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Refugee Advocates Launch Campaign Against the Detention of Asylum Seekers

Revised UNHCR guidelines will urge governments to seek alternatives to detention

NGOs have launched a broad assault against the growing practice of detaining asylum seekers, and pledged to support UNHCR's efforts to find alternatives to detention.

Detention has become a major bone of contention between refugee advocates and governments. Governments insist that they have no alternative but to detain asylum-seekers who arrive without documents, with false documents, or by other illegal means.

But advocates feel that detention is being used to deter and punish, in clear violation of the 1951 Refugee Convention. As such they see it as part of a wider, insidious trend aimed at preventing refugees from reaching western countries. Speaking at one briefing during the UNHCR EXCOM in Geneva, eight prominent human rights groups described several gruesome aspects of detention and pledged an all-out campaign.

The campaign has already begun in the United States, where over 100 groups have formed a coalition named "Detention Watch." As of August this year, 15,000 persons were detained by the Immigration and Naturalization Service, representing a 70% increase in two years; 8,000 are being kept in local jails, with almost no oversight from INS. (See accompanying story).

Following EXCOM, many expect UNHCR's Division of Protection to engage more actively in the detention debate. The EXCOM conclusions on protection "deplore the fact that many countries "routinely detain asylum seekers on an arbitrary basis."

Detention is not specifically prohibited by the 1951 Refugee Convention, but several articles require that asylum-seekers be allowed freedom of movement. The Convention also states that governments "shall not impose penalties on account of (their) illegal entry or presence." In other words, asylum seekers are not to be considered criminals, even if they entered a country illegally.

This will be restated again in new guidelines on detention, which will be issued soon. UNHCR officials say that they will provide a clearer definition of detention (for example, whether it applies to airports) and set out the limited circumstances in which detention is permissible. These

can include in time or war, or to protect national security. The new guidelines will also spell out alternatives in greater detail.

UNHCR officials promise a big push to implement these guidelines, which were drawn up after a lengthy period of consultation with governments and refugee advocates. This will be part of an effort by UNHCR to put refugee protection back onto a firmer legal basis, instead of the ad hoc "pragmatic" approach increasingly favored by governments.

Detention, they say, is abused as a deterrent for all categories of illegal entrants – among them, even refugees. Deterring refugees from seeking asylum means undermining the rationale of the 1951 Convention as well as the right to seek asylum enshrined in the 1948 Universal Declaration of Human Rights.

Speaking at the EXCOM briefing, Leanne McMillan, from Amnesty International, denounced "a decade of restrictions." These included the imposition of visas as soon as a country enters a period of turmoil (Bosnia in 1992, Haiti in 1991 following the coup); interdiction on the high seas; preflight screening; carrier sanctions (under which airlines are expected to weed out bogus asylum seekers); and the current practice of returning asylum seekers to "safe third countries."

Splitting families and denying them social assistance also makes it harder to apply for asylum, she said. "Inadequate and unfair determination procedures are forcing asylum seekers to rely on traffickers and illegal procedures to get to safety. Some go underground and some give up and fly home."

Somewhat surprisingly, in view of its reputation as a country of immigration, Australia became a target for advocates at EXCOM. Australia has detained all those entering without a visa since 1992. A recent decision of the UN Human Rights Committee found that this was arbitrary and a violation of Australia's obligations under the International Covenant on Civil and Political Rights.

Stung by the criticism and the bad publicity, the Australians issued a 5-page memorandum at EXCOM insisting that the detention policy is clearly prescribed in law and is subject to review as well as full parliamentary scrutiny. Only 189 asylum seekers were in detention at the end of June, representing 1.5% of the 12,393 awaiting a decision; 108 have been found not to be refugees, and the remainder are awaiting a decision on their application. Twenty-six minors are in detention, said the memorandum "because this allows them to remain with their parents."

But critics feel that any detention is unnecessary as well as counterproductive. Margaret Piper, from the Refuge Council of Australia, pointed out that 80% of those who apply for asylum in Australia are accepted – and that over a third will have been detained. This, she said, produces guilt, shame, and lethargy as well as a profound anger against their new country. "They are reminded of what they fled," she said. "Governments have to recognize that detention is not a neutral experience. It has a profound impact on those detained."

