

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

Deported to Danger: A study of Australia's Treatment of 40 Rejected Asylum Seekers¹

By Phil Glendenning

Good afternoon all.

It's a great pleasure to be here. I'd like begin by acknowledging the traditional owners and occupiers of this country: the Gattagal people of the great Eora nation. It might not look like their place, but this always was and always will be Aboriginal land.

I'd also like to acknowledge the great support that the Don Chipp Foundation and specifically but more generally the Democrats have done in keeping this issue before the Parliament of Australia.

I think Andrew Bartlett has done a magnificent and unheralded job in getting across the detail. It's interesting – when various politicians go on their annual breaks overseas, Andrew went off to Nauru. He could have been studying the politics of the French system, or how to make the underground work better in Frankfurt. Instead he took his time off to go and get to know and understand the refugee problem with great difficulty. I think history will record that and will acknowledge it, and it's the responsibility of people like us in this room to keep that particular legacy alive.

I just want to start with an anecdote. I don't want to go through the report which is called *Deported to Danger* and which is up on the web at www.erc.org.au and you can download it there for free. We did a print run of a few thousand but they're all gone. I was hoping to bring some today but we've had to commission another run so that's good news. There's also a link to the report on the Don Chipp Foundation website at www.donchippfoundation.org.au. So please get a copy and read it before Christmas so we can have a plan of attack for something better.

I had two phonecalls. One was at 5.45 in the morning and it was from Pat Dodson's office up in Broome wanting to know why it was that the Press Gallery in Canberra were waking everybody up in the Kimberly at 5.00 in the morning. And so it was about the story of the Mallum community up in the Territory who've been told by the Government that they will have access to petrol through petrol bowsers if the kids have their faces washed twice a day and take their rubbish out twice a week and get the pest controllers in. This is in the form of mutual responsibility. Spinning the discussions that were held last week in Canberra, the aim and exercise was when will the Government own up to its responsibility for the first people.

Basically I was thinking that what if we spun that and said to the good burghers of Killara of this city your access to the swimming pool and the chemist shop's going to

¹ This is a transcript of a presentation given at the Don Chipp Foundation Human Rights Seminar, 9 December 2004, NSW Parliament House.

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

be dependant upon washing you kids' face and hands, or some other onerous restriction like that. And it occurred to me, those who think that way, have a punitive approach to things, would never dare do it to the people who elect the representatives on the North Shore and eastern beaches, who would send Bronwyn Bishop to Canberra. It indicates fairly clearly that you can only have that thought or that mentality if you don't see those other people as those who share equal citizenship with you.

I think Nina just highlighted the link between the first peoples here and the people who I refer to as the last peoples here: the last round of asylum seekers who came into the country. Who similarly get rejected. Just this afternoon we hear that the Senate Committee report has been tabled in the parliament and George Brandis has again defended himself saying he didn't call the Prime Minister a "lying rodent" he just called him a "rodent". I'm glad when he leaves parliament and picks up his QC gavel I think that's one barrister I'll be staying well clear of.

The second phone call I got today was from a very concerned church advocate in this city who had phone conversations this morning from one of the men we interviewed in Sri Lanka who has now had to go underground because of the harassment and the persecution that he's been suffering. He's one of the people who we held was being safe, and now he's not safe. That of course won't make the news. The situation in Sri Lanka is often hidden under the table. Concerns of Sri Lanka are more about the bowling action than they are about the conditions of the country he lives in. If there's one thing we learned about Sri Lanka during the course of this year is that the absence of war is not peace.... the absence of war is not peace. And that clearly the responsibilities of the Australian Government have not been met in terms of international law and the findings of our work will indicate that.

As I said I don't want to go through the minutiae of the report, I would prefer for yourselves to read that. I think the report written by Sister Carmel Leavey and Mary Britt and Margaret Hetherington in the main is a document that my talking wouldn't do great credit to. But I will point to some of the findings that we uncovered but I would also like to go to the background to this, and the stuff that's not in the report: the human side of it, the more complex reality of life for people on the ground as those who went and did this research brought back. And there's a few challenges in it for us as well.

