well documented in the *HROEC report*, to which *we gave detailed evidence of neglect, abuse and suffering*. The idea that children and adults could effectively learn and continue normal education in such a situation is unreal. Some men who had experienced both said prison was preferable to detention, with better food, living conditions and education and rehabilitation programs

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Forced idleness is very destructive. We think that boredom and *forced inactivity is a passive form of torture*. Working men could not earn a living, use their skills. Menial tasks for a dollar a day was not work and even that was withdrawn. Men who had worked since childhood lost their identity as workers, protectors and providers. For many, addiction to prescribed medications for depression and insomnia commenced and developed in detention. Concerns are held about which medications were dispensed, their user expiry status and informed patient consent.

Refugees have said that the dream of peace and freedom was brutally destroyed in immigration detention in Australia. The disappointment is deeply etched. Ask the recent Muslim arrivals and they may tell you after you break through the barrier of fear, politeness and good manners that they felt imprisoned like criminals, abandoned and left to die. They cannot understand why the Government of good Australian people like us did this to them. Nor can we.

Undoubtedly *what cut deepest was separation from their loved ones*, and for some the inability to communicate with them because their whereabouts was not known, or they were in inaccessible mountain places where satellite phones had not yet reached.

They were *cruelly and deliberately kept away from the rest of society*, some from family and friends already here and from people who spoke their language and also from Australians who understood their refugee flight and wanted to help them. Detention made grown men cry and say *maybe it would have been better to have died in their country and not left their family*.

The people who guarded them in detention, who processed their claims, and who interpreted for them made them feel guilty, as if they had done something wrong, but they did not know what that was. The media and Government Ministers said they were illegal and treated them like law breakers. Lawyers, agents advocates and friends told and still tell them they had not broken any law, had not done anything bad or illegal. The confusion remains. *Clarification, reassurance and an apology is needed*

In everyday English detain means to delay, to hold up and not let go, not release. *Delay is the painful and damaging centrepiece of immigration detention*. The open ended ness of detention, its indefinite nature, is the core problem. The longer the delay, the more cruel was the punishment, and the greater the suffering and psychological damage. Who can comprehend eight long years waiting for a decision?

Indefinite delay, no answer day after day, has totally destroyed some people's personality and mind. Waiting is bewildering, it is hell on earth. It kills you slowly, they said. *A man's sanity unravels and his life is broken. Hope, trust, a sense of a future are lost. Self esteem is eroded. A dark emptiness sets in*. We have helped some broken men, but with little success. Full recovery seems out of the question. They are the *sad casualties of detention*, disabled human beings, not the collateral damage of border protection

Depriving a human being of their liberty , which detention does, is a dreadful thing to do, can be lethal and cause irreparable damage to mind and body. *In principle we think it must be avoided for any but the most serious, the most grievous reasons, and always fully justified in law. Detention of asylum seekers clearly fails that test*.

While mandatory- required by law - *detention of some kind on arrival* for the purpose of registration, medical and security and identity clearance is *open for discussion*, *indefinite detention and non reviewable detention are anathema to a western democracy and the rule of law. Indefinite non reviewable detention must be abolished, also for excised territories*.

We say universal values of freedom and personal liberty were trashed when the Government enacted into Australian law and regulation, ***mandatory indefinite, non reviewable detention*** of all un documented men women and children who cross our borders, people, who fall within the protection obligations under the 1951 UN Refugee Convention and 1967 Protocols. This was the turning point for many Australians who joined the campaign to free refugees from detention centres. *The right to seek asylum must be affirmed and incorporated into Australian law. Nothing less will do to prevent further abuse and mismanagement of asylum seekers*.

The bad detention experience of immigration detainees is irrefutable and confirmation will significantly increase in volume as *victims find their voices and tell their own stories*. We think *that should be encouraged and enabled*.

Hopefully more sociologists, psychologists, historians, and political scientists will analyse and report what we in the community have known anecdotally. On Government files there is a *body of evidence* from courageous professionals, whistleblowers and advocates. Information before Cabinet was compelling enough for Government to change law and practice and it is a crime that they chose not to do so, not even in the face of international criticism. Government records are complemented by records of public debate, independent research and publications, letters to editors, and opinion columns. This Government must provide *financial support to ensure that this chapter in our history is fully and accurately recorded*, maybe in the Australian National Museum, National Library or a University.