In spite of government protests to the contrary, there is growing agreement that policies like Australia's is intended to punish and deter asylum seekers, in clear violation of the 1951

Convention. Eve Porter, from the Jesuit Refugee Service in New South Wales, pointed out that the major detention facility (Port Headland) is 4,000 kilometers from the major cities. This makes it hard for lawyers, and leaves those in detention "virtually incommunicado." Detainees have medical care, she said, but no phones – and so are rarely informed of their right to even seek counsel. She cited one case in which two minors, aged 16 and 17, were sent back to Singapore before their case was even reviewed. They were issued with visas to return, for the completion, but the visas expired before they arrived back. This underlined that the policy was "highly punitive."

A recent study done by Porter for the JRS found that asylum seekers are likely to be detained for longer periods than common criminals, and are less likely to receive bail. As of April 1997, 15% of those studied had been detained for periods of more than two years – the kind of sentence normally given to robbery, sex offences and drug trafficking. Moreover, said Porter, common criminals tend to benefit from bail more than detained asylum seekers. 93.9% of those charged with larceny were granted bail. But according to the Australian Human Rights Commission, only two children out of the 581 detained since 1994 have been granted bridging visas.

Advocates from other countries point out that the conditions of detention are often extremely grim. In the United States, where only 11% of all prison inmates have access to legal counsel, women have been shackled after a miscarriage, injected with sedatives, raped, and forced to sleep on floors, said Mary Diaz from the Women's Commission on Refugee Women and Children.

Many feel that this kind of policy, in countries that are supposed to be stalwart defenders of the 1951 Convention, is setting an appalling example. Marton Ill, from the Hungarian group MEDOC, said that seven new detention centers had been set up this year in Hungary, largely in response to arrivals from Kosovo. Conditions are worse than common jails, he said. One center has three showers for 120 people, and serves pork fat in the food (to the Muslim Kosovars). These centers are completely unregulated. They have been established because EU governments are unwilling to give the Kosovars even temporary protection. Ironically, however, Hungary is considered a "safe third country" by European governments.

Armed with this kind of information, NGOs will use the new UNHCR guidelines to insist that alternatives to detention can be developed that address the concerns of governments while still respecting the rights of asylum seekers. Ophelia Field, from the European Council on Refugees and Exiles (ECRE), said that they could include reporting requirements; the surrender of travel documents; residency requirements; supervision (including by NGOs); bail and other guarantee systems; and open reception centers. She also urged that governments provide counseling for those who are rejected, before they return home.

This, she said, is not only humane, but cost-effective. Germany spends 50 million DM a year detaining asylum seekers, she said. "Every alternative to detention is cheaper."

Canadians Generous, But Families Being Split

Canada is generous in the number of refugees that it takes, but the process also splits families, says Manisha Thomas.

According to the UNHCR, Canada "is one of the relatively few countries worldwide which maintains an annual resettlement quota". In 1998, Canada plans to accept between 24,100 and 32,300 refugees – about 10% of the annual immigration intake.

But the process can also take its toll on families. Those who are accepted as Convention refugees can apply for landed immigrant status, which provides most of the same rights as Canadian citizens. When applying, they indicate which family members they want to bring to Canada upon the granting of status.

But the road from acceptance as a Convention refugee to landed immigrant can take anywhere from six months to over ten years. During the wait, refugees are not allowed to sponsor family members to come to Canada, nor do they receive all the same benefits enjoyed by Canadian citizens or landed immigrants. "Refugees are being treated as second class citizens in Canada while they are in this limbo," according to Francisco Rico-Martinez, President of the Canadian Council for Refugees.

The result is that families can remain separated for long periods of time. According to an official from the Immigration and Refugee Board of Canada, approximately 75% of refugee claimants are males, many of whose families often remain behind in refugee camps. Single mothers are often forced to leave their children behind. Children who are accepted as refugees do not have the same ease of access to post-secondary education as citizens and landed immigrants.

Why the long delays? One reason is the security checks. On average, it takes approximately 18 months for refugees with ID to be granted landed immigrant status. Those without acceptable identification papers will have much more difficulty. Approximately 65% of refugee claimants coming to Canada do not have proper identification and of that number, two-thirds have no identification at all.

Before landing, refugees are required to pass a medical exam and pay a processing fee of Cdn$500 per adult and $100 per child. They also pay a "right of landing fee" ($975 per adult), which amounts to a head tax, according to Anne Woolger of the Canadian Baptist Refugee Services. UNHCR has protested the imposition of such fees, but they continue to be collected.

