

**Submission to Joint Standing Committee on Migration**

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**Joint Standing Committee on Migration  
Department of House of Representatives  
PO Box 6021  
Parliament House  
Canberra ACT 2602**

**28 July 2008**

**Dear Committee Members,**

**I thank you for taking on this important enquiry into Migration Detention.**

**I know there will be many informed submissions regarding many aspects of the terms of reference. I would like to confine my submission to a few points that seem critical to me from my direct experience working with people from Baxter and Nauru.**

**My background experience.**

I have learned from my personal experience having worked daily with and for asylum seekers in Baxter Detention Centre from when it first opened until a few months before it closed. Over the first years I had daily phone contact with detainees.

I set a goal to get legal assistance for all detainees who wanted this. I set up a Data Base and liaised with an informal network of over a hundred supporters who visited and contacted detainees regularly by mail or phone. I visited Baxter a total of ninety nine times over this period. I met individually with over 200 of the detainees at least once. I liaised with migration agents and lawyers on behalf of many.

I currently have ongoing contact with about ten who were in Baxter and with several families and single men who were on Nauru and are now living in Canberra.

**Conclusions I am drawn to from my own experience and refer to in this submission:**

- 1. Detention Centres should be situated where ordinary people who wish to befriend and support asylum seekers can visit regularly and give moral and pastoral support. Access for such visits should be facilitated. Detention Centres should not be in remote regions where visits are costly in finance and time.**
- 2. Detention centres should be readily accessible for independent legal support and professional counseling.**

- 3. Asylum seekers need to be treated with respect as refugees and not as criminals. Centres should not be like prisons in buildings or security arrangements. Centres should be managed by persons who have training in handling traumatized people and should not include persons who have experience in guarding prisoners.**

### **Critical Issues:**

**1. Detention Centres should be situated where ordinary people who wish to befriend and support asylum seekers can visit regularly and give moral and pastoral support.**

Detainees need friends who they can grow to trust for moral and pastoral support. The church people and local residents who visited Baxter gave life and hope to otherwise hopeless and often suicidal traumatized people. Suicide attempts and incidences of violence would have been very much greater except for the regular commitment of these people. Professional help inside detention is important but often trust only comes as relationships develop with supporters over time.

Many supporters like myself spent long hours on the phone to detainees trying to keep them from self harm.

One example: With one detainee I spent over an hour on a mobile phone about every second night for six months giving guided relaxation exercises and counseling to keep him from suicide after he heard his young brother had been brutally killed and his mother died.

Detainees need regular visitors. Condemned to long days with nothing to do visitors made a welcome relief. Little was made available in the way of organized activities or study opportunities at Baxter.

However, even if activities were offered the state of depression in which most asylum seekers lived in detention meant that they would not easily be able to join in.

**2. Detention centres should be readily accessible for independent legal support and professional counseling.** Many asylum seekers are very distrustful because of their home country persecution experience. Many are very traumatized at the time of their initial interviews and do not present logical or coherent cases. It is often impossible to tell the truth in a confrontative situation when you have no trust in the interviewers. With independent help people can gain confidence and trust and begin to tell the true story.

Just a few examples from my own friends' experiences:

- one man I met while he was on Bridging Visa E bore horrendous scars from torture. He did not either realize the need to, or was psychologically unable to, describe his torture and he was rejected as he was not believed. He was rejected from his written application without interview. When I found him legal help the migration agent first got him to a medical practitioner who took photos of his scars and got him to talk about his experiences. He would have been deported if he had not found independent pro bono legal help.
- three young men from Afghanistan and Iraq who included Arabic when asked what languages they spoke. they did not realize that their basic Koran Arabic was not enough for them to converse intelligently with Arabic speaking interpreters from Lebanon. They all were kept in

detention for many months longer because they were not able to get this sorted out. Each had Turkish, Kurdish, Pashtun or Persian as his first language.

- two young Afghani children I know who put up their ages because they thought they would be separated from the Afghani men in their group and lose support if they admitted to being children. After independent legal help one did get his age get sorted out while the other is still on record as being two years older than he actually is. ( there are many others in this situation)
- Many Afghanis, Iraqis and Iranians got very muddled at their interviews because of the differences in the eastern and western calendars. They were rejected at earlier interviews and RRT because of inconsistencies in their stories and many of these were around calendar issues. As they were challenged on these inconsistencies during interview they became even more confused. Independent legal advisors help sorted this out later but meantime they spent years in detention.
- A few families I know told lies in their initial interviews and because of this they spent years in detention. This lack of truth was a result of their fear in a confrontative, sometimes hostile interview situation. They told lies when they believed they had to do this to save their own or their families' lives. Their lies were not central to the core of why they met the convention definition of being a refugee. With independent legal advice they can learn they do not have to lie to gain safety. Eventually with the whole story told these families were recognized as refugees.