The background to this particular document, and we are grateful in having the Don Chipp Foundation partially support, occurred just prior to the Tampa incident, when at a barbeque in the backyard of the Edmund Rice Centre, a conversation between the then Deputy Coordinator of ANTaR, Gig Moon, a lawyer in Sydney, with Wendy Bacon on the phone and Jacqui Everett, who a number of you would know, about the goings on at a company called PNI, that was then the formal name of an organisation in South Africa. The Australian Government were sending people away from Australia and putting them in the hands of a private company to do with them what they would when they got to South Africa. At that stage, rather naively, we got rather excited about this, and thought this is the sort of thing that should bring a government down. Regrettably, that fact that the reality that four years later we were able to

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

uncover evidence that would suggest this is something the government continually tries to push aside and defame.

And what was missing I guess was there were over the course of the period between now and then, and I hope it's one of the things that our research and Dave's research particularly points to, is the evidence that suggests the reality. I think for a long time we've known these stories, we've heard this information but we need evidence of the evidence of the evidence. I know the first time we went to Syria we spoke to some journalists when we came from Syria and they said "Where's the photo of the jail? "Where's the copy of the document?" Where's the interview on the tape?" all of which is a lot hard to procure on tape, so we went back to Syria and got hold of it, and I'll come to that in a minute.

So we didn't have the evidence. We had the stories and we had bits of the stories. Some people had other work. And I must here acknowledge the work that was done by Frances Milne and Copas in beginning to bring this stuff together and always staying in touch with the human reality of people and raising these concerns publicly for, I think, really the first time in Australia. Frances, thank you and keep doing it.

Then I was lucky enough to have a knock on the door of the Edmund Rice Centre from Sister Carmel Leavey, and Carmel knocked on the door about 18 months ago, and Carmel (I'm not going to be so indiscrete as to suggest her age, as she's a woman not to be trifled with), knocked on the door and came into my office and said: I've had this many years on the planet (and she wouldn't describe herself as young), I've spent a career in research and education, I can write and I can research. I want a job and I don't want any money. And I said were you born in a stable or something!

And she set about with her partner in crime Margaret Hetherington trying to pull together the pieces and bringing a methodological insight into how we might go about gathering the information. Step one in this was the call made by Chris Sidoti in 2000 when he was the head of HREOC to suggest Australia would never be able to tell if we are correctly identifying refugees unless and until we are able to get a form of monitoring whether these people that have been removed are in fact safe. And so we had various stories and suggestions of where people were and the question was then to go and see these people and then to assess whether they are safe. Through a process of interviewing them, with an instrument of about 40 questions, then bring our own observations to bear and then support that with reports from various agencies of the UN, Human Rights Watch, and the like. To build a story and a case whether Australia was honouring its role.

What we did was we managed to interview 40 rejected asylum seekers. It was a random sample. We weren't able to survey in a proper academic way those who had been deported because DIMIA don't do it and they don't release the numbers. So therefore it was a random sample that we sought to get, and we thought that if we got ourselves up over the 30 mark we could maybe begin to identify some trends. In the end we interviewed 40 formally in 12 different countries, and there was another 10 that we interviewed but we decided for reasons of their safety that to include them in the formal report, to mention them in any way shape or form or where they might be

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

would put their lives at further risk, and we figured Australia had done enough. And that we would not include those people in the report.

Of the 40 that we interviewed, we found that 35 were now currently living in dangerous situations and were not safe. 35 out of 40. Plus there's the other 10 that we didn't include. And it's clear that that danger that they face now been exacerbated by documents issued under the Australian authority. Some of this paperwork was confiscated on arrival or had a short expiry date. Some was declared to be false and of no use. Many of those who left Australia relied on paperwork given to them by the Australian government or other agents. And some were left without identification at all.

I want to share with you an example of a guy from Sri Lanka, who saw his father shot in front of him in Japan. He was spirited away to Colombo, and then the family sold assets and raised \$6,000 and gave him to people smugglers. He thought he was going to Sweden and ended up in Sydney, and he spent three years in Villawood, when he was then sent back to Sri Lanka. Upon arrival, he was given a... the powers that be at Villawood didn't provide him with his Sri Lankan identity document that he surrendered when he arrived in Australia. And so for that exercise, he said "I arrived in Australia as an unlawful non-citizen, and then I arrived in Sri Lanka as an unlawful non-citizen. He was arrested and spent three months in jail. He was charged with suspicions of being a terrorist. It went to court three months later and it was thrown out on its ear. He then got a letter 18 months later from DIMIA apologizing for losing his document - hope it didn't cause you any inconvenience - and a photocopy of that document.

