

Not in my name: the People's Inquiry into Immigration Detention

There are few issues in Australian politics that succeed in uniting elements of the left and the right. The substantial and diverse social movements that have developed in response to Australia's policies and practices towards asylum seekers represent such a coalition. This movement has called on the Australian government to comply with international obligations and core principles of humanity. Groups have formed to condemn policies of mandatory detention, Temporary Protection Visas, the 'Pacific Solution' and the excising of islands from Australia's migration zone. One such activity is the People's Inquiry into Detention, which exposes the policies and practices of immigration detention. This chapter discusses both the processes and findings of this citizen-driven Inquiry.

The People's Inquiry was prompted by the cruelty shown to one woman and the limited response to her plight by the federal government. Early in 2005, the Australian media reported that a woman known as 'Anna', suffering from a severe mental illness, was being held in the Baxter Immigration Detention Facility in Port Augusta. It eventually became clear that 'Anna' was in fact Cornelia Rau, an Australian resident. She had been reported as missing by her family but had not been identified by authorities. Mistaken for a 'suspected non-citizen', she had been held in a Queensland jail and then Baxter for months.

As social workers Chris Goddard and Max Liddell wrote in *The Age*, the treatment of Cornelia Rau 'exposed the darkest corners of our lives'. The plight of Cornelia raised many awkward questions:

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Why was it that those who are amongst the most marginalized, the Aboriginal community in Queensland and those imprisoned in Baxter, were apparently able to recognise someone in desperate need of help when professionals were not? Why was it that it was those same marginalized people who were the ones who showed kindness and concern? Why do we treat those in need of help so brutally? Why do we imprison those who are ill? What is it that makes us place 'suspected non-citizens' behind wire in the desert, in an environment so harsh and damaging?

Was it solely because Cornelia Rau was one of our own that we now recognise – all too belatedly – that such treatment is so cruel?¹

Cornelia had much in her favour. She was young, attractive and had been a flight attendant on that Australian icon Qantas. Strangers from other countries in need of help had much less in their favour. Cornelia's sister, journalist Chris Rau, commented:

While she was an unnamed illegal immigrant, the only treatment she got for mental illness was longer periods in lock-up as punishment for bad behaviour ... As soon as she became an Australian resident, she was whisked away to a teaching hospital, seen by consultant psychiatrists and medicated. During which leg of her flight from Baxter to Adelaide did she suddenly gain the basic human right to medical treatment? Over the years we have heard of immigration detainees denied access to psychiatric care, some with horrific mental illnesses and suicidal tendencies. How many cases like Cornelia's will it take until they get the care they deserve or, more importantly, are taken out of conditions which in themselves lead to mental illnesses?²

Prominent QC and refugee advocate Julian Burnside points out that the treatment of Rau is commonplace in Australia's detention centres:

The only novel feature of the Rau case is that she is uncomfortably like us. She looks like a typical Aussie girl. We are shocked at her treatment, but she received the same careless, cruel indifference that most asylum seekers receive. Why is it acceptable to treat asylum seekers this way, but shocking when it is done to one of us?³

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The outrage at Cornelia's detention forced the government into announcing an inquiry into the circumstances of her detention, convened by former federal police commissioner Mick Palmer.⁴ There were many community calls for the government to widen the terms of reference of the Palmer Inquiry but these went unheeded. The calls were in recognition that although the Rau situation depicted a scenario of incompetence and inefficiency it was in fact much more. It was driven by an obsession with non-citizens, an acceptance of ill-treatment and a philosophy of discrediting informed advocates. It was a clear demonstration of a secretive and punitive system that ensured that power remained vested with those in the public and private sector, driven by profit motives, and colluding in formulating and implementing the harsh regime.⁵

Despite the bleak political and community context, those immigration detainees inside Baxter were optimistic:

God sent Cornelia here to send our cry to all Australian people. We are all happy that she be free from such a terrible place. We all pray that she will get well. She remains in our minds and hearts as a heroine for ever and ever.⁶

The heart of the government remained hard and unmoved. An official wider inquiry was not called and the People's Inquiry was born.