More legal compensation claims will undoubtedly be filed and settled, each case demonstrating that abuse and suffering and deprivation of liberty are costly in human and financial terms. The Committee could *ask the Immigration Department to report the details of detention related cases already settled, the ex gratia payments made, compensation paid and the number and nature of cases pending*. How current and future claims are settled will demonstrate whether the testimonies to this inquiry have been believed and the moral implications recognised. We think that abolishing detention for asylum seekers and giving them work rights will generate *huge savings and tax income which can support a compensation scheme*.

Censorship became a major issue in relation to detention and border control. *Freedom of the press was compromised*. Government succeeded in denying its citizens information and full accountability for its actions. It bamboozled journalists with media releases, dissuaded independent investigation. Journalists had no free access to detention Centres. A few brave ones crashed through and investigated leaked information and whistleblower accounts. Staff contracts denied contact with media. Why was the media so compliant? Why were Australians so naive, so passive? Why did we not march on Parliament House? How robust is our democracy? The Committee must ask why the censorship, why the intimidation, why the suppression of the truth.

Apparently no one in executive government was listening or if they did, they managed to set aside any notion of universal human rights and democratic values. As a low point in our modern history, *Parliament condoned the detention of innocent human beings in Port Hedland, Curtin, Woomera and later in purpose built now closed Baxter. Parliament approved the Pacific Solution in 2001*. We were appalled at the spinelessness of the then Opposition which did not take a principled stand against evil and inhumanity, and allowed this persecution of innocents to happen.

Offshore detention was a particularly disgraceful breach of decency marked by deprivation which broke men women and children and ruined their lives. Out of sight, out of mind, almost worked for the Government. Our submission (copy enclosed) to the Senate Legal and Constitutional Committee in 2006 gives our detailed analysis of what happened offshore that we were not supposed to know. *Indefinite detention on Christmas Island is to us equally repugnant as on Nauru*.

It was the season to be jolly, Christmas 2003 when 45 hunger strikers on Nauru sent a clear message to Minister Vanstone: “Freedom or death”. They explained in their statement that *after more than two years on Nauru, the suffering, isolation and lack of resolution of the indefinite detention of men women and children was too much to bear*. It had to end with resettlement somewhere, anywhere safe. She and her officials refused to negotiate with them. The hunger strike on the equator lasted almost four weeks. All remaining asylum seekers were ultimately resettled as refugees, most of them in Australia. What can possibly justify the delay, the human suffering?

Government said from distant Canberra that the solution was with the asylum seeker, delay was of their making as they could go home at any time. Classic “*blame the victim*”. They did not because the fear of return was even greater than their fear of death. Was the refusal to go home not a high level measure of genuine fear of further persecution on return, a fear the immigration decision maker initially rejected, possibly under direction, and then accepted some years later? It raises questions about the information and judgement of decision makers and the orders and influence of Ministers.

Information control was totally in the hands of officials. Asylum seekers could not obtain information to support their claims, and the onus of proof was so unfairly on them. In mainland centres there was at first minimal access to news and information and telecommunication, which all improved over time, but on Manus Is and Nauru it was mostly missing, and for years. Sporadic telephone contact to Australia and limited access to internet was a feature only of the last years, and generously funded by friends. There were no calls or letters home to family. But letters and phone calls and parcels and tens of thousands of dollars worth of phone cards from a small army of generous Australians, rural and urban folk throughout the land, were a lifeline to refugees on Nauru. This amazing human response involving members of our Romero Centre network is now being archived, analysed and researched. The truth about Nauru detention will come out and shame us.