Time and again across 12 different countries we found people with the same stories. We found people who made claims that the documents they were provided with were either dodgy, they were false, they ran out, they expired early. Now these people were in Australia at different times, were different detention centres, they spoke different languages, yet their stories are very, very similar. Now this is either a rocket science conspiracy theory from Angolans and Congolese working in partnership with Fijian and Sri Lankans or there might be a case to answer here. We prefer that the latter is the reality.

I think if you look at the place we visited, and that's what I'd like to just pick up at the moment, right across Syria in particular, Sri Lanka also, we see the reality of this attitude of Australians that often dumps on the first and the last. Part of the research we'd like to see what's happening next (as well as the fact that we need a bigger sample, we need to track more people, we need to keep this before the Australian polity) but also I think there's a deeper question in terms of what's regarded as morality or the "fair go" these days. We've seen recently the election in the United States for example recently the so-called moral issues were dominant. The question I pose here, though, is that morality in that framework is regarded as abortion and gays kissing each other and getting married. It doesn't include the 100,000 dead Iraqi civilians that that red-pinko-ratbag-socialist-comrade-journal, the Lancet, recently published. 100,000 deal Iraqi's - not an issue. How is it that a foetus in Florida has more value than a three year old in Fallujah. It seems to me there's something serious

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

underpinning this movement away from the human dignity of people. Whether it's manifest in Mallum today as "if you wipe your kid's face we'll give you petrol" – in a community where petrol sniffing is actually a serious concern anyway. Similarly, we'll say to these people on their way to Iraq and Syria, we tell them lies and tell them you will be safe. And what we found was exactly the opposite.

I'll just take you through some of those stories....

Mubarak Nyef, who is reported in the paper as Sharif, rang me two nights ago. He said he's very happy for his name to be told, that we talk about it now, because he was very excited and very happy.

And I said "Mubarak what are you so happy about?"

And he said "I've got great news Mr Phil, great news!"

And I said "What is it?"

And he said "I have a job! In Ottawa, in Canada."

And I said "What's the job?"

And he said "I am working in the gas station, from 11pm to 7am. It's wonderful. Six days a week. This is the best news I could have."

My son was sitting next to me at the time and he said, geez and we think we have problems! The midnight to dawn shift in Ottawa in Canada in the middle of winter, is not great. He was saying thank you, I now think I've now arrived.

His story is this: he was in Port Headland for three years. He was a Bedouin from Kuwait, and the Bedouins are a stateless people who the Kuwaiti government removed in the wake of the Gulf War of 1991 – George Bush I's folly.

So he was had to flee the country. He thought he was going to Scandinavia, and he ended up here in Port Headland. We made contact with him through the good offices of the networks of people like Carmel were able to make out. And he became our eyes and ears on the ground. He took great personal risk, because when he was sent back to Syria, he was given an Australian identity card, which... *[tape inaudible]*

He spent those three years in Syria in hiding, living under a virtual house-arrest of his own making, because when he flew into Syria, he was given an Australian identity document, and the Australian identity document had on it that he was able to stay in the country for three weeks, effectively, because the time that the ticket was valid and getting his ticket through...

His daily routine was this. He'd get up every morning about 11.00 and he was a very devout religious man, and he would pray, then he would stay in the house until 6.00pm when he would go for a walk to get some groceries. He was paying double the rent so the landlord wouldn't do him in. Because in his document there was a little stamp saying that within 15 days of arrival in Syria you would have to report to the public security department. We actually saw this on the flight into Damascus.

On his way into Damascus we saw this on the plane. We were flying in, we hear over the P/A cabin crew cross-check and sit-down and get ready for landing. And with that about 15 people got up from the very back of the plane and ran through the plane. In

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

your Western post-September-11 terror, when a bunch of Arab people get up and run through the plane, I think the stewardess saw the look on our face and said it's OK, they're the deportees. So we got up and followed them. We went down the front of the plane, and someone out of the cockpit came out and handed out their documents. And they were documents like this – the little blue document. And for the first time they opened to see how long they could stay in Syria. The people we spoke to – Syrians, Iraqis, in particular Palestinians – they all, this is a process they all went through. And they found out for the first time, most of them, how long they were valid for. They were told in Australia they would be safe to stay in Syria. They open them up and they're valid to stay there for three weeks, three months. And within two weeks of being on the ground you've got to go and report to the police, the secret police.

