

SENATOR JACINTA COLLINS ADDITIONAL COMMENTS

In concluding its deliberations the Committee is forced to reflect on an unfortunate lack of outcome that its processes have been able to produce in some key areas. Whilst the government has continued to describe the inquiry, and particularly the consideration of the ill fated SIEV X, as an attack on Australian Defence Forces, it is quite clear that one real outcome of the inquiry has been to confirm the integrity of Defence personnel. Despite obstacles presented by the Government, the inquiry has established that the Australian men and women who form our defence core are humanitarians who seek to protect and defend the lives of all people within their jurisdictions.

What the inquiry has not been able to establish is an explanation for the inappropriate actions and behaviour of some key Defence officials. Further, and perhaps more significantly, the inquiry also failed to fully explain the efforts of the Australian Prime Minister and Cabinet to “deter and deny” the Australian people from the truth about those who have sought asylum in Australia.

As the Majority Report and Odgers Report both show, even from limited evidence, Minister Reith deliberately maintained or created false impressions in order to gain political advantage.

What is also significant is that many trails lead directly to the Prime Minister’s Department, his Office and to the Prime Minister himself. Whilst it has not been claimed, nor proven, that the Prime Minister knew the truth and lied, many reports question his claims that “I never received any written contradiction of that (children thrown overboard), nor did I receive any verbal contradiction of that” and, regarding his office, “No”.

In the months prior to the Governments introduction of its new border protection regime, some senior defence officers were privately raising serious concerns at a new direction and culture developing within the Department of Prime Minister & Cabinet. Defence representatives in the Government’s inter-agency consultations were made to feel like “bleeding hearts” in comparison to a hard-line stance developing out of the Prime Minister’s Department.

The reality of the inquiry into the children overboard affair is that at best there are inconsistencies and contradictions in the evidence given before the Senate Inquiry by some key Defence and public officials. At worst there are fundamental omissions, half-truths, untruths and cover-ups. The Prime Minister has sought to distract from this reality by alleging an attack on the Defence Forces.

A basic consideration of the raw evidence shows that the men and women of the Australian Defence Forces sought to protect life at sea in every demanding instance. The officers and crew of HMAS *Adelaide* deserve recognition for the distinguished way they undertook their operational responsibilities and particularly for the way they kept safety of life at sea (SOLAS) at the forefront of their decision making in regard to SIEV 4. However, what the raw evidence also shows is that the extraordinary direction coming from above was to “deter and deny”, irrespective of the circumstance. This matter is perhaps most evident in the following extracts of the SHIPS LOG, BOARDING LOG & OPS ROOM NARRATIVE of HMAS *Adelaide*.

BOARDING LOG

Adelaide Sunday 7 October

- 05.36 Female (young) fainted onboard SIEV
- 05.46 Max returning female to Adelaide
- 05.47 “SUNCs not to come on board Adelaide, embarking boarding party B” CO

SHIPS LOG

Adelaide Sunday 7 October

Christmas IS AO

- 15.15 Command intention to repair SIEV & send them North
- 15.29 SUNCs claimed UN Assistance due to political problems in their homeland
- 15.44 Brig awaiting Prime Minister to make decision on SIEV
- 15.50 Prime Minister determined ADE will tow SIEV to place to be determined
- 15.54 Command intentions prepare to tow SIEV

BOARDING LOG

Adelaide Sunday 7 October

Christmas IS AO

- 15.27 1 SUNC wants UN to be told of location of SIEV. He has sick women & Children on board
- 15.30 BPO confirms engine beyond repair and steering is also useless.
- 15.30 CO intends to tow awaiting approval from NORCOM
- 15.49 CO advised approval from PMOF (Prime Ministers Office) Aust to tow vessel to place to be determined.

These extracts demonstrate, that although the personnel of the Australian Defence Force sought to carry out their fundamental duties, they were often

restricted by the instruction to await the advice of the senior officials of Defence and PM&C or, more disturbingly, a decision from the Prime Minister himself. Further, the extracts below demonstrate that even in the most desperate and distressing of circumstances, Defence personnel were inhibited in their ability to assist because they were forced to wait for instruction from Federal Government.

OPS ROOM NARRATIVE

Adelaide 7 October

08.35 z Boarding Party has disembarked SIEV. Awaiting intentions from HQNORCOM

08.50z CO 1MC PIPE: Holden won Bathurst and the PM gave permission to tow vessel to a place undetermined yet

15.49z SIEV RQST DR, I SUNC vomiting blood & gone into shock.

Adelaide 8 October

07.38z SUNKS becoming agitated as the current course and swell means we are taking on water. 1.13M of water and increasing

07.51z C B Request to move children & women off.

09.39z Possible SUNC over the side of SIEV. Request stop tow 5cm water stbd side of deck causing lg amount of panic

09.41z CO denies request

09.44z water level increasing rapidly 120cm water doubling, believe serious damage to the bottom of SIEV

09.48z continuing to take on water. CO, Remove personnel aft and 02 deck.