Nauru refugees have told us that *over 400 refugees on Nauru were misled by Immigration and its agents into thinking it was safe for them to return “home” from Nauru. Detention itself and resultant hopelessness undermined their staying power, broke them. Then the unexplained death of one young Hazara man triggered a panic that they too would die in exile, on Nauru. They were told this often enough by officials. There was no post mortem. Refugees say that returnees had the same set of asylum claims as those who stayed and were finally accepted for resettlement after three, four and five years of detention. No Government has the right to mislead, harass or “break” vulnerable people.*

There is *documented proof that for most returnees it was unsafe, if not fatal*. David Corlett published his research. The Edmund Rice Centre said in its first report that eleven were dead and many were again forced to live outside their country. To lay the ghosts to rest and move towards reconciliation, *asylum seekers “voluntarily returned” from immigration detention centres onshore and offshore should have their cases reviewed for evidence of official misinformation, harassment, coercion and decisions made under duress. Any injustice done must be set right, while we can.*

Indefinite detention policy is systemic sadism according to some of its critics. It was designed to break men's spirits and "persuade" them to go away, if not go home. Without a doubt the damaging human effect of this wilful policy and practice was known to a succession of Ministers and their officials. In the face of compelling evidence that it was inhumane and breached human and children's rights, the Coalition Government persisted with its policies. *The law and regulations which allow such breaches to happen are unacceptable and must be repealed.*

Those of us who met and supported refugees on their *release from detention centres* are witnesses to their physical and mental condition. So is our Centre's photo collection. Many needed urgent medical treatment. They had been put on buses at short notice, often without time to make their good byes. Journeys to Brisbane were three days and more. We welcomed and supported them as *survivors of a harsh, toxic experience and environment, amazingly resilient but damaged*. Mental ill health was poorly managed or ignored in detention and its repercussions are still with us.

Suffering in detention overlaid the suffering which was the very justification for their refugee status. And the Government of Australia was and is the perpetrator of more suffering. Many of our friends were too polite and too frightened of Immigration and the Government to criticise detention and their treatment. Some are still totally intimidated, surviving because of the human capacity to suppress many bad memories or suffering in silence. Over the years we have pieced together details about the *powerlessness of parents to protect their beloved children from harm, the cruelty and inadequacy of services and the appalling isolation and lack of communication with family and friends*. Immigration detention made us question the decency of the Australian people.

We know that *the toxic culture of despair and deprivation in detention centres drove mothers and children to and over the edge*. The 2002 campaign which resulted in hundreds of bouquets being sent to mothers in desert detention centres was a poignant public response to a question from a refugee child to a visitor to Woomera: **"Are there no flowers in Australia?"** In desert detention centres there were none. In Baxter there was only the sky, no horizon.

Detention is an unforgivable abuse of the rights of children. As a Brisbane primary school child said when told about children without freedom, behind high fences : **"What would we want to do that for?"** The Government detaining children in centres ignored professional evidence put before it by courageous critics who worked within the system and reported on a human disaster of the Government's own making.

Medical, legal and education professionals and community advocates who complained of human rights abuses and the suffering of little children were regularly denigrated by the succession of Ministers. In the community we were convinced that being a "bleeding heart" was better than not having a heart.

"Punished not protected" certainly applied to children and their parents.

2 PSYCHOLOGICAL DETENTION – ONLY THREE YEARS TEMPORARY PROTECTION

We think it relevant to extend the concept of physical detention to *detention of the mind while living in the Australian community*. When refugees, with their history of persecution confirmed were released into the community on a three year temporary visa, they certainly did not feel free. It was *detention without the razor wire*. The *fear of deportation* always hung over them. They experienced *gross insecurity, high anxiety, deep seated grief about family separation* and some used our Centre as a postal address because they were itinerants with no permanent place of abode.

It was a life in limbo, circumscribed by fear and insecurity, a deprivation of freedom to travel and most grievously, the denied right to be reunited with family. The *TPV limbo has had, and continues to have, many punitive features and long term negative consequences*. It was clearly intended not to encourage any sense of belonging, putting down roots, or starting a new life. *For them there were no settlement services* because it was not intended that they should settle. The disadvantage and discrimination made them second class refugees, “lesser” refugees, if that is possible.

They had arrived bedraggled and demoralised, mostly with nothing, and keen to work. Many were addicted to the prescribed medications for depression and anxiety generously dispensed in detention which was a real impost on their minimal income. A TPV holder on Special Benefits received 85% of Unemployment Benefits. It was more punishment and deliberate discrimination as they joined the growing Australian underclass. It was a *policy of “sink or swim”*.

