Attachment B

Recommendations

The "no advantage" policy is justified by a purported intention to stop asylum seeker deaths at sea. I have given evidence in this submission that policies of deterrence contribute to an increase in deaths, they do not reduce them.

Here are some suggestions towards reducing deaths of asylum seekers:

i. **End Mandatory Detention**. As the President of the Australian Medical Association in the Northern Territory, Dr Paul Bauret, said in response to long-term detention in 2012: "once again, it looks as though we're producing a cohort of Australian citizens who can be permanently damaged because of what we are doing to them."[63]

ii. **Create safe legal pathways for refugees** by increasing Australia's refugee resettlement intake and investing in a serious regional protection framework.

iii. **Discontinue the policy of confiscating asylum seeker boats**. These policies only motivate asylum seekers to use boats that are unseaworthy, overcrowded and manned by inexperienced, uninformed and often desperate and underage Indonesians, altogether increasing the risk of a tragedy at sea.

iv. **Improve Australia's search and rescue procedures**. Even over a decade since the SIEV X disaster and multiple governmental inquiries, mistakes continue to be repeated time and again.

If mandatory detention continues, the following steps should be taken:

v. **Establish an exit interview** to be conducted by an independent legal agency for each asylum seeker exiting detention.

vi. **Conduct an audit of deaths in immigration custody**.

vii. **Expand the National Deaths In Custody Program to include**:

a) Deaths within immigration detention centres operated under Australian legal authority (whether located onshore or offshore).

b) Deaths while under escort during deportation, or while designated authorities (such as police or immigration department compliance field officers) are attempting to take individuals into custody under the Migration Act.

c) Deaths that occur during operations in Australian territorial waters once individuals or vessels have come under the surveillance or control of Australian border authorities.

All of these circumstances generate a duty of care that falls on Australian law enforcement and border officials. Official designation as a "death in custody" would mean the deaths that occur in detention be brought before a Coroner's Court.

[63] ABC interview by Fran Kelly with Dr Paul Bauret, President Australian Medical Association, Northern Territory, 22 March 2012, http://www.abc.net.au/radionational/programs/breakfast/asylumseekers-hospitalised/3905668.

[i] G Koutroulis "*Detained Asylum Seekers, Health Care, and questions of Human(e)ness".* Australian and New Zealand Journal of Public Health (2003) vol 267 no 4 p 384.

[ii] There was no real interest in the press about these court cases. Those of us working in the detention environment were already aware of the cases of Mastipour and Hamidi and now three more in court questioning the conditions of detention in Baxter, pointing to cruel units where people were placed who were psychiatrically unwell. Psychiatrists employed by DIMIA rarely visited. Did the press cover this story? If true, the allegations were pretty horrific. Unwell people not being treated. Well, not really. On the first day in the Federal Court for the detainees I think one journalist for The Australian attended. Then a strange thing happened; the Cornelia Rau story broke. On the next day in the Federal; Court for the three detainees, every TV station in Adelaide and the print press attended. Now they were interested.

[iii] *S v Secretary DIMIA* (2005) 216 ALR 252

[iv] Ibid at [1]