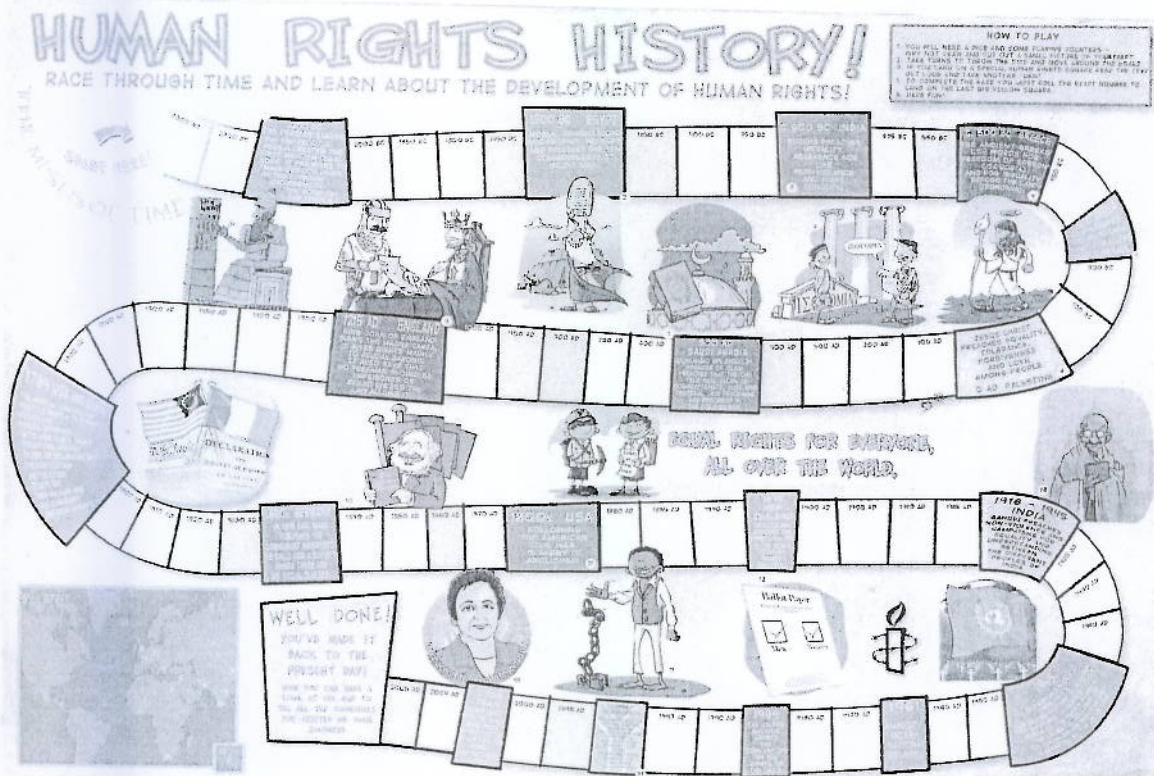




new community quarterly



Theme of this issue: **Human Rights and Community Development**

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Voices of the people: An inclusive approach to justice 12 *Prof. Linda Briskman*

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New Community Quarterly



ABN 60 304 561 531

ISSN 1448-0336

Community Quarterly was founded in 1983 by Peoples Projects, a publishing project of *Employment Working Effectively Inc.* It appeared for 17 years, as the only specialist community development journal in Australia, produced by volunteers. It suspended publication in 2000. A collective of people based at or associated with Borderlands Cooperative Ltd. in Hawthorn, Victoria have worked collaboratively to relaunch the journal as the 'New Community Quarterly'. It continues to be collectively and voluntarily managed and produced by *New Community Quarterly, Incorporated.*

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New Community Quarterly (ISSN 1448-0336) is published quarterly by *New Community Quarterly, Inc.* based at the Borderlands Cooperative and located at the Augustine Centre, 2 Minona Street, Hawthorn, Victoria 3122 Australia

Subscriptions: for 2010: **\$60** per year for waged individuals, **\$30** per year for concessions/students/unemployed and **\$110** per year for organisations/libraries. Single copies available at \$10 + \$2pp = \$12 each. (GST exempt).

Back copies, NCQ Volume 1=2003, Vol. 2=2004, Vol. 3=2005, Vol. 4=2006 Vol. 5=2007, Vol. 6=2008 and Vol. 7=2009 - Vol. 8=2010 - all published back issues are available for \$40 for 4 issues.

Bundles of the previously published '*Community Quarterly*' (1989-2000) are available: 20 issues for \$20 +\$8 pp.