While most found unskilled work, they were often exploited, sometimes unpaid, and always fearful to complain. A number known to us suffered workplace injuries because of poor health and safety standards and exploitation of their vulnerability. They could not refuse the extra shifts in the refrigeration rooms of the meat works or 80 hour weeks, for fear of dismissal. Others were simply refused employment because of their temporary visas. *Why teach them the job if they could be deported at the tick of a clock? Anyway, aren't they illegal?* some employers said. There was no Centrelink JobSearch to help them find work or protect work conditions.

There was straight out *discrimination*, just like in Afghanistan. Shia Hazaras were refused jobs in halal meat processing because they were not Sunni Muslims. Your religious status was determined by rulings of the Islamic Council, a Sunni stronghold. The relevant union investigated the situation, but was powerless. Yet as workers they were and are highly valued for their work ethic, especially in farming communities. They paid taxes.

Remittances sent by TPV holders to family in Iran, Iraq and Afghanistan and neighbouring countries of first asylum by those who could locate family *amounted to many millions of dollars*. This transfer off shore of Australian earnings *continues*. Significantly it was the most direct, best targeted form of aid and development benefiting extended family, sometimes the whole village, but it undermined a man's ability and interest to establish his new life here. The *TPV years undermined the settlement of men who became permanent residents*. In fact it delays their real

settlement until those who are financially dependant on them are resettled in Australia.

The hearts and minds of most TPV refugee men were always with loved ones. Some sent most of their earnings and lived on the smell of an oil rag. “How can I be happy if my family is poor and hungry and suffering”, they explained. The middle man creamed off 15 or 20%, sometimes more, for transferring money in the absence of banks and Western Union offices. Money and goods purchased in Pakistan and smuggled into the mountain villages of Afghanistan did not always get there and sometimes set up the recipients for robbery and kidnapping. The Taliban had not been defeated and law and order was absent.

Unaccompanied Minors who should have been at school chose to work because having money for your family and to pay back debts was more important than education when you were sent back. The fear of being sent back was ever present and starting a three year TAFE course was a hard sell. Among the 60 or so Hazara boys who landed in Brisbane, exceptional community support guided many of them into education and sport. Camilla Cowley in Mary Crock’s international study on “Seeking Asylum Alone” tells that story. The rest of the 600 Unaccompanied Minors fared less well. We count them amongst the lost souls wilfully neglected by their legal Guardian, the Minister for Immigration.

The three year visa saw the *expiry of Unaccompanied Minor status* for most boys, making them *ineligible to sponsor their families*, even their widowed mothers and younger brothers and sisters. It was the years of temporary protection that disqualified them from reunion and *condemns them to split allegiances, split lives*. Why not a humane policy and program now, to *give retrospective sponsorship rights to those who were under eighteen when first registered in detention centres?* It is a finite number only and would place a positive value on “family” and “successful settlement” which is closely linked to family reunion. It would also reduce the remittance payments these young men will pay for the rest of their lives.

We are still supporting and assisting *detention damaged people*, some in the depth of *mental ill health* with whom the mainstream systems copes badly. After four years in detention, and half a year in a mental health hospital where does a mature man go for accommodation and support when he has no family here, little English, minimal independent living skills and no friends? *Society is judged by how it treats its most vulnerable members.*

We have seen some men on temporary visas unravel, *unable to hold down a job, technically homeless with no stable or permanent abode*. Some are diagnosed with schizophrenia, heavily dependant on regular medication in a lifestyle of moving, not belonging. *Children have learning difficulties* and behavioural problems causing some teachers to send them home. They still have unmanaged fears and nightmares related to their refugee experience. *Recognition and treatment of detention trauma on top of refugee trauma, needs to be fast tracked, before it is too late.*

There is no doubt, based on our eight years of experience, that *detention and life in limbo has created a specific cohort of stressed and mentally ill Australians whose lives were broken by inhumane detention and TPV policies*. We have yet to see the

core funding of bilingual community support worker positions to deal with crises and essential support for these victims, to help access mainstream services. We have yet to see, eight years after the boat people arrived, the ready availability of professional level Dari and Iraqi Arabic interpreters, especially for women's health and family matters, *The inadequate response so far poses a danger to the harmony and well being of our whole society.*

Damaged adults are damaged parents and we lament the inadequacy of school settlement services, the lack of youth workers, and the lack of culturally sensitive family support to deal with intergenerational conflict and the legacy of violence and torture. For the "TPV families" reunited after many years, family life in a western urban setting has its *additional challenges*. The safety need provided by volunteers is inadequate.

