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Joint Standing Committee on Migration Public hearing for the inquiry into immigration detention

***Perth Legislative Assembly
Committee Office Room No. 2 – Thursday October 9, 2008***

See <http://www.aph.gov.au/House/committee/mig/detention/index.htm>

Introduction

Project SafeCom was established partially as a response to the Tampa standoff in 2001, because Tampa was not about refugees, but about politicians, and about the lengths they go to in order to win unwinnable elections.

Australia does not have a refugee problem, and never had a refugee problem, but it has a political problem. It has a problem of politicians undermining UN Conventions.

While we are also active in other policy and human rights areas, for today's hearing Project SafeCom is *a counter-spin initiative* and a platform that fiercely announces its opinions based on the underpinnings of the Convention for the Status of Refugees.

Project SafeCom starts with a couple of unwanted boat arrivals inside a nation's territory: the Struma, the St Louis, the Patria and the Exodus.

The Struma had 770 asylum seekers on board and was bombed after being towed outside the harbour of Istanbul by Turkish authorities. 760 people died. Turkey was happily egged on by callous statements coming from Britain, who vowed to never let the boat into its protectorate in Palestine.

The story of the Refugee Convention starts with nations turning back boats that fled the Holocaust, or bombing them and sinking them, or repelling refugee boats from their shores while these same nations were at war with the regime they fled from.

Once formulated, the Refugee Convention, specifically crafted in *a response to boatpeople*, provided for privileged entrance, reception and claims processing, and its presence in the western world eliminated the notion of "unlawfulness" and "illegality" for arrivals in countries that signed that Convention.

So, in this context, Project SafeCom will declare war on any Australian politician who undermines the Refugee Convention. A politician who tries to invoke notions of “illegality” or “unlawfulness” of boatpeople who arrive on our shores with the intent to seek asylum invokes our anger and criticism, expressed quite openly, loudly and audible on every street corner, if need be.

And I note that no boats with passengers trying to settle clandestinely have arrived since the First Fleet.

As an independent citizens group, we expect the opposite from our politicians, especially in the context of the Rudd government’s bid to secure a position on the UN Security Council:

We expect the government to invest considerable resources into telling the Australian public what our obligations are to boat arrivals and other people who seek to invoke the Refugee Convention.

We expect that our government, on curriculum level at primary schools and at high schools, teaches the Australian people about this privileged entry and legality of arrival of boat people and about a fair, free and court-reviewable assessment of refugee claims

and

... we expect our government to pro-actively inform all Australians about our obligations to those who are under threats by their governments, no matter how nicely we’d like to trade with those governments.

Human Rights are not the crumbs and left-overs after our diplomatic and trade relations are on track; Human Rights are the foundation of a civil society that has fully developed ethics, and a fully developed sense of identity, national conscience and pride as a nation.

Conversely, vilification of internationally agreed conventions and undermining of human rights standards towards the most vulnerable in society is a sign of Australia’s immaturity, and when expressed by politicians it’s something we remain highly embarrassed of.

There is fury on our part that the government is not only failing to pro-actively tell the Australian people about our obligations under the Refugee Convention and the International Declaration of Human Rights, but that we have policies crafted to deliberately undermine those Conventions. To name a few:

1. the Julia Gillard “pushing the boats back” policy of 2003;
2. the arbitrary jailing of asylum seekers arriving by boat;
3. the policy that’s seen as a farcical joke by international jurists: the excision zone where you’re out of reach of Australian Refugee Law if you land on one of 4,600 islands off the coast of Australia.
4. An implementation of the International People Smuggling Convention that fails to distinguish between highly organised and corrupt people smuggling rackets and a broke Indonesian fisherman from the island of Roti who gives a group of people a ride for a bit of money to sail them to the centre of their centuries-old fishing

grounds: Ashmore Reef.

And I'm talking about Indonesian fishermen sent broke because Australia has fiddled with their United Nations Indigenous fishing rights and Australia has failed to be lenient to these Indonesians about the borders or conditions of their UN Indigenous fishing grounds.

Moving asylum seekers to Convention countries and getting paid for organising the transport is not a crime but a transport service, and Project SafeCom does not support political spin when and where politicians are unwilling to clearly inform the Australian public, and are not prepared to thank these "people movers" for bringing people to safety.

It is politicians who need to carry the responsibility and the blame for Australian public opinion and for the vilification of asylum seekers arriving by boat.

Since the introduction of mandatory jailing of asylum seekers by Gerry Hand in 1992, and even more so since Tampa, untold damage has been done to Australia's understanding of the status of refugees, and if politicians now just follow the polls in determining whether a policy change is politically viable or not, they will abysmally fail our country once more – because first they created vilification of asylum seekers as an official government line, in order to win elections.

