

To the PARLIAMENTARY JOINT STANDING COMMITTEE
INQUIRY into IMMIGRATION DETENTION in AUSTRALIA

Tuesday, 30 August 2011.

From: Kendall Lovett and Mannie De Saxe,

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We are presenting the paper below to the Inquiry in the hope that you may accept it as a

LATE SUBMISSION

The present Government and its predecessors back to 1990 have paid little more than lip service to legal and humanitarian principles. They have flouted the spirit and intent of the Refugee Convention with policies to stop asylum-seeking boat arrivals, few though they be, by punitively detaining and attempting to deport them as a deterrent to others and in particular to deter people smugglers in Indonesia. It's well and truly time for us and our government and its opposition to rethink how we treat those seeking sanctuary in this country.

The Australian governments' policy premise of the Pacific and Malaysian solutions is that boat arrivals, a small minority of the asylum seekers who reach Australia, *can be excluded from the usual application of the Refugee Convention and domestic law*. Australia is a signatory of the Convention. Malaysia for instance is not. The courts insist that policy must be subject to legal review, and revealed concern about legal status as far back as the Howard years. The rule of law depends on every individual having recourse against oppressive, arbitrary or unlawful government action. Last year's High Court decision meant the lawfulness of key policy elements can be tested --(The Age 9.8.11).

The Australian Medical Association president Dr Steve Hambleton used an address to a parliamentary dinner to send a message to both sides of politics: "The policy of mandatory detention and the remote location of most detainees mean that the health status of detainees

continues to decline.” He said the harm to children was particularly acute. Refugee Council of Australia chief executive Paul Power said the incidence of self-harm “is beyond anything we have previously seen in Australia,” and the policy was “profoundly stupid and counter productive”--(The Age 18.8.11).

As well, the Immigration Department secretary Andrew Metcalfe has urged the politicians to consider the human impact, costs and effectiveness of mandatory detention *and to look at the alternatives*.

If only politicians and the public had regard for the facts and for Andrew Metcalfe and his department’s insights they would listen properly to what he had to say. The human costs are out of all proportion to the few thousand held in detention. Up to July, 1507 detainees were hospitalised this year, including 72 psychiatric admissions and 213 for self-inflicted injuries. More than 700 were treated for “voluntary starvation.” Detention costs soared to \$772 million in 2010-11. The statistics and the rhetoric are all depressingly familiar –those responsible show no sign of acknowledging the unjustifiable costs of their policies –(The Age editorial 18.8.11).

What does Australia have to show for this? Metcalfe even asked: “Is immigration detention a deterrent?” It has been in place since 1992 and did not stop almost equal waves of boat arrivals in 1999-2001 and 2009-11.

Andrew Metcalfe pointedly highlighted the success of the alternative approach, under which 1765 people, including 841 children, have been put in community detention since last October (2010). He would like community programmes expanded as a less costly, more efficient and humane policy. The major parties still seem determined to defy reason, squander public money and sacrifice asylum seekers on the altar of politics –(The Age editorial 18.8.11).

Since the Malaysian people-swap plan was signed by Immigration Minister Chris Bowen at least 4 boats have arrived. It is understood that a third of the passengers on boat number 3 were unaccompanied minors, bringing the total of lone teenagers facing deportation to Malaysia to at least 44 not including those who may be on the later boat or boats.

Malaysia has a woeful record on human rights and our record, if we look back, isn’t all that hot either. Remember the original inhabitants of this country. That record doesn’t look so good. Obviously the remnants of the ‘white australia’ policy linger in places and show up selfishly at the latest arrival of boat people (which we all once were except the Aborigines).

We are prepared to pay Malaysia and PNG handsomely to take these newly arrived boat people off our hands despite the fact that the majority we have processed since 1992 have turned out to be genuine refugees. If that is the case, the current ones which we are planning to send to Malaysia or PNG will be mostly returned to us when found to be genuine at further public cost. Or, will they be left to rot in captivity while our politicians make up their minds whether or not they are acceptable? There are genuine alternatives to these probably unlawful solutions and mind-destroying mandatory detentions.

In the Melbourne Age on June 15th this year, David Day's sensible article, *Rescue us from this madness*, wrote: "In the 21 years since the first Cambodian boat (1990), while the politics have become increasingly fraught to the point of obscenity, the practical problem of dealing with asylum seekers has remained just as manageable as it was in 1989. There was no need to use detention centres back then and there is no need now.

"Instead of fortified camps for mandatory and indefinite detention, we need reception centres where new arrivals can be briefly housed and processed, before being moved quickly into one of the many communities that would welcome them. We need a staff of immigration officers in Jakarta to process refugee applications, with preference for family union to deter desperate people heading here by boat. It just requires a leader with courage to reframe the debate in terms of decent principles and values. Only then will the arguments of the fearmongers be neutralised once and for all." –David Day is the biographer of three Labor prime ministers. His most recent book is *Conquest: How Societies Overwhelm Others*.

Then there is the much publicised alternative, backed by prominent business and union leaders, written by former bureaucrats John Menadue and Arja Keski-Nummi and academic Kate Gauthier and published by the Centre for Policy Development. It's the strategy paper, *A New Approach, Breaking the Stalemate on Refugees and Asylum Seekers*. The paper says Australia should follow international practice and consider those who claim asylum in Australia separately from the number of refugees accepted from offshore. De-linking the offshore and onshore numbers will also go some way towards nullifying concerns that asylum seekers (especially those who arrive by boat) 'jump the queue,' and that would have mandatory detention phased out within two years and Australia's intake of refugees significantly increased over five years, the strategy paper says –(The Age 22.8.11).

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