Reunited TPV families need support to deal with missing years where wife and children in were in danger and poverty over there, while father grieved for them over here, "Are you really my father?" asked one seven year old on meeting Dad after five years. "You lie to us. We don't get the visa. You don't care about us and you did not come to see us. I don't talk to you any more" were the accusations on the telephone of a nine year old whose father arrived in 2001 and has now waited for more than a year for their visas to be issued. A shy little six year old took two months before she would come to her father, whom she could not remember.

These *substantial family issues* cannot be dealt with within a new community experiencing *delayed settlement because of the TPV* and by so called volunteer ethnic community leaders, usually former refugees themselves. This seems to be the current expectation. It is *professional support* that is *needed*. Former refugees sometimes lack the trust and social cohesion to function as a "community". Immigration calls them "emerging communities" but we see them as individuals in recovery, learning what community is or could be and developing as a community. And some, with needs, chose to remain outside the "community" fold.

Leadership is thrust on some people, mainly men, with good or just better English language and knowledge than others. These *leaders are caught between the upward pressure from their own people and by downward pressure from government and service providers. Their exploitation is mostly shameless*. They are called to consultations and meetings to speak for others, (whom they are expected to have consulted in their own time) mostly without free parking, nearly always without payment, even petrol money.

We observe already a "burn out crisis" in the leadership of some groups whose community volunteers, pastoral carers, are literally on call night and day. They find it so hard not to help those in genuine need. This cannot continue. Given the *established profile of cumulative damage and dysfunction of former detainees and former TPV holders*, we suspect that more and more needy persons and families are not being helped, but simply disappear from sight until a crisis requiring intervention comes to public attention. *Intervention is required now.*

After eight years of volunteer community support the Romero Centre has received Immigration project funding to partially support, for twelve months, what is already

being done voluntarily. There is growing need and complexity of need, as well as a backlog of need in this refugee cohort for settlement services, and *core funding for professionally supervised fulltime bilingual workers is the answer. It needed to happen yesterday*

We think a *settlement and support strategy for this particular cohort of former TPV refugees (now residents and citizens) who were systemically discriminated against by Government is warranted to tackle the back log of need so cruelly created during the years of temporary protection. This would constitute official recognition of the damage done, accompanied by reparation through catch up settlement support programs.* In essence almost every former TPV holder individual and family is a complex case.

Seven years exclusion is a very long time, of not being accepted and deliberately denied settlement services. It meant that refugee men – the heads of their families- did not get basic information about living in Australia, orientation to the local community, access to AMEP English courses, full access to interpreter services and to HECS for tertiary study. General health, mental and dental health needs require particular and additional attention for former TPV holders. Thankfully, wives and children reunited under split family provisions receive settlement services. They need additional support.

We are relieved that the Rudd Government has abolished Temporary Protection Visas and none are being issued. *We are still waiting for some wives and children of remaining TPV holders to arrive after six, seven years of Government decreed separation.* Some victims of the Pacific Solution taken against their will to Nauru in 2001 have not yet been granted permanent residence and can not yet get the travel documents to find their families in Pakistan or Iran and can not yet commence sponsorship of their close family members.

Remaining TPV refugees' continuing separation from family contradicts the value Australians and their Government place on family. Let it not be just our family, but everyone's family. *A special program is warranted now to make family reunion happen for the remaining TPV families so cruelly split, and for so long, by the Howard Government. The Rudd Government must disassociate itself by its actions, and bring the families here as soon as humanly possible.*

3 HOSPITAL DETENTION- A TEMPORARY REPRIEVE ONLY

As described above, detention centres were no place to be sick. Fortunately refugees are usually fit and young. Panadol was the panacea for all ills, and you had to line up for it. There was little else to do. Medical appointments were difficult to make and often delayed or not available. Specialist treatment including psychiatric care was mostly not available and always delayed. Dental care extended mainly to extractions.