To now say that abandoning mandatory jailing is not viable because internal or public polling is not showing its political viability is a disgraceful continuation of a status that politicians themselves created in the first place.

It was you, who created public vilification of asylum seekers, and it is you who need to create instruments that undo this damage, and only you can undo the layers of erroneous constructs in public opinion in our country.

Immigration Department

I will now move on to raise some issues in the Immigration Department, also because I will present some material from insider contacts I will not name. I will just call my contacts "whistleblower". Whistleblower may be one or more Immigration Department employees, in Brisbane or Perth or Melbourne or Sydney or Canberra or Adelaide. Whistleblower may be male or female – but whistleblower has been in senior positions for more than a decade.

First, we have the extraordinary situation where just one officer of the Department sits in judgment of a refugee claim as the primary assessor.

This has led to serious problems in the claims of hundreds of refugees at the primary stage. This strange one-man situation has cost Australians millions of dollars when appeals need to go to the secondary level of the Refugee Review Tribunal, where once again, a single person delivers the judgment.

In 2003 Jesuit Priest Frank Brennan, then the Woomera advisor to Phillip Ruddock, concluded that the Immigration Department got it wrong between 62 to 87 percent of the time in their primary assessment.

Not only that. Lawyers inform us that if that Primary Assessor approves a claim, his or her decision is subject to managerial review. However if the opposite is true and the officer refuses a claim, the decision is not subject to review.

A former RRT member tells us that he was told plainly at the start of his lucrative annual contract that he could not approve more than 25% of the cases that came before him. He did not stick to this rule during the year and his contract was not renewed.

I ask you – if the Australian Human Rights Commission (until recently HREOC) together with representatives of Amnesty International, Human Rights Watch and migration agents, joined the primary assessor and the RRT Member, wouldn't the assessment be much higher in accuracy, saving the Commonwealth millions of dollars in court costs and even more dollars in detention costs for the duration of appeals - that often go all the way to the High Court?

And, wouldn't this change save many a refugee from traumatising to levels where they are damaged for life, as we've seen during the last seven years?

The name of Greg Wallis keeps coming back amongst advocates – the Immigration Dept manager in the Curtin detention centre and in Baxter. Wallis was of course the “child smuggler” who made Amin Mastipour's 7-year old daughter vanish overnight from Baxter by deporting her to Iran, knowing full well that the little girl's imprisonment in Baxter close to her father Amin was his only ray of hope in the hell hole.

Incredulously, after having been given a safe government job in Lebanon, he's back in Australia and reportedly working for the Department. In the eyes of many prominent advocates, Mr Wallis is an example of how those who behaved heinously during the Howard years are still working in Immigration without having faced an inquiry or scrutiny. It is not without reason that Project SafeCom keeps calling for a Royal Commission into the Immigration Department.

I asked Whistleblower: “How many staff in middle and upper echelons would you sack if you were the boss?” and the answer of “ten people” came swiftly.

Whistleblower wants Phillip Ruddock to be brought to account for his role in the Immigration Department, and while acknowledging that the current Secretary Andrew Metcalfe recently admitted that there may have been a conflict between personal ethics and government policy in the past, adds to me (and I quote):

“... that's too f..... late for those of us who are seeing or have been seeing shrinks!”

Whistleblower tells me that at least six people have left the Department permanently because they suffered serious psychological trauma a result of their work.

Members of the Inquiry, where is the open and accountable government inquiry, into what caused their psychological trauma as employees in the Immigration Department?

I am being told by my Immigration Dept contacts that there are serious questions to be answered – not in the past, but right now - about the allocation of tenders, about the whole tendering process in detention services, about the governance of dollars spent on detention services.

I am being told that there suddenly is a diversion of funds to the 457 visa section and to the Employer Nomination Scheme, and that there is a serious problem with staffing levels in other sections, where staff is now charged with such an unmanageable and demanding work load, that (and I quote):

“... an incident on the scale of the Cornelia Rau or Vivian Alvarez disaster is just waiting to happen....”

Members of the Inquiry: Project SafeCom is not in the business of applauding politicians, but we acknowledge some good changes since the Cornelia Rau inquiry and the start of the Rudd government, but we also have the impression that the current Minister has never met the Department without his hands being firmly protected by a set of gloves.

The Department remains polluted with notions of “keeping people out” while in terms of asylum seekers and refugees it should be about “letting people in” and treating them with dignity and generosity in accordance with the UN Convention intent. Several questionable practitioners who did the dehumanising and politicized bidding under a nasty regime still find a safe haven inside its confines.