Electronic payments to New Community Quarterly account **BSB 633000 Account 117510495**

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The *New Community Quarterly* Association aims to promote education towards and sustainable practices of community development, contributing to an ecologically and socially sustainable world.

We aim to provide a space to stimulate discussion about theories and practices of community development.

By examining all levels of community activism and practice, we hope that the journal itself will foster a sense of community through the establishment of networks of community activists, practitioners and learners in Australia and Oceania.

Whilst we encourage open debate and critical-pluralist engagement with all pertinent issues, we espouse a social justice and human rights stance, which eschews discriminatory views along the lines of gender, race, class, ability and age as well as sexual preference.

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Printed by PLAKKIT. Printed on recycled paper.



Editorial

Dear subscribers, readers and friends of NCQ,

Another year, another attempt at bringing you – four issues and hopefully more regularly! – news from the Community Development field(s) in Australia and across the world... This is the first issue of our ninth volume and including the 17 years of our predecessor, the Community Quarterly – we've been trying to keep the idea and practice of community development alive in Australia since 1983... (with an interruption from 2000-2002), altogether 25 years of publishing, mostly on the smell of an oily rag ... and involving enormous amounts of 'civil society labour' (aka as 'volunteering'...) offered by writers, correspondents, editors, graphic designers, desktop publishers, mail-outers, data-base-maintainers, marketers, advertisers and promoters and other 'spread-the-words', students-on-placement, practitioners, academics and educators, theoreticians, researchers, strategists, activists, historians, economists, social and welfare and youth and other community-based workers, arts folk, sociologists, health professionals, off- and onshore community workers, occasional politician, psychologists and counsellors, spiritual people, hard-core realists, feminists and their male supporters, Marxists and socialists, environmentalists and ecologists – deep, social and pragmatic, – anarchists and alternative types and middle-of-the-road persons, peace activists and social entrepreneurs... and my apologies to anyone who does not feel represented in this venerable and diverse crowd!

In any way, if one would be so absurd and wanting to 'count' the value of all this effort in the usual dollar mode... I could not even want to know how many millions of that other volatile type of value we would have accumulated over those 25 years...

And to have that off my chest, dear friends...

And seriously, it's good to remind ourselves and all of our readers and supporters of this fact, especially in a time where community development in all its aspects is having rather hard time... just thinking about the conservatism having crept into all governments and on all levels, the transformations in higher education and the losses of many relevant courses, the continued ideological courting with economic-rationalism, Australia being the country where most powers-that-be continue to 'wallow' in it, and don't even start me about our precious ecology...

And that's why we – and all of those who still feel included in the above incomplete list – want to continue to publish this journal

And you will undoubtedly have noticed – as the faithful and tentative readers we think you all are – we're late again to start the year, as per usual, having wanted to wait until we had gathered enough good material about our theme

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Voices of the people: An inclusive approach to justice

Prof. Linda Briskman

Director, Curtin University, Centre for Human Rights Education

Introduction

The detaining of asylum seekers is one of the most divisive public policy issues in Australia. Since mandatory detention legislation was introduced in 1992, people arriving in Australia without official documentation and seeking asylum are subject to immigration detention until granted a visa or removed from the country. Although a Labor government introduced the legislation, immigration detention escalated under the Howard government from 1996-2007.

In addition to indefinite detention, often in remote sites or in Nauru or Papua New Guinea, measures followed that further diminished the rights of asylum seekers, including the Temporary Protection Visa (TPV) that was in place between 1999 and 2008 and which cruelly barred family re-union.

This paper is being written in 2011, when immigration detention has again escalated in scale and severity and when hopes have faded that reforms announced by the Labor government in 2008 would change the political landscape for asylum seekers. The robust advocacy movement that was in place during the Howard era is less active now and this paper provides some leads on how current concerns can be tackled in a way that restores power to those outside the party political realm.

The initiative discussed is the *People's Inquiry into Detention* that was run by the Australian Council of Heads of Schools of Social Work (ACHSSW)¹ from 2005-2008. Its purposes were to expose the human rights violations that were occurring in the detention regime and to influence policy and political change. As a 'bottom up' advocacy project, the People's Inquiry presented a challenge to the plethora of formal

inquiries that had resulted in little change to public policy formulation. Consistent with a community development approach, the Inquiry aimed to '*transform unequal, coercive and oppressive structures in society, challenging the presumed inevitability or naturalness of existing power structures and social systems*' (Kenny 1994:21).

