

More horrors revealed in Australia's immigration detention centres

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13 May 2005

A series of revelations in recent days has exposed the systemic and deliberate abuse of democratic rights taking place in Australia's immigration detention centres under the mandatory imprisonment regime that was first imposed by a Labor government in 1992.

The leaks, media reports and official admissions have undermined the Howard government's attempts to whitewash the case of Cornelia Rau, an Australian resident wrongly locked up and denied medical treatment for 10 months. While the government continues to portray Rau's ordeal as a rare aberration in an otherwise healthy system, it is now clear that Rau's plight is just the tip of an iceberg that has yet to fully emerge.

The horrors uncovered so far, after years of cover-up, include the wrongful incarceration of large numbers of people, the deportation of innocent citizens, and the denial of elementary medical and psychiatric care to obviously-ill detainees. They also include the cruel and inhumane punishment of inmates in isolation cells and the refusal to allow an infant child, locked up since birth, to attend an outside childcare centre for even a few hours a week.

It is no longer possible to argue, as some critics of mandatory detention have done, that this is a system simply "out of control". It is now clear that senior members of the government have orchestrated and sanctioned practices—arbitrary deprivation of liberty, punishment without trial and refusal of access to medical care—that violate the most basic democratic and legal rights.

These practices are deeply embedded in the logic and structure of a system that gives the executive government unchecked power to seize "suspected unlawful non-citizens" and detain them indefinitely without any judicial hearing or independent scrutiny. What is being demonstrated is that no-one, not even a longstanding Australian citizen, is safe from being picked up by police or immigration officials and "disappearing" into detention or deported.

When Rau's fate first became known, the WSWs pointed out the obvious questions. "How many people like Cornelia Rau have been wrongly detained inside refugee camps or jails? Are there more mentally-ill people locked away because they cannot obtain decent care? How many asylum seekers are being denied proper medical treatment? Rau was thrown into solitary confinement even though she had the advantage of being of European descent, with prominent relatives. What fate can be expected for more isolated individuals, or vulnerable detainees from the Middle East, Africa and Asia?" (See: "Australian woman imprisoned for 10 months as an illegal immigrant").

Three months on, some of the answers have started to ooze out, despite the government's effort to bury the Rau case in a closed-door inquiry being conducted by former Australian Federal Police commissioner Mick Palmer. In late April, the government admitted to 33 other cases of wrongful detention in the past seven months, but it soon became apparent that at least 100 people have been affected in the past three years. The government has made a mockery of its own inquiry by asking Palmer to investigate the extra cases. Given that he has yet to provide a report on

Rau's case, which he has been examining since February 8, if such an inquiry were to probe all 100 cases it could last more than 25 years.

In announcing the extension to Palmer's inquiry, Citizenship and Multicultural Affairs Minister Peter McGauran claimed that some of the people might have been wrongly detained for only a few minutes at an airport. McGauran's statement was an attempt to downplay the significance of the cases, even before Palmer was handed their files. But judging from Rau's ordeal and other known cases, there is no reason to accept McGauran's claim.

Rau was detained for more than 300 days—six months in a Brisbane jail and four months in the Baxter detention centre—before she was released into psychiatric care, and she would have remained incarcerated for longer if not for the persistent efforts of fellow detainees, mental health professionals and refugee advocates to draw attention to her plight. Other instances have come to light. The Federal Court ruled in 2002 that two Afghani refugees, identified only as VFAD and VHAF, had been unlawfully detained for 18 months and 11 months respectively.

In 2003, a British citizen, Graham Taylor, was awarded \$116,000 damages for false imprisonment for a considerable period (the Howard government is currently appealing against this decision in the High Court). In 2002, a court awarded Brian Goldie \$22,000 in damages for three days' false imprisonment, and in February this year a French tourist was paid \$25,000 compensation for spending four days in the Sydney Villawood detention centre.

At least one reported case, that of Vivian Alvarez, resulted in deportation. Even though she was visibly distressed, mentally-ill and physically injured—in a wheelchair after a road accident—she was removed to the Philippines in mid-2001. As well as being an Australian citizen who had lived in Australia for about 20 years, she had a five-year-old son in Brisbane, who was placed in foster care. She had been receiving psychiatric care and was on police missing persons lists. Nevertheless, immigration officials deemed that she was no longer entitled to live in Australia. Apparently, her marriage to an Australian man had broken down.

While the government claims to have been seeking to locate Alvarez, Philippines police officials have told the media that the Australian authorities gave them no information that would help them find her. Moreover, as Immigration Minister Amanda Vanstone has now admitted, the immigration department knew from early 2003 that she had been wrongly deported, but did nothing. Instead, her case was covered-up for two more years.

It seems that Cornelia Rau came close to being deported. In little-reported testimony to a Senate estimates committee in February, a senior immigration official said: "Our efforts were to try to establish her details and circumstances with sufficient certainty so that we could get her a travel document."