09.49z 110cm water at shallowest point. We are not sinking but taking on lg amounts of water. Believe the boat is slowly sinking

10.09z C B Recommend we put people in the water (x2)

10.29z All personnel have departed SIEV 4

10.36 Contacting parliament on crisis

10.42z A total of 4 liferafts in the water

11.00z RHIB's instructed to bring children onboard
Adelaide

BOARDING LOG

Adelaide 8 October

16.41 5cm free surface water on STBD side of SIEV, BPO RQST to stop, CO stated negative, to not be reactionary to SUNCs requirements

The interference by senior officials of Defence and the public service in the daily operations of the Australian Defence Force is unprecedented. However, also unprecedented is the way in which some senior officials of Defence then allowed the Government to disguise the situation to protect their political position. Perhaps the most obvious examples can be found with Navy Chief Vice Admiral David Shackleton, Chief of Defence, Admiral Chris Barrie, Rear Admiral Geoffrey Smith and Department of Defence Secretary, Dr. Allan Hawke.

Admiral Barrie can be commended for maintaining the SOLAS imperative when rescuing SIEV 4 passengers from the water in a heated exchange with the Secretary of the Prime Minister's Department, Mr Moore Wilton. However, the similarity between his attitude and that of Mr Moore Wilton that the original report had never been disproved (i.e. prove that pigs can't fly) is alarming. This denial has been the source of much of the negative attention of Defence which followed.

Similarly Vice Admiral Shackleton sought to correct the record on the advice that came from Navy about the incident but he appears to have succumbed to political pressure later in the day when he clarified his statement in a way which withheld vital elements of the whole truth.

Rear Admiral Smith needed to clarify his original testimony to the Committee when advised that Rear Admiral Bonser from Coastwatch would testify detail regarding the state of knowledge about SIEV X inconsistent with Rear Admiral Smith's blanket assurance that 'the first time Navy knew that this vessel had sailed was when we were advised through the search and rescue organisation in Canberra that this vessel may have foundered...'

Rear Admiral Smith also declined to amend his evidence on the conduct of asylum seeker on SIEVs – known as the Smith Matrix – when the evidence became clear that a purported 'strangulation' incident had not, in fact, occurred.

As for the Secretary of the Department of Defence, Dr Hawke, he has admitted that he 'could have or should have taken a more active involvement' in the provision of advice. At the time he was happy to sit behind Admiral Barrie's 'considered position' and the Minister for Defence's communication directive.

It is now clear that the most senior of Defence officials were aware that the claims that asylum seekers had thrown their children overboard were without unequivocally substance. However, what must be understood is that the Government ultimately sought to hide the truth from the Australian people.

The likely reality is that on the dawn of a federal election the Coalition government did not want to know the truth. The Coalition Government clearly manipulated the circumstances of people seeking asylum in Australia for electoral gain. The Coalition government has sought to justify Australia's involvement in war on the brutal regimes of Afghanistan and now possibly Iraq, however when the people of these very nations have sought asylum from such brutality the Coalition Government has promoted these people as having values inconsistent with Australians and not the sort of people welcome in Australia. The Prime Minister has stated:

“It doesn't speak volumes for some of the people on the vessel – suggestions that children thrown overboard.”

(Doorstop Interview, Menai, Sydney, 7 October 2001)

“I can't comprehend how genuine refugees would throw their children.”

(The Age, 9 October 2001)

“...I don't want in this country people who are prepared, if those reports are true, to throw their children overboard. And that kind of emotional blackmail is very distressing ... But we cannot allow ourselves to be intimidated by this.”

(Alan Jones, 2UE, 8 October 2001)

In order to maintain these images, it is clear that Mr Reith manipulated the flow of information. What also needs to be addressed is the Prime Minister's connection to such behaviour.

It is known that on October 7 the Minister for Immigration informed the Prime Minister that he had made a media statement that children had been thrown overboard. Further, it is also known that an 'options paper' prepared by the *People Smuggling Taskforce*, including the statement 'passengers throwing their children into the sea' was presented to the Prime Minister later that evening. However, by October 10 Secretary of Prime Minister and Cabinet, Max Moore-Wilton, and the Prime Ministers International adviser had been provided with further information from the *People Smuggling Taskforce* that included a footnote suggesting that there was

“no indication that children had been thrown o/board. It is possible that this did occur ...”.

Indeed, talking points forwarded to the Prime Minister's International Adviser for the Prime Ministers use that same day did not include the statement that children were thrown overboard. Simply, the talking points alluded to a possibility that some asylum seekers could have been thrown, or may have jumped, overboard. When pressed for evidence the Prime Minister suggested on radio:

“As to the question of evidence ... I’ll make some inquiries and see what evidence can be made available... I have been provided with no information since then that would cause me to doubt it.”