Introducing the People's Inquiry into Detention

There has been no shortage of formal inquiries into immigration detention. A range of investigations by parliamentary committees, the Commonwealth Ombudsman and the Human Rights and Equal Opportunity Commission from the late 1990s raised serious concerns about conditions in immigration detention centres and related policies (Fleay 2010). These reports overshadowed the citizens' action that had been evident through the formation of asylum seeker advocacy groups throughout the nation. One government inquiry that struck a chord with grassroots human rights activists was the inquiry into the circumstances of the detention of Australian resident, Cornelia Rau, initially believed by the authorities to be a German named 'Anna'. The cruelty meted out to Rau, the detainee and advocate response and the limitations of the Palmer Inquiry provided the impetus for the grassroots citizens' movement of the People's Inquiry. Although advocates hailed many of the findings and recommendations of the Palmer Inquiry, particularly the criticism of the 'culture' of the Immigration Department, the limited terms of reference that were about Rau's circumstances only, were a cause of concern. Why was Cornelia Rau's situation of such significance?

In early 2005, the media reported that 'Anna', suffering from a severe mental illness, was being held at the Baxter Immigration Detention Facility in Port Augusta, South Australia. Although Rau had been reported as missing by her family, she had not been identified by authorities but instead held as a suspected non-citizen, first in a Queensland gaol and then Baxter (Briskman and Goddard 2007). Following unrelenting media exposure, the government announced the inquiry into Rau's detention and advocates and detainees were hopeful that it would expand to include all detainees in detention centres. A statement from asylum seekers inside the Baxter Immigration Detention Facility in Port Augusta spurred on those pushing for change:

*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 hearts as a heroine forever and ever (Baxter detainees 2005).

Asylum seeker and advocate hopes were dashed when repeated calls for an inclusive inquiry were rejected and the ACHSSW decided to act. The ACHSSW, up until that time, had a modest record of challenging asylum seeker policies and practices, including placing an advertisement calling for policy reform in a national newspaper and holding a meeting with a Ministerial adviser to convey concerns. At the time the Inquiry was announced by the ACHSSW, there were no concrete plans in place on how to proceed and the People's Inquiry evolved into an organic movement that one witness at a public hearing commented represented '*democracy-building from below*'.

Having an academic body take the lead gave credibility to the process but the ACHSSW never seized ownership, enabling it to develop into a context-driven approach where the participation and voices of a wide range of community members were evident. Once the Inquiry was announced in *The Age* newspaper (Jackson 2005), we were inundated with offers to help hold public hearings, to present written submissions and to testify. Before long, people from all walks of life joined us as organisers, transcribers, media liaison personnel and legal advisors. We started with no money but an abundance of goodwill and, in time, funding bodies offered some financial support for the innovation.

At first glance our approach mirrored that of more formal inquiries – public hearings in a number of sites and the receipt of written submissions. Those who presented verbally or submitted written information were similar to groups which had spoken out publicly in a variety of ways, such as lawyers, migration agents, mental health providers, nurses, immigration detention staff and asylum seeker activists and advocates. But there were differences.

One aspect that differed markedly from formal inquiries was our relative 'poverty' that also became a source of strength. It enabled us to adopt inclusive processes that relied on local organisers to find venues, convene panels and, because they were connected with advocates and former detainees, to approach people they knew who could testify. Furthermore, most of the hearings were conducted in an informal manner with a sympathetic panel and this enabled former immigration detainees to speak out in a safe space and, as one told us, '*this is the first time I have felt believed*'. The importance of local knowledge was valued in this attempt to achieve change from below and we ensured that we put community knowledge to the forefront (Ife 2002). Nothing was too much for the volunteers who debriefed over the hearings of the day while washing dishes or sweeping floors.

The Inquiry process and findings

Public hearings were held in ten venues, rural and urban; more than 200 people testified at the hearings and another 200 sent in written submissions. Of those who presented

verbal testimonies, one-third had been previously held in immigration detention facilities. The selection of sites was not firmly set in place; for example, we received an unexpected request towards the end of the Inquiry process from a group of former detainees, suggesting that the Inquiry visit their New South Wales country town so they could speak openly about their experiences and we agreed to their request. This proved to be a rewarding experience, as not only did former detainees testify, but some employers joined in to speak out about how their lives were enriched through their contact with refugees.

Compiling the stories of detention enabled the garnering of information directly from those with experience as detainees, advocates or service providers. One mental health provider with much experience within immigration detention facilities, told the Inquiry that, on their own, each story could appear as idiosyncratic, but when collected en masse they built up to a picture of systemic brutality and abuse.