So you can understand the trauma that that makes. And when they actually arrive in the airport they're sat on the floor to squat with a political guard. Now some of those people go from there to one of two jails. And they call the jails Manchester United and Arsenal. One is the immigration detention jail, which is downtown in Damascus, which we had great difficulty locating. In the midst of a pretty terrible situation, the funny thing was we'd spent days trying to find where this jail was, and the street was blocked off at either end, and people here had said no one would believe us unless we had a photo, and so were hanging out windows, walking down the street, quite ridiculous stupid things we were trying to do, and one day we got back to the hotel, we opened up the windows, pulled it back and the jail was next door. Right under our noses.

Mubarak helped us magnificently. Because of that, last year we took the interim report to Geneva and spoke to the UNHCR and International Council for Voluntary Agencies, and they said they would put those in Syria on the list, which they did. The Canadians said they would be able to provide some support to Mubarak. The only document he had to identify himself was this document, and before he could go to Canada he had to get a document proving that he was able to stay in Syria, so he cooked up a scheme whereby his mate would go down to the police station with this document, and try and get an ID document for Mubarak. Of course what happened is the police were called, and said "We've got your mate, we've got your document, you better come down here." He goes down there and gets thrown in jail. He's in jail for six weeks where he was tortured.

And the First Secretary of the Canadian Embassy in Damascus, a magnificent man by the name of Garret Kruzna, personally, physically went down to that jail on a daily basis and got him out and within 24 hours he was safely in Toronto. Within a week he was given residency in Canada.

What is it that the Canadians understand about what it is to be a refugee and to determine a refugee that we don't understand? By the same token, there was another man that we spoke to in Angola, not in Angola but was from Angola, we spoke to him in a third country where he is now safe in the United Kingdom. He was sent back through Johannesburg and was given by PNI papers to attest that his nationality was Tanzanian, when in fact he was Angolan. And he himself made contact with the

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

Angolan Embassy in Johannesburg, the officials came down and suggested to him that it would be in his best interests if he went back to Australia because he had fled Angola because he was a member of the opposition party to the government, and he was also a member of a youth league, both of whom felt that he'd deserted them, and that he was a critic of the government. Australia refused to take him back. He refused to take the Tanzanian papers that were false. He was therefore then sent back to Angola, where he was shipped to a place about 9 hours outside Luanda and he spent 9 months in jail. He finally managed to escape with the help of some money provided to him by a Dominican sister. He made his way overland up through Africa to the UK, and within months was provided with permanent residency.

What is it that the United Kingdom understands about what it is to be a refugee and this country does not?

Those two examples we saw reflected in terms of the stories of the people sadly outside of those two who have been accepted by other governments and some in another third country, it's true to say that the Canadians and New Zealanders and the UK have a different sense of what it is to be a refugee. The concern in the UK of course is the Howard-Ruddock model is now something that David Blunkett is considering – a great export industry on behalf of the Australian Government.

Of course of latter concern is the situation with the Iranian Christians. It's still on the books in Iran to send a person back to Iran who is a Christian is a crime – apostasy, and is still punishable by death, and this Government at the moment is still moving those people out. They were even doing it during the caretaker period when the election was called, which I find to be quite phenomenal. Also the UNHCR in Geneva were rather concerned about this, because anyone who gets deported from Australia, UNHCR's Asia Pacific desk in Geneva is supposed to be informed. Australia hasn't been informing them. We found in Sri Lanka that every other Western country that we like to compare ourselves with – United States, the Canadians, the New Zealanders, the United Kingdom – meet the plane of people who've been deported to ensure their safety. We are supposed to; we've signed a document to that end. The Human Rights Council of Sri Lanka say Australia does not do this. Consequently information is provided by people who come back to Sri Lanka that is given straight to the police by the DIMIA official who comes with them, or an ACN official as it was then. And that information is used to put these people straight into the Nugambo prison, where they can stay from anywhere from three weeks to six months, and they are charged with suspicion of being a terrorist. Every one of those cases, documented by the Human Rights Council, has been thrown out. And as I said, when the absence of war is not peace, why we are sending people back there beggars belief.

This is an example of the stamp that appears in a passport. This is the Syrian visa that is given to people who go to Syria. Down the side there you can see the Australia Crest.

