

Chapter 1

Introduction

Background to the inquiry

1.1 Recently, a number of high profile cases have raised questions about the response and responsiveness of the government to vulnerable people either asking for or relying on the Australian government to provide protection and/or assistance. This report examines two such cases.

1.2 First, Mr Chen Yonglin, a Chinese diplomat working at the Chinese Consulate in Sydney who approached the Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) on 26 May 2005 to request political asylum for himself and his wife and daughter. Questions soon arose over whether contact with the Chinese consulate by DIMIA to confirm Mr Chen's identity on 26 May was appropriate and this is examined in chapter two. The decision of the Minister for Foreign Affairs to reject Mr Chen's request for political asylum and his role in such requests are considered in chapter three. Chapter four details the actions of and meetings with DIMIA and the Department of Foreign Affairs and Trade (DFAT) which took place from 27 May to 3 June 2005. Mr Chen's claims regarding the persecution of Falun Gong, an extensive spy network in Australia, kidnapping allegations and the monitoring and harassment of Australian citizens are discussed in chapter five.

1.3 The second case involved Ms Vivian Solon who, although an Australian citizen, was deported to the Philippines in July 2001.

Establishment of the inquiry

Terms of reference

1.4 On 16 June 2005, the Senate, on the motion of Senator Bob Brown, referred the following matters to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 9 August 2005:

- (a) The response of Department of Immigration Multicultural and Indigenous Affairs, Department of Foreign Affairs and Trade, Attorney-General's Department and their respective Ministers to Mr Chen Yonglin's approaches or requests to the Australian Government for asylum and/or a protection visa;
- (b) The application of the *Migration Act 1958*, its regulations and guidelines concerning the maintenance of confidentiality for any consular officials or staff (including Mr Chen Yonglin, and any other former consular officials or staff) who were applicants for territorial asylum and/or protection visas by Department of Immigration Multicultural and

Indigenous Affairs, Department of Foreign Affairs and Trade and their respective Ministers;

- (c) The involvement of the Department of Foreign Affairs and Trade and the Minister in the deportation, search and discovery of Vivian Solon, and;
- (d) any related matters.

Conduct of the inquiry

1.5 The committee advertised the inquiry in *The Australian* on 22 June 2005 and on its website. The Committee wrote to relevant Ministers and departments, interested individuals and groups inviting submissions. The Committee received 9 public submissions and 1 confidential submission from a range of organisations and individuals. A list of individuals and organisations who made a public submission or provided other information that was authorised for publication by the Committee is an Appendix 1.

1.6 The Committee held a public hearing in Sydney and two public hearings in Canberra. A list of witnesses who gave evidence at the public hearings is at Appendix 2.

1.7 On 5 August 2005, at 4:45pm, over 2600 folios regarding Ms Solon were received by the secretariat from DIMIA. It was not possible for committee members to review the documentation prior to the scheduled hearing on 8 August 2005. The committee is disappointed that the department was not able to more promptly assist the committee process. It placed committee members in a situation where it was not possible for them to be fully prepared to examine the department on some matters central to the inquiry. The committee is concerned over the department's conduct in this matter and this will be discussed more fully in a second report on Ms Solon. Due to this late and voluminous production of documents, the committee decided that it required more time to examine the documentation and this resulted in the committee requesting three extensions to the reporting date. On 9 August 2005, the Senate granted an extension to its reporting date to 18 August 2005. On 18 August 2005, the committee was granted an extension until 8 September 2005. On 8 September 2005, the committee was granted an extension until 12 September 2005.

1.8 The committee further decided to produce two separate reports—one dealing specifically with the terms of reference addressing Mr Chen's case and a second report covering Ms Solon which is due to be tabled on 15 September 2005.

Structure of the report

1.9 This report comprises five chapters—an introduction and four chapters that address directly the terms of reference relevant to Mr Chen.

Acknowledgment

1.10 The committee is grateful to, and wishes to thank, all those who assisted with its inquiry. In particular, the committee would like to acknowledge the work of Hansard who had to deal with a complex matter, in camera evidence and English translations.