The beginnings

The Australian Council of Heads of Schools of Social Work (ACHSSW) represents social work in universities throughout Australia. Its charter includes addressing national issues in social policy, consistent with the social work quest to work towards social justice and human rights. The Council had previously taken up concerns about immigration detention through its advocacy endeavours. With the terms of reference set in place, the Inquiry's aims were twofold: to influence policy and to place the stories of detention on the public record. In bearing witness to the experiences of detention, the accounts represent 'a form of moral suasion'.⁷

The ACHSSW took the decision to convene the Inquiry believing it was beholden on those with privilege and expertise to speak out and to act, recognising the oft-quoted adage that bad things

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happen when good people do nothing.⁸ From the beginning, the Inquiry was open, inclusive and transparent. The first announcement was made by journalist Andra Jackson in which the ACHSSW expressed concern about why people could be incarcerated for lengthy periods when they had committed no crime and conveying the need for an 'open, transparent and ethical inquiry'.⁹ As Rachel Judd has stated, the extreme suffering of those detained under immigration law has long been represented by the government as an adverse side effect of a tough but benign immigration policy. For Judd, the Inquiry hence makes a contribution to placing previously concealed information on the public record.¹⁰

The organisers were almost overwhelmed by the response that followed the call to participate. Immediately support emerged from all around Australia and from people from all walks of life. Before long a team of advisors, organisers, researchers and others rallied to join in the quest to expose the evils of the detention regime. Volunteers included transcribers, food organisers, legal personnel and media experts. Students from a range of disciplines came forward to undertake field placements or internships, making a valuable contribution to the much-needed labour and to their own learning. Although commencing with no money, donations were received from philanthropic trusts and other supportive organisations in order to facilitate the work. The amount of money remained limited, and we were heartened by the amount of goodwill, time and energy that so many volunteers invested in the Inquiry. The comment was made by one volunteer: 'I bet Mick Palmer didn't have to sweep the floor after his meetings'.

The process

Two main methods of inquiry took place. These were public hearings and written submissions. The hearings took place in Port Augusta, Melbourne, Sydney, Launceston, Perth, Canberra, Adelaide, Shepparton, Swan Hill and Griffith. More than 200 people testified including asylum seekers and refugees, former detention and immigration staff, lawyers, nurses, psychiatrists, psychologists, migration agents, refugee advocates and activists. In addition, approximately 200 written submissions were received.

The process of running the Inquiry was somewhat organic in nature, responding to ideas and requests as hearings took place.

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For example, the idea for hearings in Griffith emerged when a group of refugees in that community participated in a Canberra teleconference, which led to an invitation to visit. In every location there was a different auspice, usually a university, but sometimes other groups. Each auspice responded to the local context in the way the hearings were developed including choice of venue, type of launch, composition of hearing panels and the nature of debriefing for participants. We were guided by legal and ethics advisors and media experts.

We heard stories of great pain, stories of resilience and stories of shame about what was occurring in our nation. Those involved have cried, despaired and hung their heads in shame but have been buoyed by the resilience of those who suffered. In our endeavours, we have tried to give back to those participating by linking them to services or legal advice where required. Invariably people who have spoken out have told of the value of the experience of having their stories believed and validated. The stories told, like life narratives, put a human face to suffering and, as individual stories accumulate, 'the collective story gains cultural salience and resonance'.¹¹

The findings

The first report, *We've Boundless Plains to Share*, was released in November 2006, launched in Perth at a national social work conference. The preliminary report presents an initial analysis of verbal and written testimony given to the Inquiry about boat journeys to Australia and the detention experience. Evidence from people on asylum seeker boats includes accounts of perilous journeys that were compounded by the endeavours of the Australian Navy to remove boats from Australian waters before the 2001 federal election. Evidence was received about widespread assaults in detention facilities, appalling levels of health care and a number of deaths. Representations by Australian supporters to politicians about these and other matters were largely ineffective.