Deteriorating mental ill health was allowed to run its course and sometimes only outside intervention by a visiting medical officer or a very persuasive advocate rescued a very sick person out of the detention centre. Men exiting detention were often dependant on antidepressants and sleeping pills. We saw them struggling alone in an unfamiliar community, with their mental health condition and their inadequate

treatment. We saw some deteriorate further and assisted their voluntary admission into residential psychiatric care. We still see some struggling with life.

We leave it to others to provide the facts about the number of asylum seekers transferred to hospitals and other specialist places for short and longer term treatment, and costs involved. *The facts should be public.* This transfer of very sick people seems to constitute clear *evidence of the deterioration of health, particularly mental health, linked to the length of time held in the deprivation and turmoil of detention.*

Maybe more medical transfers and happened in the face of mounting professional and political pressure. The SA Government was right to take a stand in 2006 that Glenside Psychiatric Hospital would no longer be a medical wing of Baxter for the *people driven mad and into sickness by immigration detention.* We understand that most of the detention patients cared for in state psychiatric facilities had arrived in Australia healthy and sane.

Our experience of hospital detention in Brisbane was minimal, but unique. About 20 men were transferred from interstate over a period of about two years to a private hospital specialising in the treatment of post traumatic shock and addictions disorders. Did Immigration have any other option but to transfer detainees into private health care? There was no attempt either by Immigration or the Toowong Private Hospital to organise social or legal support for them, or to work in partnership with willing citizens who visited the men. Local visitors, in large part coordinated by the Romero Centre had responded to calls for support from individual advocates in South Australia, Victoria and NSW who knew the men well, for years in fact.

Security guards on duty 24 hours a day, seven days a week unsettled hospital staff and were a sheer provocation to detainees. They said it drew negative attention to them from staff and patients. Guards were a reminder that you could be deported at any time, and also that you were not trusted. Generally patients seeking asylum do not abscond. *"Where would I go?"* said one. *"I have no money and no place or friends to go to."* Advocates took complaints of discrimination and harassment to the Ombudsman.

We thought it totally counterproductive to have a security compliance presence in a place of therapy and healing, at first unobtrusive outside the door, then more subtle. After specific complaints by advocates, supported we believe by hospital management, they were withdrawn. The ludicrous security regime in Adelaide for Mrs Bakhtiyari during late pregnancy and childbirth had obviously made an impact". The Palmer report was generating some change in Queensland.

There were *traumatic, unnecessary incidents.* Those who know the circumstances of the involuntary removal by a posse of about eight guards and officials of one man from suicide watch in hospital to a paddy wagon, in view of staff and patients, remain vicariously traumatised by the cruelty and heavy handedness. Hospital management apparently condoned it. The man had no history of violence. He was flown by charter to Melbourne accompanied by a dozen minders and observers.

After a week in a daze in Detention Centre in Melbourne he was assessed for release into community detention and dropped, cold turkey, on a Friday afternoon, in a room at an inner city location near a disreputable disco which had no facilities but with \$50 to see him through to Monday. He was totally alone, disoriented and terrified. His friends and supporters were in Adelaide. An interstate friend was able to give him directions by mobile phone to nearby

shops to buy food. *Duty of care? Dignity? Kindness? Our complaint was investigated by the Ombudsman whose findings resulted in some reform but failed to satisfy the outrage of advocates.*

There was no doubt at all that hospital was a much better environment than detention centre. We witnessed the caring professionals and motherly cleaners bring some normality into their lives. Some of these men were survivors of five and six years in detention. The silent man began to speak, the withdrawn traumatised man began to eat in the dining room. They cared for each other, the brotherhood of detainees. Select visitors were granted Immigration authority as custodians allowed to escort them into the community, to attend places of worship, to visit homes, even stay for the weekend like other patients. Advocates pushed the boundaries, and the boundaries were pushed outwards.