We heard stories of pain, stories of resilience and stories of shame about what was occurring in a country that has a dominant narrative of treating people with dignity. We heard about treacherous boat journeys, of unfairness in the claims processing system, of harsh treatment within detention facilities including treatment of children and how difficult life could be following on from time in detention. The overall impression was one of needless cruelties. We heard of the callous disregard for human rights in remote locations and of the lack of control people had over their lives. We heard a great deal about mental illness that was directly attributable to time spent in detention centres and manifest in serious acts of self-harm. Although a book was not our initial aim, the findings were published in *Human Rights Overboard: Seeking asylum in Australia* (Briskman et al. 2008) and what had begun as a somewhat subversive activity received the Australian Human Rights Commission Award for Literature (non-fiction) in 2008.

Exposing human rights through community action

The problem of exclusion and inclusion is a thorny one. The rights afforded to citizens of Australia are denied to asylum seekers in their designation as '*unauthorised non-citizens*'. As Fiske (2006) points out, rights within the nation state have typically not been freely granted and have never included all people within its boundaries. The most marginalised in society have had to organise and mobilise to achieve these rights and to this end, Fiske further argues, social movements are essential in the human rights struggle. Since 2001 in particular, thousands of Australians from all walks of life and from around the country have acted in support of asylum seekers and against the government's immigration policies and practices (Mares and Newman 2007).

Placing asylum seekers in sites out of sight and out of mind from most community members renders them invisible and at the border of society. Their lack of voice makes them prey

to stereotypical depictions as 'illegals', 'queue jumpers' and people to be feared. In the endeavour to get an asylum seeker perspective in the public domain and to ensure that harms were not caused to people who were still awaiting decisions on their refugee claims, it became necessary to adopt a form of advocacy that required speaking up on behalf of people rather than helping them speak up on their own behalf (Ife 2010). Our inability to harness the participation of the incarcerated asylum seekers did pose a quandary for the Inquiry organisers, who subscribed to tenets of participation, equality and partnership in the conduct of the project (Briskman 2009). To overcome this, advocates who were in close contact with detainees were able to take on a conduit role to ensure there was participation by those still detained.

Once released, asylum seekers could speak out through the People's Inquiry with many commenting on how empowering it was for them to have their suffering understood. To speak even after release represented a brave act for the many still suffering with the uncertainty of the TPV as they were fearful of the reaction of the Immigration authorities if they were seen to be critical. In one capital city, the organisers lamented right up to the day before the hearings were to commence that not one former detainee had agreed to speak. Some were frightened as they were still on TPVs and others had tired of telling stories to hostile audiences. On the night before the hearings, we held a launch as we had in other places. A piece of theatre, welcome speeches and a supportive crowd were all it took. When I arrived early the next morning to begin the hearings, so many former detainees had lined up to speak that we had to divide into two groups.

Theatre of Justice

Amy Nethery (2009) sees the People's Inquiry as a 'Theatre of Justice'; she argues that the approach taken was in effect a substitute for a court system by providing asylum seekers with the opportunity to give testimony of their experiences. Although, as she says, the Inquiry could not dispense justice or compensation, it provided an audience for asylum seeker testimonies and an opportunity for collective catharsis.

The Inquiry also constituted some elements of deliberative democracy, where citizens are involved not only in decision-making but in 'the deliberative process of research, analysis, discussion and consideration of various policy options' drawing on the wisdom of people (Ife 2010:136). The methods of the People's Inquiry, however, differed somewhat to those of deliberative democracy underpinning formal inquiries, whereby the leadership often comes from more formal sources and can quell dissent, preserve authority, hide what should be open to public scrutiny and maintain the status quo (Goff and Hardy 2009).

A human rights approach was the cornerstone of the Inquiry and to the fore was the quest to expose practices that were antithetical to human rights tenets. Fundamental to the approach was an integration of human rights with community development principles consistent with Ife's

(2010) contention in this regard. Trusting the process alone and valuing the 'wisdom from below' above other voices, he argues, can lead to exclusion and discrimination. To counter this, social justice and human rights are necessary elements of community development and required by those engaging in community development practices to ensure it remains ethical.

Although the People's Inquiry did not take a legalistic approach, its philosophy was consistent with Ife's view that human rights charters have a place; for example, it was clear to us in our work that the detention of children was in violation of the UN Convention on the Rights of the Child and that some of the practices within detention violated the spirit of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Briskman, Zion and Loff 2010). Drawing on international declarations and conventions can enable a community development approach that promotes human rights by ensuring that the project adheres to human rights principles (Ife 2002).