The overall impression was one of needless cruelties. Former immigration detainees, visiting health workers and others reported a catalogue of callous disregard for human rights. Detention in desert locations was hard enough, but the isolation was magnified by repeated cruelties imposed on vulnerable people. The Inquiry

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was told about people being called by numbers alone, about being woken in the early hours of the morning for head counts, of delays in sending mail, of the lack of toilets and the refusal to allow personal photographs to be taken of their children. One witness to the Inquiry said that detention centres generated universal ill-health never seen outside a psychiatric hospital. 'You couldn't design an environment more destructive to a child's development than in immigration detention', a mental health professional told the Inquiry.

Testimony

The following examples illustrate the brutality:¹²

Testimony from asylum seekers

[T]hey took women and children only. Single men and married men were left in this broken boat by themselves and they said we are going to take you to international waters and then from there you can go wherever you like. The wives were pleading, crying and begging them – that's how it is when you are so desperate. You are holding someone's feet and begging for their mercy and that's what our wives were doing, yet they were kicking them and telling them we have to take these people to international waters, they can go wherever they want to go but we cannot take them.

The first day we were given a number and I was told from now on that's how I will be known. You will be ABC123. That was one of the most difficult things for us because having your normal freedom taken away from you and at the same time you lost your name.

I had a lot of cockroaches in my room where I used to wake up in the morning and there were cockroaches on my chest and in my hair. For three months I asked either to be moved to another room or to have the cockroaches exterminated.

Testimony from visitors

We ... do our best but nothing bloody well changes. And while we do our best, we watch people get very, very, very sick – trying to kill themselves and wish they were dead.

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The overriding thing is the shame that this is Australia. There's no way of really expressing how hurt we all feel by this happening and our powerlessness to do anything about it.

Testimony from professionals

You could have the Rolls Royce of mental health services in Baxter and I don't think it would make a scrap of difference, because the environment is so toxic that you can't treat anything meaningfully. I think that half a dozen of the most damaged people that I've ever seen are the adults I've seen in Baxter and Woomera, both parents and single men.

[N]ot be able to keep children physically and emotionally safe in detention, children I know were suffering, has been the most shocking, brutal thing that's happened in my life.

Children in detention

The practice of locking up children is one that will plague this country forever. Marcus Einfeld asks 'by what cruel standards of thinking do we empower ourselves to abuse and mistreat children who have already arrived here as a weapon to deter others who have not?'.¹³ Children in detention have received a great deal of public attention, particularly through the Human Rights and Equal Opportunity Commission (HREOC) report of 2004¹⁴ and the 2005 challenge to the Howard government by federal Liberal backbencher Petro Georgiou and colleagues, which resulted in changes to policies regarding children, specifically a move to housing in the community.¹⁵ But, as our Inquiry has demonstrated, the changes were too late for many. In 2004, we described holding children in detention centres as 'organised and ritualised abuse' by the government:

We use the term "organised abuse" to mean that those children are being abused by many perpetrators who are acting together in ways that they know can be extremely harmful.

And we use the term "ritualised abuse" to mean that the children are subject to formal and repeated acts of abuse carried out under a belief system that the government uses to justify such cruelty.¹⁶

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The treatment of asylum seeker children has chilling similarities with the way Indigenous children were treated in institutions through the stolen generations policies and practices. Lowitja O'Donohue asks: 'How is it that this nation's First Peoples, and its last peoples, should suffer similar indignity?'.¹⁷

Like the stolen generations it may be many years before the full impact of locking away children is known. An analysis of Inquiry material to date reveals heartbreaking accounts. These add to the much publicised case of Shayan Badraie who, in early 2006, as a result of an out of court settlement, received government compensation. Shayan became a symbol of the evil of locking away children after developing disturbing symptoms including total withdrawal and refusal to eat and speak in detention.