This is a ticket that was provided to an asylum seeker. As you can see at the bottom, it's still alive. It says Sydney – Kuala Lumpur – Damascus – Kuwait. That ticket was

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

purchased never to be used, because that man could not possibly go back to Kuwait. He's a Bedhouin and it's not possible for him to go back. He was given this ticket and told "when you get to Damascus, you just tell them you're a businessman here and you're passing through – you've got a seven day ticket and you're flying out in seven days time, and go underground." When we presented it to DIMIA, and they asked how do you know where the ticket came from, we pointed out that it's got on it "purchased by DIMIA Belconnen, ACT." That's why you need the evidence of the evidence of the evidence. Because the story alone doesn't work. We have to be able to find evidence.

That's the jail we couldn't find out the front of our window.

That's the second prison.

That's Mubarak. If you're at the BP service station in downtown Ottawa between 11pm and 7am you'll find a very delighted man there, very soon to be a Canadian citizen.

I just wanted to highlight some of the faces of the people, because it's the faces and the stories and the humanity of the people that's not being picked up. When we met the gentleman whose ticket was falsely issued to him, we had to meet him at 3.00 in the morning in a refugee camp on the outskirts of Damascus. He was there underground and the police were looking for him. He couldn't stay, he couldn't go. He was put there by us. And when we sat down at the end of the night, some of his friends came in, and some of the other people who'd been in Australia at different stages, three of them sat down with him, and we said "what would you like to say to the people of Australia about the way you've been treated?" and he said "what we'd really like to say is what are you doing about the Aboriginal people. We saw them in Port Headland, we saw them in Baxter, we saw them in Woomera. What are you doing? We were treated very badly, but what about the Africans that were in Villawood, you should have seen the way they got treated."

And it occurred to me, particularly talking about the Don Chipp Foundation and those values that are enshrined there – the ideals of honesty, tolerance and compassion – but at the moment we're living in an Australia where compassion for people who are the last and the first is seen as weakness. And yet here are the people we threw away, and are able to see themselves in a position of other people, Aboriginal people, and see the world from their shoes, in way that John Howard, Amanda Vanstone, George Pell and George Bush have got no chance of doing. And these are the people we rejected.

I think that brings me to my conclusion point – we need more of this research. We need more of these stories recorded. We need further information. The thing that I learnt this year, and from many of the people in those different countries, is that humanity can still shine. And those who are at the very edges, the first and the last, are the prophets of that reality. It's not going to be found in buildings like this. But if you sit in that refugee camp in Syria, or you sit in Afghanistan or Iran or Iraq, you see what the reality of the human experience is. And in the midst of that people can still

Don Chipp Foundation Ltd

ACN 008 618 488

PO Box 5089 KINGSTON ACT 2604

be compassionate for the sake of others. Now that sounds like I've seen too many Hailey Mills movies, but it's not, it's true!

But there is a dark side. And the dark side is the two people we saw the last day in Syria. One was at his buck's night, and the boys were all outside firing guns in the air, whooping it up. And he said to us "I thank John Howard and Phillip Ruddock. I'm not being ironic, I sincerely want to thank them. They've taught me what the truth is. I had to leave my country because my father wanted to involve me in a terrorist organization to fight for our freedom and thought violence was never the answer. When my son is born next year the first thing I'm going to do is enroll him in that organisation, because the only way our people are going to be free is if we have to fight for it. We have to kill the people who take our freedom away."

The second one was an old Bedouin man, who had a family of six, and because he had no identity except the paper we gave him – that worthless paper that we provided – his kids can't get an education. So what do they do every day? They go down to the Mosque, the fundamentalist Mosque in the refugee camp, right up on the Damascus-Lebanese border. And they sit there all day, from about 9.00 in the morning until 9.00 at night and they listen to the stuff that says the only way out of this is violence. They can't read and write – from fifteen down to six, they can't read and write, but they hear that the only way through this is to create terror and to create havoc.

It's not in our report, but the news I'd like to say to John Howard and his ilk and those who believe that compassion for people is weakness, is that the very thing that this system was set up to prevent, this system is creating. This system is creating.

My final reflection is as given to me by a cartoonist in Ireland, and by Brian Dore, the wonderful comedian, who said maybe this could all be solved if Australia was just an island surrounded by water, we had a moat around it somewhere. If only we had a moat to keep people out. History's going to record that these are dark days in Australian collective life, indeed were some of our darkest periods. But I think if we can collect the stories of the people who've been at the receiving end of it, therein lies the hope for a better way back and a better nation that we all aspire to.