But real healing, was it possible ? How effective can counselling be without professional, sensitive interpreters? Or in limited English ? One who had been so strong for six years began to unravel in this kind, human setting, as he contemplated the hopelessness and suffering of his life and others like him. He began to voice suicidal intentions to his visitors who advocated for his release. He was discharged on a TPV and after another year of anxiety and insecurity was granted residence. Was all this suffering warranted?

Another man literally bashed his head against a wall as his depression seemed to deepen and stay. Electric shock therapy was recommended for him, probably as a last resort, but the real possibility of losing short term memory and thereby his ability to present and detail his own asylum claims, made him withdraw his earlier agreement. Informed consent in this situation is a major ethical issue. He had no legal guardian there to guide and protect him. His migration agent did not speak his language and his trusted, supporting friends were interstate. Ironically, patients were barred from making STD calls after a long time patient's big account came to notice, further isolating them.

To us as lay people, it defied logic and humanity to discharge a mentally ill young man, still heavily medicated, still hearing voices , back to dreadful Villawood which you have visited, and where his mental ill health had first developed. When he was re admitted to Toowong after another disaster, was it not reasonable to conclude that indefinite detention itself makes innocent people sick , and drives them to suicide and chronic mental ill health? The story gets worse. Still ill, still dependent on Western medications, he was deported back to his country without a hope of medical treatment or being able to afford or to get medication. Deported to certain ill health, fear and poverty. *How could we*, when he became mentally ill while in the "care" of our Government.

One more example which made us wonder about "good practice" in detention centres. A victim of criminal violence within a centre, a life threatening assault which usually attracts criminal charges, was apparently outside the jurisdiction of local police because he was a federal immigration detainee, on federal property. No rule of law, no due process, no criminal justice inside detention centres.

Nor did the authorities responsible for his protection and care ensure adequate treatment for severe post traumatic shock or keep him safe. It demonstrated Immigration's inadequate monitoring and a contractor's tendency to cover up a serious lack of security within the razor wire fences. Lack of appropriate action, poor case management and delays and lack of transparency and thoroughness of investigation by GSL, Immigration and the Ombudsman contributed to deterioration of this victim's mental state. Weeks after serious re traumatisation which medical advice said warranted immediate intervention, he was transferred to Toowong Private Hospital for treatment.

As hospital detention graphically demonstrates, *detention has generated a new cohort of mentally ill men women and children – survivors of our gulags – to whom we owe care and compensation and generous services for the term of their natural life.* They are the tragic victims of a system that lost its way and forgot the sanctity of each human life. And let recognition and good care come sooner than it did for the Vietnam veterans, or for the Stolen Generation and their families who tragically waited much too long for recognition and adequate care. *Mistakes are made and must be acknowledged and set right wherever possible.*

We urge the Committee to *seek evidence from Toowong Private Hospital* about the clinical effectiveness of their treatment of asylum seekers and other detainees, and what their prognosis was for their patients if returned to a detention centre, or to community detention with their asylum claims still unresolved. We hear that people did die and disappear while detained and we need to be told how and why, but men transferred to this hospital were at the end of the detention line, close to the edge and self harming. Their situation seems to be *conclusive evidence, if we needed any more, of the damaging effect of long term detention without end.*

The Government needs to take on board the findings and opinions of these professionals specialists in Post Traumatic Shock Disorder and of their professional colleagues interstate who referred the men and their medical files to Toowong Private Hospital. In their records lie data about what contributes to the deterioration of mental health and why innocent people must not be detained indefinitely.

4 PROCESSING AND TREATMENT OF PEOPLE WHO BREACH LAW AND REGULATIONS AND ARE NOT GENUINE ASYLUM SEEKERS

We recognise that there are people who enter Australia legally and illegally to circumvent visa procedures and to work here without legal permission. We support protecting the integrity of our borders against such illegal “would be migrants”. *The apprehension and processing of persons without fundamentally sound claims for protection requires its own procedures, procedures directed at fraudulent claims and applied within a short time frame.* We believe trained specialist staff can generally and quickly identify fraudulent claims.