Next steps

The final and more expansive report will be released in early 2008.¹⁸ It will further develop the themes of the first report and will also explore issues of claims processing and the aftermath of detention. Although our primary concern is with asylum seekers, we will include the experiences of others who find their way into immigration detention including students, people whose visas have expired and Indonesian fishermen. Our work will not cease here and a monitoring role will continue with annual reporting on detention policies and practices. Our commitment will continue until asylum seekers are treated with humanity and decency, which includes an end to mandatory detention. The concluding comments to our first report argue the case for ongoing vigilance, for many of those released after spending years in detention still have no certainty about their future. Furthermore, there are still asylum seekers detained in Indonesia who did not find their way to Australia; Operation Relex, the activities of the Australian Defence force to prevent asylum seekers reaching Australian shores, is still in place; the building of a new custom built detention facility on Christmas Island is underway; and the policy of mandatory detention for those arriving without valid travel documents remains.¹⁹

And:

At a time when 'Australian values' are being publicly debated, the evidence presented to the People's Inquiry stands as

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a condemnation of those Australians who constructed and implemented policies which damaged and, in some cases destroyed, the men, women and children who fled brutal regimes and asked for our help. It condemns those who, in the face of overwhelming evidence of the destruction such policies were causing, not only failed to change them, but continued to defend them. It stands as a vindication of the thousands of ordinary Australians, activists, community and religious leaders and the few brave politicians who dedicated themselves to fighting these injustices. But above all, the evidence presented to the People's Inquiry demonstrates the extraordinary resilience and courage of those who survived their treatment at the hands of the Australian government.²⁰

To our knowledge this is the first time that such an extensive citizen-driven inquiry has been conducted in Australia. The essence of the Inquiry's content and processes has struck a chord with community members from all walks of life by enabling previously silenced voices to be heard in the public domain.

Notes

- 1 Goddard, C and Liddell, M, 'Exposed: the darkest corners of our lives', *The Age*, 14 February 2005, p 13.
- 2 Rau, C, and McDonald, J, 'My sister lost her mind, and Australia lost its heart', *Sydney Morning Herald*, 7 February 2005, <www.smh.com.au/articles/2005/02/06/1107625064599.html>.
- 3 Burnside, J, 'The abuse of one exposes what we're doing to them', *The Age*, 7 July 2005.
- 4 Palmer, M, *The Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau*, Commonwealth of Australia, Canberra, 2005.
- 5 Briskman, L, 'Can we still call Australia home?', *Forum*, No 44, Centre for Citizenship and Human Rights, Deakin University, 2005.
- 6 Baxter detainees' statement to refugee advocates, 2005.
- 7 Schaffer, K and Smith, S, *Human Rights and Narrated Lives: the Ethics of Recognition*, Palgrave Macmillan, New York, 2004, p 3.
- 8 Adapted from the words attributed to English statesman Edmund Burke: 'All that is necessary for the triumph of evil is that good men do nothing'.
- 9 Jackson, A, 'Academics to hold alternative inquiry', *The Age*, 14 February 2005.
- 10 Judd, R, 'The People's Inquiry into Detention', *New Matilda.com*, July 2005, p 3.
- 11 Schaffer and Smith, above, n 7.
- 12 More testimonies are available in the first report, which is available at <www.peoplesinquiry.org.au>.

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- 13 Einfeld, M, *Address to the ACT Launch of the People's Inquiry into Immigration Detention*, Australian Catholic University, 4 May 2006.
- 14 Human Rights and Equal Opportunity Commission (HREOC), *A Last Resort: the Report of the National Inquiry into Children in Immigration Detention*, HREOC, Sydney, 2004.
- 15 ABC Television, 'Detention policy changes "meaningful"', *Insiders*, 19 June 2005, transcript at <www.abc.net.au/insiders/content/2005/s1395397.htm>.
- 16 Goddard, C and Briskman, L, 'By any measure, it's official child abuse', the *Herald Sun*, 18 February 2004, p 17.
- 17 O'Donohue, L, 'Return to Afghanistan: resettlement or refolement', speech given at public forum, Adelaide, 27 February 2003.
- 18 The first report of the Inquiry is available at <www.peoplesinquiry.org.au>.
- 19 Australian Council of Heads of Schools of Social Work, *We're boundless plains to share: the first report of the People's Inquiry into Detention*, ACHSSW, Melbourne, 2006.
- 20 *Ibid*, p 64.