Photographs were quickly produced but just as quickly they were recognised within Defence as being of personnel rescuing asylum seekers off a sinking ship and not of children having been thrown overboard. It is notable that it was not until a month later, only days prior to the Federal election, that the Prime Minister’s international adviser attempted to obtain some genuine evidence. Significantly he contacted his own Department whom advised him that there wasn’t any. The Prime Minister himself spoke on two occasions to Mr Reith’s advisor, Mr Scrafton, on the evening of November 7th about the video. The supposed video evidence was known at this stage to be inconclusive but in the absence of any other corroborating material the Government sought to release the videos in time for the midday news on November 8. That same day the Prime Minister appeared at the National Press Club again reiterating his position:

“I don’t regret saying, I should go back and have a look at exactly what was said, but I don’t regret ever saying that people who throw their children overboard are not welcome in Australia ... Well in my mind there is no uncertainty ...”.

He also relied upon the ANO report, which Mr Jordana knew may have been based solely on press reports of statements by Ministers.

By November 12, two days after the Federal Coalition Government was returned to office, it became evident that the only basis for the claim that children were thrown overboard was ministerial statements.

What is further disturbing is that when the Senate decided to conduct an inquiry into the affair the Prime Minister, despite initially declaring that he would cooperate, refused to support the parliamentary process and indeed inhibited its effective implementation. This is evident in the fact that the Prime Minister explicitly stated that only MOPS staff would be banned from the inquiry yet as it transpired key witness such as Rear Admiral Gates were not allowed to testify.

Another concern is pressure exerted on some witnesses not to be forthcoming. The Assistant Secretary of the Prime Minister’s Department social policy branch, Jennifer Bryant, was pressured whilst giving evidence by the Prime Minister as well as the Prime Ministers International adviser and Secretary of PM & C. Jennifer Bryant conceded that in an ‘accidental’ meeting in the Prime Ministers office she was given an ‘impression’ that she should be (in her own

words) “the flatter the better” in her evidence to the Senate (*Transcript of Evidence*, CMI 1271).

Commander Stefan King also reflected on the culture in PM&C. In his submission to the Senate Privileges Committee investigation into possible improper interference, he comments:

“...it has been my perception, from a series of actions and inactions by PM&C that the Department preferred that my evidence not come before the Senate Select Committee and that perhaps agreements or ‘understandings’ may have been formed to contribute to that outcome. This perception is directed more broadly to the Department at large, and not to a particular individual, including Dr Hammer, as I have accepted his public assurances to me.”

The Prime Minister has also attempted to disguise the Government’s inadequate response to SIEV X behind claims that there was a concerted campaign to ‘denigrate and besmirch the reputation of the Royal Australian Navy’ and this tactic is also concerning.

However, it has been established that the operational personnel of the Royal Australian Navy carried out their duty with absolute integrity. What remains unclear is exactly where and how the vessel came to sink and how hundreds of innocent people came to drown in the ocean. Disappointingly the inquiry was not able to produce any certain answers. SIEV X had been known to Australian intelligence. It was known to have left Indonesia bound for Australia with an estimated time of arrival. But even in response to the incident, the facts have not been established. However, the inconsistencies in the Prime Minister’s commentary about SIEV X indicate that there is a greater story regarding SIEV X and the Prime Minister is refusing to tell the story to either the parliament or the public. Such inconsistencies and evasion are evident in the following extract from a Prime Ministerial media interview.

JOURNALIST:

Are you now able to advise where you got the information on or before the 23rd of October that SIEV-X sank in Indonesian waters?

PRIME MINISTER:

I haven't got anything to add to what I've said.

JOURNALIST:

But you recall that I asked you this question last week and you said that you'd have to check.

PRIME MINISTER:

Well I'm telling, you I don't have anything to add to what I've said.

JOURNALIST:

So you're not able to advise -

PRIME MINISTER:

I'm telling you I'm not adding anything to what I've said.

JOURNALIST:

Why not Mr Howard?

PRIME MINISTER:

Because I'm not adding anything to what I've said.

JOURNALIST:

What's your reason for it?

PRIME MINISTER:

I'm not adding anything to what I've said.

(Press Conference, Sydney International Airport, 30 June 2002)

Conclusion

This discussion highlights some of the political context relevant to the 'Children not Overboard' affair. In the lead up to a federal election the Government, without public consultation, at times when the caretaker conventions were in effect, made fundamental changes to our approach to handling asylum seekers arriving by boat. Much of what subsequently transpired related to the Government's attempt to manage this agenda, at times drawing in to compromise, sometimes hapless, defence and public officials. This is not to say that there weren't many examples of defence and public officials who resisted such compromise. In the current political climate they would probably not appreciate being identified by public acknowledgement, but they deserve the gratitude of the Australian community for the distinguished way they have undertaken their responsibilities under difficult circumstances.

Senator Jacinta Collins
ALP, Senator for Victoria