We recognise also that there are people who arrived legally in Australia and who breach immigration procedures and Australian law. *How they are processed must be reasonable and commensurate with the seriousness of their breach of law and regulation and be mindful of the seriousness of depriving a person of their liberty.*

We condemn the detention in Villawood, for example, of overseas students who work a few more hours than the 20 hours they are entitled to do, or overstay the conditions of their student visa. There are more humane and client friendly ways of dealing with talented young people. For the sensitive maintenance of international relations and Australia’s reputation, *overseas students must be dealt with diplomatically and not detained in today’s detention centres, unless there are serious grounds approved by a court of law.*

The same principle applies to visitors and temporary workers whose visas have expired. Why offend and frighten them and their family and friends with detention? Our international reputation is damaged when we do. At June 30, 2006 more than 9 000 of a total of 46,400 “unlawful non citizens” estimated to be in Australia were citizens of the USA, UK and Republic of Ireland. We suspect they are under represented in immigration apprehensions, and that this may suggest a bias towards catching and detaining other nationalities, which is another concern.

This new Government has a unique opportunity to repair the lives of *long term residents whose right to stay expired decades ago*. They are probably not even counted in the estimate quoted above. If they are law abiding, tax paying and integrated through work and family into our Australian community, regularising their status will free them, allow them passports to travel to see family. Deporting grannies and good workers and pillars of their community does not sit well with most Australians who know them and vouch for them. *Letting them stay makes sense*.

We recognise that people who are citizens of another country and not Australian, and who have committed *serious crimes* for which they have served their sentence in Australian prisons may need to be detained pending arrangements being finalised about their future residence. *A specific purpose arrangement* – a half way house, a holding and transition arrangement- needs to be developed for criminals who have served their sentence and which differentiates between those who are and those who are not a danger to the public. Co locating them as is done now, is plain risky, foolish and inappropriate.

You know from your Villawood consultation that to co locate criminals released from prison together with overseas students, asylum seekers and tourists and Working Holiday Makers in major immigration detention centres is unmanageable and a human disaster. It requires a radical rethink.

It would help if the Government *developed an immigration, asylum seeker, human rights lexicon* to improve the accuracy of words and terms and provide discipline to their everyday use. Journalists and the community at large need to know the exact meaning of terms such as asylum seekers, refugee, refugee claimant, immigrant, “illegal migrant”, unlawful non citizen, over stayer, criminal deportee, arrest, apprehension, custody, immigration detention, administrative detention, etc.

We recommend that non asylum seekers who have breached immigration regulations and law always be treated with respect for their human rights and be deprived of their personal liberty only when absolutely necessary, and demonstrably in the public interest. An official’s perception or belief that they will abscond and disappear into the community is not good enough. Children must never be in detention environments as we know them. The immigration status of these people which includes families, need to be resolved quickly to minimise damage and disruption to their lives

What we have said above about the bad experiences of asylum seekers and non criminals in all forms of immigration detention reflects on the *location, facilities and staffing of the places where they were held*. We do not envisage that a reformed detention policy backed by legislation which respects human dignity can be implanted in the existing facilities with some of the remaining staff of ever again in remote locations like Port Hedland or

Baxter, which makes the future operation of the centre on Christmas Island very problematic. It is as distant from Canberra as Nauru.

People who are detained for good reason need access to friends and community and the services of those communities. Immigration would do well to form improved relationships with ethnic community key people to inform, guide and assist them with managing asylum seekers and others, to minimise the delays that constitute injustice and cause trauma and misunderstandings of language and culture and less than professional interpreting.

THANK YOU

Congratulations to the Government for ending the Pacific Solution, for abolishing Temporary Protection Visas and for its consideration of other reforms, including working rights for asylum seekers and restoring dignity to their lives.

We welcome further discussion of the claims, ideas and recommendations made in this submission and are enjoying this new era of participatory democracy. It was cathartic write this document and account in some way for the love and compassion and the thousands of hours of time given to our refugee friends by a group of exceptional Australians of all faiths and backgrounds, in the best way we knew how to support them and build up their capacity to take good care of themselves. As we said when they first arrived in our town, "You are very welcome".