

A new deal for immigration detainees?

Social Issues briefing #043, 27/5/2004.

We start this briefing by addressing the division that exists within the Christian community over immigration detention policy. We restate what the SIE considers to be the most pressing moral problems with immigration detention, and why that deserves our action even if we cannot agree together on other matters relating to immigration policy.

The main purpose of this briefing is then to bring to your attention a new Private Members Bill, which may result in a more just and compassionate treatment of each immigration detainee. The briefing will also summarise some other recent news in relation to immigration detention.

We urge you to read this briefing, and take action, before Tuesday 31 May.

1. Disagreement over detention.

Other Social Issues briefings (see www.sydneyanglicans.net/socialissues) have addressed the issue of immigration detention. These have generated a lot of response from within the Christian community (which we always welcome and appreciate).

Christians are obviously much divided in their response to immigration policy issues. Difficult areas of moral discussion are difficult because there are so many good considerations to take into account. Those who have opposed our previous briefings raise points that have some merit, such as that:

- our government needs to be able to send people home who do not tell it the truth;
- ‘asylum seekers’ should not receive preferential treatment if they are using an asylum claim to sidestep normal immigration processes; and
- ‘people smuggling’ includes evil practices that should be stopped.

There does seem to be some confusion about what makes an immigrant ‘illegal’, and whether this label is always justified. Our government’s way of handling what it considers ‘illegal’ immigrants, is by a system of immigration detention. Whatever we make of the government’s wider immigration policy, the SIE argues that the current policy of immigration detention is deeply flawed. Our main two objections are: (a) that the departmental system governing it is too closed and unaccountable to judicial processes; and (b) that detainees are often stuck in this system for periods of time that are morally reprehensible and totally unjustifiable, particularly when it turns out that they are not guilty of any crime.

We urge readers, then, of all different views, at least to look again at these two complaints. Those who are conservative on general immigration policy might at least be able to agree that the government needs to think again on one particular aspect of it, the *detention* policy. We raise the matter in this way because an unprecedented opportunity to take action against this policy has appeared, in the form of two Federal Private Members Bills that specifically oppose the above two problems in the current system.

2. A possible change of policy.

During a week charged with much debate and accusations regarding the state of the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), three Liberal backbenchers gave notice in the party room on Tuesday 24 May that they were going to introduce two private member’s Bills that would soften mandatory detention for asylum seekers.

The MPs who presented the Bills are Petro Georgiou, Bruce Baird (Member for Cook) and Judi Moylan. Russell Broadbent and Marise Payne have also joined them in support of the Bills.

- The first Bill being proposed – the Migration Amendment (Act of Compassion) Bill 2005 – contains compassionate measures to alleviate the plight of individuals who are suffering under the current system. It would allow the release of asylum seekers detained for longer than 12 months, after health and security checks, while their cases

are assessed. It would also allow the release of women and children from detention while their cases are being assessed. All those who have been granted temporary protection will be given permanent protection.

- The second Bill – the Migration Amendment (Mandatory Detention) Bill 2005 – aims to overturn universal mandatory detention and replace it with a “targeted” system of detention. According to Mr Georgiou, asylum seekers who don’t have a visa will be detained only if it is necessary to detain them on specified grounds. These detention decisions will be subject to Federal Court judicial scrutiny. Departmental officers will be able to detain people initially for up to 90 days and then must show cause to the Federal Court as to why further detention is required. The Federal Court may order continued detention for recurring periods of 90 days. This Bill also seeks to grant permanent protection (rather than temporary protection which is currently the case) to those found to be genuine refugees.

According to Mr Georgiou the Bills would replace “the system of universal mandatory detention of unauthorised asylum seekers with a targeted system of detention subject to judicial scrutiny.”

Those MPs who have supported the Bills argue that there has been a shift in community attitudes to detention, particularly following the Cornelia Rau and Vivian Solon cases of wrongful detention and wrongful deportation.

What is important to note is that in the Bills being put forward, the MPs are not trying to dismantle the entire immigration processing system or the government’s current immigration policy. Rather they are trying to address some of the problematic issues in the way the system is administered.

“It’s not seeking to undo the mandatory detention policy. It’s seeking to provide greater transparency, greater accountability, and an independent review process that’s taken out of the hands of the department,” says Judi Moylan.

Ms Moylan MP has reportedly received over 2000 emails on this issue in the past few days – and only seven have been critical of her stance.

The Bills have also received support from the Anglican Diocese of Melbourne, with a letter to *The Age* newspaper stating that they:

“... are strongly supportive and appreciative of Petro Georgiou and his Coalition colleagues for their courage in proposing an end to the Government’s mandatory and indefinite detention of asylum seekers.

“We, the bishops of the Anglican Diocese of Melbourne, have consistently called for a review of Australia’s inhumane immigration and detention policies, which have been distressing many people for some time. Those of us close to at least some cases know the destructive effects of these policies on individuals, young children and families whose lives, pre-arrival in Australia, were already full of tragedy. It is greatly encouraging that some Coalition parliamentarians are now giving voice to these ethical concerns.

“We call on all members of Parliament to give heed to these concerns and to give serious consideration to the legislation proposed by Mr Georgiou.”

