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Dallas Mazoori

INQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958

For the past three years I, along with my husband who is himself an Afghan refugee, have devoted my life to ensuring the welfare of the Hazara Afghan refugee community in Melbourne. I personally did not choose to be burdened with this responsibility. I have to be a lawyer, an English teacher, a social worker, a doctor, an interpreter, an accountant, a mother, a sister, a financial adviser, a travel agent, a courier, a tennis coach, a chef, a business consultant, a careers adviser and a friend on a daily basis. I could easily fill a thousand pages with all the injustices I have witnessed, however, for the purposes of this inquiry I will focus on my experiences as the Australian wife of an individual Afghan refugee.

As a signatory to the 1951 Convention on the Status of Refugees Australia has important international obligations in respect of asylum seekers and refugees within its jurisdiction. However, the Convention as currently incorporated into domestic legislation by virtue of the Migration Act (1958) has been qualified to such an extent that it no longer accurately reflects these obligations. Of particular concern to me is the fact that Australia is completely ignoring Article 31(1) of the Refugees Convention in its treatment of Temporary Protection Visa (TPV) Holders, despite the fact that these people have been found to be genuine refugees under the Convention.

Article 31(1) reads:

The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1 [that is due to persecution on account of race, religion, nationality, membership of a particular social group, or political opinion], enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and who show good cause for their illegal entry or presence.

Whilst the federal government may like to argue that boat arrivals are not coming directly from life-threatening situations as they have inevitably transited through Indonesia and other countries, I would argue that where one is under the control of people smugglers for the duration of their journey, and would not have been able to obtain effective protection in countries en route,

there is sufficient directness. And yet Australia has imposed an impressive list of penalties upon boat arrivals in the form of the TPV.

My husband was granted his Permanent Protection Visa (PPV) on 1st July this year. For the three years prior to this decision, I was in the unfortunate position of being an Australian citizen who was effectively living in my own country on a Temporary Protection Visa. Both my psychological and physical health have been severely effected by the stress and uncertainty associated with my husband's refugee status. I endured anxiety, depression and stomach ulcers, all of which my physician attributed directly to the expiration of my husband's TPV and the subsequent review of his case.

I can not express adequately in words the pain that I have felt when he has woken up at night and gone and searched every room of our house for Taliban. The horrors he has witnessed are not things one could ordinarily imagine, and the effects are not something that could ever be scripted. When I attempted to refer him to the relevant torture and trauma service provider for help, I was informed that there was an eleven-month waiting period. At the time, I wasn't sure whether he'd still be here in eleven months, as a result of either deportation or self-inflicted means.

Until the decision a year ago to life the 8503 condition on TPVs, we were denied access to migration streams readily available to other Australian citizens, such as the Spouse Visa. When this condition was lifted, we were able to apply for such a visa, however we were faced with the prospect of a further two years of temporary status under that visa category. The Migration Act does give the decision-maker the discretion to grant a permanent visa at first instance where there is a child of the relationship, however, I was informed by the DIMIA that this is only a discretionary provision and by no means guaranteed. Try and comprehend how difficult it is to be pregnant and to ensure the welfare of your unborn child whilst living with this degree of stress and uncertainty. Especially when you are bearing a daughter and your other country of residence is Afghanistan.

The effects of my husband's TPV have also compromised my education. As a law/languages student I have been unable to take advantage of the lucrative foreign scholarship opportunities that I worked so hard towards in my degree. I could not conceive of being separated from my husband for a single day, let alone undertake a six month honours candidature abroad without him. Few European countries would issue Afghan nationals entry visas for fear of subsequent asylum claims, and even if they did, the conditions of his TPV denied him the right of return to Australia.

Believing that my husband and I had unique circumstances warranting special attention from the DIMIA, I wrote to the manager of Onshore Protection (Victoria). Admittedly I was pleasantly surprised when he arranged for my husband to have an interview in relation to his Permanent Protection Visa (PPV) application almost immediately. However, it took another eight months for him to be granted that PPV. DIMIA maintains that the delay is entirely due to the external agency that processes applicants' security clearances. If this truly is the case, then new arrangements are desperately needed. It has been

heartbreaking to watch my husband and our refugee friends check their mail boxes two, three, four up to five times a day, every day for months on end, hoping and praying for that letter from DIMIA.

The injustice that my husband has endured in his native Afghanistan never cease to amaze me. Nor do the injustices that I have witnessed here, as a result of the TPV regime. To give some idea of the kinds of unethical practices being undertaken by DIMIA:

 When my husband was released from Port Hedland IRPC he was brought to Melbourne with a small group of other refugees. As there was no public housing, they were taken to a caravan park (which he later recognised as being on the main road between Dandenong and Frankston, the middle of nowhere) and given \$200 each, as well as the phone number of an Afghan community representative, who was of the ethnic group and religious affiliation that had persecuted him in Afghanistan. They were not given any information about where to buy food, transport, work, etc, and had to figure this out for themselves.

 An English student of mine told me that at his initial interview with DIMIA in detention, he told his case officer that his father had been tortured by the Taliban, specifically that they had cut off his hands and feet. He became hysterical when his case officer replied that it was his father then that should have come to Australia on a boat, not him. His father was of course dead.

 I corresponded with a young Afghan detainee from my husband's boat who 'voluntarily' returned to Afghanistan after three years in detention. He suffered from diagnosed schizophrenia and as treatment for this he received regular stints in maximum-security isolation units. As a result his condition deteriorated irreparably. Whenever his lawyer or friends came to visit him, he was handcuffed and escorted by two guards, often drugged to the point that he wasn't able to focus his eyes or speak properly. He was not an overly religious person when he arrived in Australia, but by the time he was coerced into obtaining his passport to go home, he had become a religious extremist. I remain unaware as to his whereabouts.

 A prominent Afghan refugee who was accepted by the Refugee Review Tribunal (RRT) a year ago still hasn't received his PPV from DIMIA. DIMIA's response to this is to allocate him a new file number and a new case officer, but to offer no comment otherwise. This individual was one of the first TPV holders to arrive in Australia and yet it appears he may well be the last to be granted permanent protection. Adding to his misery is the fact that both of his daughters have died since he left Afghanistan.

 Another Afghan friend survived the Tampa debacle as a minor in 2001 and spent two years on Nauru as a result. He came to Melbourne for medical treatment in September 2002 for kidney stones (as many ex-Nauru detainees have). He was spent a week in a private hospital south of Melbourne before being flown back to Nauru, where he spent another year before returning on a five year TPV. He has

been so damaged by this experience that one can only feel that while his body
his present, his mind is not.

And this is just the tip of the iceberg.

Thank you for giving me the opportunity to tell just a fraction of the tales
created by DIMIA's inhumane temporary protection regime.

Mrs Dallas Mazoori
SOUTH YARRA