Costs and benefits of community-based approaches to human rights

Taking on a venture such as the People's Inquiry is not without risks. We did not have any official blessing for our work and some of our measures bordered on the subversive, such as receiving 'inside' information never intended for the public domain. But as Judd (2005) so aptly expresses, the Inquiry made a contribution to placing previously concealed information on the public record; for ACHSSW members, the 'right to know' trumped the information restrictions that shrouded this area of public policy. In order to provide protection, we took steps to ensure that we were not subject to unexpected action and we secured the services of a pro-bono lawyer who trawled through our reports to ensure we were not at risk of defamation proceedings. As academics we had more freedom to speak than human services practitioners who are often bound by confidentiality clauses. Brian Martin (2006:34) encourages scholars to speak out and not to be fearful of imagined risks such as

your grants might be blocked. You might be sued for defamation. You could even be hauled in by the Australian Security Intelligence Organisation (ASIO) and interrogated.

It takes some courage to speak out in the name of a profession, in this case social work, as other groups have been subject to attack for their advocacy endeavours. For example, priests have been told to stick to the pulpit and not delve into the political domain; health professionals have been warned that their role is to dispense care and not to advocate; and activist lawyers have been smeared by their own profession for their perceived lack of objectivity. Although we initially held some fears, it was important for the ACHSSW to exercise what Hamilton and Maddison (2007) see as the mandate of academics to pursue research that at times challenges a government's values and agendas.

Concluding

The People's Inquiry recognised the power of social movements. In its final section *Human Rights Overboard* praised 'the thousands of ordinary Australians...who stood against the policies to close a chapter on a shameful era of Australian history' (Briskman et al. 2008:390). Furthermore, the Inquiry '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' (Briskman and Goddard 2007).

In the early stages of the Inquiry one sceptic asked whether our work was likely to be effective. What is the answer to this question? If we take a community development approach and believe that process is as important as outcome, then yes, we were effective. We did not cause a policy revolution, although we hope that our work, alongside that of other advocacy groups, contributed to some of the policy changes that did occur. But perhaps our greatest achievement was to set in motion a process that was empowering and can be a model for others who are concerned about issues of justice and rights.

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(Endnotes)

¹ At the time of the People's Inquiry, I was President of the ACHSSW and co-convened the project with Professor Chris Goddard from Monash University Social Work. ☛

Manifesto (-from the Spanish protesters gathering in public spaces everywhere)

We are ordinary people. We are like you: people, who get up every morning to study, work or find a job, people who have family and friends. People, who work hard every day to provide a better future for those around us. Some of us consider ourselves progressive, others conservative. Some of us are believers, some not. Some of us have clearly defined ideologies, others are apolitical, but we are all concerned and angry about the political, economic, and social outlook which we see around us: corruption among politicians, businessmen, bankers, leaving us helpless, without a voice. This situation has become normal, a daily suffering, without hope. But if we join forces, we can change it. It's time to change things, time to build a better society together. Therefore, we strongly argue that:

The priorities of any advanced society must be equality, progress, solidarity, freedom of culture, sustainability and development, welfare and people's happiness.

These are inalienable truths that we should abide by in our society: the right to housing, employment, culture, health, education, political participation, free personal development, and consumer rights for a healthy and happy life.

The current status of our government and economic system does not take care of these rights, and in many ways is an obstacle to human progress.

Democracy belongs to the people (demos = people, kratos = government) which means that government is made of every one of us. However, in Spain most of the political class does not even listen to us. Politicians should be bringing our voice to the institutions, facilitating the political participation of citizens through direct channels that provide the greatest benefit to the wider society, not to get rich and prosper at our expense, attending only to the dictatorship of major economic powers and holding them in power through a bipartidism headed by the immovable acronym PP & PSOE.

Lust for power and its accumulation in only a few; create inequality, tension and injustice, which leads to violence, which we reject. The obsolete and unnatural economic model fuels the social machinery in a growing spiral that consumes itself by enriching a few and sends into poverty the rest. Until the collapse.

The will and purpose of the current system is the accumulation of money, not regarding efficiency and the welfare of society. Wasting resources, destroying the planet, creating unemployment and unhappy consumers.

Citizens are the gears of a machine designed to enrich a minority which does not regard our needs. We are anonymous, but without us none of this would exist, because we move the world.

If as a society we learn to not trust our future to an abstract economy, which never returns benefits for the most, we can eliminate the abuse that we are all suffering.

We need an ethical revolution. Instead of placing money above human beings, we shall put it back to our service. We are people, not products. I am not a product of what I buy, why I buy and who I buy from.

For all of the above, I am outraged.

I think I can change it.

I think I can help.

I know that together we can. I think I can help.

I know that together we can.

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ABN 60 304 561 531
ISSN 1448-0336