[The Bishops of the Anglican Diocese of Melbourne: Archbishop Peter Watson, Bishop John Wilson, Bishop Stephen Hale, Bishop Philip Huggins, Bishop Paul White]

The Bills are expected to go before Parliament in the next month. **But** they are to be debated next Tuesday 31 May at a private meeting of Liberal Party Members. Both Prime Minister Howard and opposition leader Kim Beazley have ruled out a conscience vote on the two Bills, which means the debate will be hot, because for the Bills to pass in Parliament, some Members

will have to 'cross the floor'. Therefore, **the proponents of these Bills will have their hands strengthened if many people write to the Government in support.**

The Liberal backbenchers introducing the Bills are displaying great courage in challenging their own party's position. **We urge you, then, to write or email any or all of them in support of these Bills:**

- The Hon. Petro Georgiou MP
at Parliament House: Tel: (02) 6277 4419 Fax: (02) 6277 4990
P.Georgiou.MP@aph.gov.au
Electorate: 695 Burke Road, Hawthorn East Vic 3123
Tel: (03) 9882 3677, Fax: (03) 9882 3773
- The Hon. Judi Moylan MP
at Parliament House: Tel: (02) 6277 4171 Fax: (02) 6277 8400
J.Moylan.MP@aph.gov.au
Electorate: PO Box 1005, MIDLAND WA 6936
Tel: 08 9294 3222, Fax: 08 9294 2888
- The Hon. Bruce Baird MP
at Parliament House: Tel: (02) 6277 4814 Fax: (02) 6277 8544
Bruce.Baird.MP@aph.gov.au
Electorate: PO BOX 819, Caringbah NSW 1495,
Tel: (02) 9525 8200, Fax: (02) 9540 1587
- The Hon. Russell Broadbent MP
at Parliament House: Tel: (02) 6277 4233 Fax: (02) 6277 8485
Russell.Broadbent.MP@aph.gov.au
Electorate: 10A Napier Street, Warragul Vic 3820
Tel: (03) 5623 2064, Fax: (03) 5623 2509
- Senator The Hon Marise Payne
at Parliament House: Tel: (02) 6277 3810 Fax: (02) 6277 3811
senator.payne@aph.gov.au
Electorate: 2-12 Macquarie Street Parramatta NSW 2150
PO Box CC18 Parramatta NSW 2123
Tel: (02) 9893 5151 Fax: (02) 9893 5150

Also, email your own local Federal member to indicate your support, particularly if they are Liberal or National. (Remember that Labour MPs are not discussing the matter on Tuesday.)

If you're confused about who your member is, go to <http://www.aph.gov.au/house/members/mi-elctr.asp>. Click on the name of your electorate to find your member. (Further information about members can be found at <http://www.aph.gov.au/house/members/index.htm>.) If you cannot remember which electorate you are in, go to <http://www.aec.gov.au/eseach/main.htm> (and if your suburb straddles an electoral boundary, check out the maps at <http://www.aec.gov.au/content/Who/profiles/index.htm>).

3. Other recent news.

In addition to this latest development, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has featured prominently in the media over the past few weeks regarding related matters. We thought it would be a worthwhile exercise to pause and survey the current immigration landscape.

Cornelia Rau: Most of us are now familiar with the story of Cornelia Rau. The 40 year old German woman, who came to Australia as a toddler, was discovered in Baxter detention centre after authorities became concerned about her mental health. She is now the main subject of the Palmer inquiry into wrongful detention.

Palmer inquiry: Former Federal Police commissioner, Mick Palmer, has been appointed to lead the investigation into cases of wrongful detention, following the case of Cornelia Rau. Working with Palmer is former Victorian chief police commissioner, Neil Comrie, who will be in charge of the investigation into the deportation of Vivian Alvarez Solon. There are reportedly some 200

additional cases of wrongful detention or deportation, which may or may not fall within the scope of the Palmer Inquiry.

Vivian Alvarez Solon: In February 2001 Vivian Alvarez failed to pick up her five-year-old son from a childcare centre in Brisbane. She later turned up at Lismore Hospital with head, neck and spinal injuries. In July 2001 Lismore hospital spoke to Immigration officials when they couldn't establish Alvarez's identity. Australia deported Ms Alvarez to the Philippines in 2001. In late April 2005 Australian Federal Police were ordered to look for her, as Immigration officials conceded that an Australian has been wrongfully deported. She lived in a convent from then until she was located earlier this month. It was found that she was suffering mental illness.

Virginia and Naomi Leong: It is alleged that In December 2001, Virginia Leong, then two months pregnant, was caught trying to leave Australia to return to Malaysia on a false passport. She was taken to Villawood Immigration Detention Centre (IDC) and has remained there ever since. In May 2002 her daughter Naomi was born. Because Naomi was born in detention, she was deemed 'stateless'. On Monday night, 23 May, Virginia and Naomi were released on bridging visas into the community while they await the outcome of their visa application. Why were they released? Because of the increasingly concerning behaviour of Naomi (including banging her head repeatedly on a wall, muteness and withdrawing from others) and Virginia's growing depression.

Latest act of self-harm: Palestinian man Mohammed Ali Mahmoud has been held in Villawood Detention Centre for the past five years. This week he attempted suicide by drinking a bottle of bleach. His mental health has deteriorated, refugee advocates say, as the length of time he has spent in detention gets longer.

High Court rejects status of 'discreet Christians': The High Court found on Thursday May 26th that the Refugee Review Tribunal was correct to refuse refugee status to an Iranian who had converted to Christianity. It declined to apply the principles it expounded in a case concerning a homosexual Bangladeshi couple. Justice Kirby dissented from the decision, arguing that the Refugees' Convention does not require that "applicants for protection must act 'quietly', 'maintain a low profile', avoid proselytising their views or otherwise act 'discreetly' in matters so fundamental" as religious belief.

Amir Mesrinejad: This Iranian Christian asylum seeker in Villawood Immigration Detention Centre, who has been in detention for four and a half years, has heard no new word on his case. We would encourage you to keep committing Amir, and others like him, to the Lord in prayer, and to keep writing letters as you are able to anyone and everyone you can think of.

*Andrew Cameron & Tracy Gordon,
for the Social Issues Executive, Diocese of Sydney*

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