### **3. Asylum seekers need to be treated with respect as refugees and not as criminals. Centres should not be like prisons in buildings or security arrangements. Centres should be managed by persons who have training in handling traumatized people and should not include persons who have experience in guarding prisoners**

**The greatest complaint of those in Baxter was not about the food or conditions but about being treated as criminals.**

**Common questions were “What have I done? “Why am I treated like a criminal?”**

**This issue relates to the types, the training and the experiences of those acting as guards and the culture of the Immigration Department itself.**

Mental health studies bear out the harm caused by incarcerating people for in definite periods without evidence of wrong doing. Often the guards at Baxter were from the prison guard system. Most guards were not trained sufficiently, if at all, in working with traumatized people.

The culture created by the Department of Immigration in the early stages was to assume all asylum seekers were lying and this culture pervaded the whole time Baxter was kept open. Detainees were treated as prisoners. Access to information was denied or made very difficult.

In my experience of trying to get legal help for detainees we often had to smuggle in, and out again, papers detainees had to sign for their lawyers to act for them. If they waited to follow the department protocols (“ put your request in writing and put it in the yellow box and we will respond to you when we are ready”) many would have been too late to have their appeals filed to satisfy court requirements. Many missed the dates for lodging with the courts because the department made it so impossible for them.

At one of my visits to Baxter I was sitting with a group of young men when they discussed the current guards and administration. One made the telling comment "You can have some good ACM (current guards) but there are no good DIMMIA (now DIAC). There was unanimous agreement to this statement.

**As an illustration of the damage caused by a culture of treating detainees as criminals I offer the following story:**

A young Afghani who had spent 3 years on Nauru was later married in Canberra in a local community hall. I was one of the invited guests and I happened to sit alongside one of the IOM ( international United Nations employees who were guards at the refugee camp on Nauru). I was surprised to see this man invited to the wedding and I asked him: "How is it you were a guard on Nauru and you are now invited to the wedding?. I don't think you would have been invited if you had been a guard in Baxter." "Oh, our situation was very different from what you have in Australia" he explained,

**" In Nauru we are working with refugees. In Australia you are working with prisoners".**

**Contrasting how Ex- Nauru ( refugee camp style detention) and ex-Baxter( prison style detention) refugees assimilate in the community:**

**This is topic worth research. With no research or statistics available I offer my personal observations as a pointer to what might prove valid conclusions about how detention centres should be conducted to best serve the inmates and the Australian community where they may eventually settle.**

In Canberra I am now in regular contact with a few young men and some families who were on Nauru for about three years and I am in regular contact with about ten young men or families who were in Baxter for about the same amount of time.

While I am sure there are significant exceptions it is my observation and experience that it seems that those on Nauru have adapted better than those who were in Baxter to living in the Australian community. **I see less long term psychological damage caused to those on Nauru in contrast to those who were in Baxter. I believe that this is because detention creates most damage when persons are treated as criminals.**

The children I see in both groups seem to have adapted well and are happily and productively involved in their education. With the adults it is another matter. I see again and again that the Nauru refugees have settled more quickly, settling to regular employment and to a constant home address. Those from Baxter are taking longer and are less settled or happy. Most ex-Baxter young men have changed jobs and home addresses and employment several times in the first two years. The parents of families I know ex-Baxter are taking longer and are not assimilating so well.

I am daily in contact with ex-Baxter refugees who need my support as they try to settle, to find or change jobs and accommodation, to make good community relationships and keep out of trouble. My ex-Nauru friends on the other hand have recently asked help for such things as completing complex forms, getting road maps to visit interstate, handling their savings, preparing for citizenship tests. If I list the twenty refugee individuals or families I know best in order of how well I think they have adjusted to community living in Australia I would find those at the best assimilated end to be mostly from Nauru and those at the least assimilated end to be mostly ex-Baxter.

In summary I ask that mandatory detention be used as a last resort and be subject to acceptable human rights provisions.

If and when detention is necessary attention should be given to

- 1. Accessibility of detention centres.**

Detention Centres need to be accessible to ordinary community members who want to befriend and give **moral and pastoral support** to detainees. They need to be readily accessible for independent and pro bono **legal support and professional counseling support**. They should not be in a place remote from community where it is too costly in terms of time and finance for visitors.

**2. The culture, management, and administration of detention centres.**

Detention Centres should not be like prisons. They should be open, with minimum, non invasive security. Detainees should be treated with dignity and respect and not regarded as criminals. Guards and administration should be trained in working with traumatized people and should not include persons who have experience in working in prisons.

Thanking you for your attention to these issues.

Jane Keogh \_\_\_\_\_

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Note: copy of original letter with signature is in the post.