According to the Mental Health Council of Australia, there are many other examples of people, often mentally-ill and with poor English, being

detained for weeks and months, including women wrongly deported after failed marriages. People deported from Australia are simply dumped in another country, with Canberra taking no responsibility for their survival or welfare. A study conducted last year by the Edmund Rice Centre into the deportation of 40 rejected asylum seekers found that only five were living safely. In many cases, the risk to their lives had been worsened by being sent back with false documents to the regime they had fled from (See: “Deported to Danger,” <http://www.erc.org.au/research/1096416029.shtml>).

Other revelations relate to the denial of essential medical and psychiatric treatment to detainees, particularly to those whose health has degenerated after years of confinement.

Of the several hundred people still detained in immigration centres, 74 are children. The longest detained, Naomi Leong, 3, was born in the Villawood centre and has never known any other life. Her Malaysian mother Virginia Leong was detained while pregnant and accused of overstaying her visa. The mental health of both mother and child have deteriorated so much that psychiatrists and refugee advocates recommended that they receive psychiatric care and that Naomi be permitted to visit a child’s play group for two hours a week.

In a report leaked to the media, psychiatrist Michael Dudley said Virginia was apparently suffering severe major depression and psychotic features. “She and Naomi are both potentially at risk of their safety if this condition is allowed to continue without adequate treatment, as it has been so far,” his report stated. Naomi has stopped eating and bangs her head against walls whenever she sees her mother upset.

There have been months of protests by Virginia, including a rooftop demonstration last year, for which she was punished by being separated from Naomi and isolated in a “Management Support Unit” cell. The media finally reported last week that the immigration department had rejected even the play group recommendation, whereupon officials, confronted by a public outcry, quickly announced that pre-school age detainees would be allowed to attend outside centres.

Last week a Federal Court judge condemned the mental health services at the Baxter detention centre and found that two mentally-ill Iranian asylum seekers, referred to as “M” and “S” had been treated with “culpable neglect” and disregard. Justice Paul Finn found that neither man had been examined by a psychiatrist in over five years of detention, despite being prescribed anti-depressant medications in 2003. He agreed with three independent psychiatrists that detention was the primary cause of the men’s illness and keeping them locked up constituted an ongoing injury.

The two detainees applied to the court in February for an order compelling their admission to Glenside, a mental health facility, where Cornelia Rau and three other former Baxter inmates are undergoing treatment. The government opposed the move, insisting that their treatment at Baxter was adequate, but backed down during the case, agreeing to transfer the men to Glenside.

Justice Finn ruled: “Given the known prevalence of mental illness amongst the over 100 long-term detainees at Baxter, and the likely needs of S and M in particular at least since their participation in a December 2004 roof top protest and hunger strike, the level of psychiatric service made available to S and M was, and remained, clearly inadequate.”

Instead of being treated, the two men, like Cornelia Rau and Virginia Leong, were punished by confinement in “Management Unit” and “Red 1” isolation cells. The judge also damned the government’s outsourcing of health care services to contractors, who in turn contracted and sub-contracted the medical and psychiatric services, resulting in infrequent and uncoordinated care with little or no public accountability.

Even as these shocking cases were coming to light, the government was arguing in the High Court that it had the constitutional and legal power to detain Australian citizens indefinitely on “suspicion” of being unlawful.

In *Ruddock v Taylor*, the false imprisonment case mentioned earlier, the Commonwealth Solicitor-General argued that the government could even pass a law requiring every person in Australia to report to the immigration department and prove that they were not an “alien”.

Speaking on behalf of the government, the Solicitor-General confirmed that the immigration authorities were continuing to interpret the Migration Act as imposing an onus on a “suspect” to demonstrate their residency status. This flouts several Federal Court rulings, including in the Goldie, VHAF and VFAD cases, that the onus is on officials to justify their suspicion as “reasonable” and undertake “due inquiries” before detaining a person.

Vanstone’s public comments on the Rau and Alvarez scandals, in which she has defended her department’s actions on the grounds that it was difficult to ascertain the true identities of the two women, confirm that the government has been actively defying Federal Court decisions.

This follows last year’s rulings by the High Court upholding the government’s power to detain rejected asylum seekers indefinitely without trial, potentially for life, even if they could not be deported to any other country, and regardless of how barbaric the conditions of detention. In effect, the High Court gave the green light for detainees to disappear into a legal black hole, in which they are detained by executive authority, without any independent assessment or ongoing external review.

These police-state powers inevitably produce the cruelties and injustices of the kinds revealed over the past few months. They are not exceptions, but express the logic of the regime. As the Rau and Alvarez cases, as well as the government’s arguments in the High Court, demonstrate, the mandatory detention system does not only threaten rejected refugees—no Australian resident or citizen is safe.

None of this would be possible without the opposition Labor Party’s continuing support for mandatory detention. After Alvarez’s plight became known, Labor’s immigration spokesman Laurie Ferguson called for a widening of the Palmer inquiry, but again rejected calls for the abolition of the detention system itself.



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