

Vista SA

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

Dear Sir/Madam

INQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958

Having been a carer for the Bakhtiyari family, both under the care of Centacare (Catholic welfare agency) and the Department of FAYS, I am writing to inform you of my personal concerns at the administration and operation of the Migration Act 1958. I will share my observations and views from the context of having worked with the Bakhtiyari family.

The process and assessment of visa applications

I had cared for the 5 children for six months prior to them being put into community detention. The family were split up in three different locations – Baxter Detention Centre, a hotel and a suburban house owned by Centacare, initially due to the children winning their case of no child being in detention. During this time, their father, Ali, would be transported from Baxter to Adelaide, initially every 3 weeks or so, to fortnightly in the last few months, staying with his wife Roqia and their baby, Mazhar in a suburban hotel room for a few nights. After school each day, I would transport the children to the hotel where they spent a few hours with their parents and brother. Before long, it would be time to leave and the trauma was felt by all members of the family. On occasions it was very evident with the youngest, Amina aged 5, who would be clinging to her mother, crying and not wanting to leave. This routine would continue when Ali returned to Baxter and it became exhausting for the children continuing this arrangement each day.

In their culture, Alamdar, being the eldest male, was automatically given the role of being the head of the family, due to Ali being in detention. This put significant pressure on Alamdar, which affected his relationship with his siblings.

Ali's dignity, role and purpose were taken away from him by the separation from his family. He could no longer exercise his role and duty of being a father, husband and protector. In the last few weeks of their time in community detention, the department believed it was necessary to employ male security guards at the house. There was no cultural regard with this decision and it created further hostility and mistrust between the department and members of the family. Roqia and Nagina, the eldest girl, wore head scarves and were always anxious they would be seen by males without them on. Roqia

was particularly worried photos of them without their scarves would appear in Afghani newspapers, making them very vulnerable.

The time taken for the government to determine their course of action, took a huge toll on this family. I saw the boys being particularly anxious as each court case arose, not knowing what their future would be. How is it that in Sweden, detention is only used to establish a persons identity and to conduct criminal screening. Most detainees are released within a very short time, particularly if they have relatives or friends living in Sweden. Of the 17,000 asylum seekers currently in Sweden 10,000 reside outside the detention centres and children are detained for a maximum of 6 days (Edmund Rice Centre for Justice & Community Education and the School of Education of the Australian Catholic University). People were willing to care for this family and it would not have ended up costing the outrageous sum it had by having them spread over South Australia.

The deportation of the Bakhtiyari family from Australia

The Bakhtiyari children and their mother were woken at 7 am on a Saturday, with no warning of their removal from their home in Dulwich, for transportation to Baxter. The youngest child, Amina, had wet herself and not allowed to change. I Roqia told me she was not given time to change her Mazhar's nappy or fill a bottle for him. It was a particularly warm 40c day, with a 4-5 hour journey ahead. When she requested to go to the toilet, Roqia was told a guard needed to go with her. They were greeted by 25 guards+ in the front yard, striking fear into all members of the family. I was also told by a member of the family, while on a visit to them in Baxter, they were not given anything to eat until 3 pm that day. Does this comply with the Declaration of Human Rights? Nagina, the eldest girl, also informed me they were not given clothing for days.

The distress it caused, particularly for the girls was evident, following my first visit with my children, who had also formed close relationships with them. They were quiet and withdrawn, yet pleased to see familiar faces. Roqia complained her requests to see a doctor were not granted and considering she was pregnant, this is appalling treatment. Leaving them, saying our goodbyes was very upsetting, as they and we were unsure of what lay ahead. They spoke on our last visit, the night they were deported at midnight, of not being able to eat very well or sleep, as they feared being taken away in the middle of the night. With focus being diverted on the tsunami, the Bakhtiyari's fears became a reality. In a letter I received from Monty, he stated they were not given the opportunity to say goodbye, which he found particularly distressing. This family had made significant friendships over time.

In reference to documentation of their nationality, according to 'The Australian' 6th January 2005, it was reported the family were not carrying passports or identification papers when deported. The Australian government has endangered the lives of asylum seekers by deporting them without proper papers and in some cases false documents, placing the in increased danger (Deported to Danger, A study of Australia's Treatment

of 40 Rejected Asylum Seekers – Edmund Rice Centre for Justice & Community Education, School of Education, Australian Catholic University).

Shortly after the Bakhtiyari family arrived in Pakistan, they made their way into Afghanistan, where other members of their family reside. They continue to live in Afghanistan to this day and I believe, as so many others do, they are Afghani.

The outsourcing of management and service provision

I question the treatment of this family, with particular attention by the agency Global Solutions Limited and the Department of FAYS. Some of the staff's expectations and treatment of the family was in conflict with cultural practices and lacked sensitivities to these. Other staff members were young and inexperienced in dealing with young children and teenagers, exercising and abusing their power over them. Towards the end, there were suspicions some staff may have stolen from the family and some seemed to enjoy provoking members of the family. This created further hostility and mistrust between staff and the family, all of which resulted in security guards being put in place. Ali was particularly distressed when he heard this news, as it was culturally shameful and worrying for him to have other men in the same house as his family, men he did not know.

On my first visit to Baxter Detention Centre, I had brought a lot of food Roqia liked to cook but was not permitted to leave it with her. The procedure required us to take in food that could be consumed there and then, taking out what had not been consumed. I had a bag of rice she liked to use and had to bring it back home again. What is dangerous about a bag of rice, a simple, basic food?

I had been told by members of the family, when they were in detention before (Woomera and then Baxter) and needed a roll of toilet paper, for example, they needed to put in a request and often did not receive it for at least a day or more. Whenever they presented for their meals, they were required to show their ID badges before receiving their food. All this tells of an experience worse than prison. Criminals are treated better than this and these people are asylum seekers, not criminals. There is a more humane way of treating people and Australia's reputation overseas is appalling in its treatment of them. This family was like any other, where the parents were seeking the best they could find for their children. They sought our protection and being a member of the United Nations, Australia is both morally and legally obliged to defend human rights. We failed the Bakhtiyari family and many other families and individuals. Hopefully this Senate inquiry will reveal much and begin to make significant and overdue changes.

Yours sincerely,

Glenda Clarke