

Marion Lê, OAM. Registered Migration Agent 9256617

Phone: +61 (2) 6258 1419

B.A.(Hons); B.Theol.; L.Th.; Grad. Dip. International Law; T.T.C. (NZ, NSW, Qld).

Fax: +61 (2) 6258 1681

PO Box 3095

Mobile: 0419 419 680

Belconnen MC ACT 2617

E-mail: marionle@ozemail.com.au

**SENATOR AMANDA VANSTONE**  
**MINISTER FOR IMMIGRATION, MULTICULTURAL & INDIGENOUS**  
**AFFAIRS Parliament House Canberra 2600**  
**By Fax: 02 6273 4144**

**RE: Concerns about the preponderance of adverse material on the files of the Afghans who were rejected in mid 2004**

Dear Minister,

I refer to my letter dated 27/5/2005 "Concerns about the remaining Afghan applicants on Nauru."

In that letter I raised serious concerns about the confusion of two applicant interviews and the erroneous filing of information about two different applicants onto the file of one.

It is my submission that such serious errors must be properly investigated particularly because similar errors appear to have affected the decisions of some of the Afghans remaining on Nauru.

Minister, I wrote to you in March about a number of serious flaws that had become apparent in the remaining cases on Nauru (copy of letter dated 24/3/05 accompanying).

I raised this issue again in a letter to Mr Robert Illingworth on 29/3/05 (letter accompanies).

Since the last letter in March, I have analysed more of the Afghan files and three Iraqi files.

Minister, I have read all of the files released for both the rejected Afghans and the rejected Iraqis. So far, I have done an in-depth analysis of more than half of the files. I am, therefore, in a unique position to present an overview of the cases of the majority of the rejected Afghan asylum seekers on Nauru.

There are three major areas of concern:

- (1) Most of the rejected cases contain untested "dob-in" material which should never have been placed on files, let alone afforded any weight.**
- (2) Two files contain written notes with adverse comments by the interpreters employed by DIMIA.**

- (3) More than half of the rejected applicants have had their cases, or their identities, mistakenly merged together with other unsuccessful applicants and many files contain material from more than applicant.**

**(1) Dob-ins:**

Minister, in early 2004 when I first visited Nauru, I was handed a list of names by one very disaffected asylum seeker whose own case had been dealt with badly in 2001-2002. Essentially this person had taken it upon himself to advise the DIMIA whom they should reject on grounds of nationality. He himself had a strong case and was accepted as a refugee in May 2004.

I raised the existence of this list with the decision-making team during meetings in Sydney before any of the cases were decided. I was assured that the “dob-in” list would not be given any weight. In fact it has now been proven fanciful for the most part.

One of the case officers who rejected applicants, unfortunately, was based in Melbourne. Eighteen cases were rejected in mid-2004 (two families and sixteen single people). Three case officers handed down the rejection decisions; one case officer rejected three single men, one rejected the two families and four single men and the third case officer rejected ten single men.

The case officer who rejected the ten young men placed the dob-in list (with the other names deleted) on each of the files of the young men she rejected. It is clear that this adverse material that was untested, unproven and had never been put to the applicants, carried enough weight to end up on their files. None of the other case officers filed this material.

One of the rejected applicants had a very poisonous letter (signed XYZ) claiming that he had killed thousands of people placed on his file. This applicant was never questioned about such matters and therefore never had a chance to answer these appalling allegations.

**(2) Merged Cases:**

Of the eighteen rejected cases, six contained information about more than one applicant merged on their files. That means for at least part of the decision making process, one third of the rejected cases faced a situation where the DIMIA case officers didn't even know who they were and couldn't differentiate them from other applicants on Nauru.

**(3) Interpreter dob-ins:**

Two of the rejected applicants had adverse comments made about their nationalities by the interpreters employed by DIMIA to assist with the interviews. I am not talking about the “so-called” specialised interpreters who assisted Intell officers at the first point of contact with asylum seekers. I am talking about the interpreters employed to assist in refugee determination interviews.

This behaviour is totally unprofessional. Unfortunately their comments have ended up on the files and add negative weight to the asylum seeker's claims, sinking them further and further into the murk of bad practice.

At the very least, the interpreters and the DIMIA interviewers should be counselled as to the professional code relating to the use of interpreters and translators.

Minister, you have to remember that these asylum seekers were kept quarantined from any sort of legal assistance for three years. I have only studied the cases of twenty-nine people in depth.

Last year, some one hundred and forty five Afghans were awarded visas after languishing on Nauru for three years. I can assure you Minister, it was not only changes in country information that made the difference in many of those cases.

Last year many of the Nauru applicants I assisted revealed similar patterns in their initial rejection decisions in 2002.

How many of the Afghans who gave up their claims and returned to their region, only to flee again into Pakistan and Iran, were also poorly served by our decision-making process?

It would take several hundred more hours of research and investigation to ascertain what happened to the rest of the people processed in 2001 and 2002. What is known, of course, is that they had no legal representation or assistance.

I am more than prepared to place all the material at my disposal in the hands of the Commonwealth Ombudsman, a Judicial Inquiry or a Royal Commission.

I have also done considerable research into the range of country information used to reject the cases in 2001-2002 which will be of interest to researchers and legal teams.

Minister, I trust that none of the Afghanis will be removed from Nauru, until I have analysed their files and their claims have been exhaustively examined.

Thank you for your urgent consideration.

Yours sincerely,

MARION LE, OAM  
31/05/2005