While waiting for landed immigrant status, refugees are only allowed to travel outside the country if they get a minister's permit, which almost never happens. There have been many cases of refugees being unable to even get permission to visit ill relatives, according to Rico-Martinez.

It is hard to lead a normal life during the limbo period. It is difficult to get loans and refugees can face barriers to employment and to post-secondary education – if their children are in the country. Those who arrive in Canada without their families must wait until their application for landed immigrant status is accepted before bringing in family members. Even then landed immigrants are only allowed to bring their children under 18, their spouse, and parents. Extended

family members cannot be included. If the process is not completed before a child turns 18, there is the possibility that landed immigrant status will not be granted to the child.

Canada's immigration policy is currently under review. UNHCR and NGOs have made several recommendations. It can only be hoped that the recommendations are incorporated and that the barriers to family reunification will be eased.

- Manisha Thomas worked at Human Rights Internet in Ottawa.
- Inter-Church Committee for Refugees (Canada)
- Canadian Council for Refugees

The United States Uses County Jails for Detention

Fifteen thousand persons are detained by the US Immigration and Naturalization Service (INS), following the passage of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. The pressure to detain is so great that 60% of those detained are in local jails. As the following extracts from a recent Human Rights Watch report suggest, this exposes them to poor treatment and a lack of oversight by the INS.

As of February 1998, the INS held valid contracts with 1,041 local jails. In the INS/jail arrangement, administrative immigration detainees are handed over to the care of local jails, which are paid daily fees by the INS that vary between $35 to $100 per detainee. The influx of federal money has been a boon to local economies. In York County, Pennsylvania, revenue from the INS increased from $600,000 in 1992 to an expected $6 million in 1998 – $2 million of which is profit.

INS detainees have become a desirable source of profit for local jails. The Corrections Corporation of America (CCA), which has long recognized the profit to be made in privatized detention, has also entered the INS detention/local jail arena. The Chief of Security for CCA, which runs the Liberty County Jail in Texas, even asked Human Rights Watch researchers if they knew of ways to get more INS detainees.

The INS has begun to recognize the importance of establishing minimum standards in its own detention centers and contracted facilities, but it has failed to extend the same standards to local jails; instead relying on whatever particular state or local standards are binding on jails. As this report illustrates, the result is inconsistent and inadequate treatment for detainees unlucky enough to be held in one of the hundreds of local jails used by the INS throughout the United States.

INS detainees are not serving criminal sentences, they are not awaiting a criminal trial, and administrative detention is not punishment. But when the INS contracts with local jails to hold detainees, the agency does not require that its administrative detainees be held separately from the general criminal population. The result is that, very often, INS detainees may share living and sleeping quarters and cells with criminal inmates who may be awaiting trial for serious, even

capital, crimes. Human Rights Watch found that female INS detainees were even more likely than men to be commingled with accused or convicted criminal inmates in local jails.

Commingling of local inmate populations and INS detainees can put detainees at serious physical risk. J. Anwar, a Pakistani detainee held in St. Martin Parish Correctional Center in Louisiana, had his jaw broken and teeth knocked out when a criminal inmate attacked him on May 3, 1998 in the living quarters they shared. Although the living area was supposedly monitored by correctional officers, Anwar told Human Rights Watch that no officer appeared until, already injured, he banged loudly on the door.

Anwar had informed the INS many times that he believed he was in physical danger the jail. Human Rights Watch also made requests to the INS on Anwar's behalf, asking that he be transferred to another facility several months before the attack that left him with a broken jaw and other injuries. Despite several calls and letters to the New Orleans district office from Human Rights Watch and from the Catholic Legal Immigration Network office in Oakdale, Louisiana, Anwar was still held at St. Martin Parish Correctional Center at the time of this writing and has once again been returned to a commingled living area, sometimes sharing a cell with a local inmate.

Living Conditions

"I am locked in a cage 24 hours a day. The food is very little. There is no light in my cell. There is no law library. The place is filthy. It looks like a dog pound." (INS detainee in Beauregard Parish Detention Center, Louisiana)

International standards call for humane treatment of detainees, but many of the hundreds of local jails used by the INS, some built as long ago as 1910, subject detainees to inadequate and sometimes inhumane living conditions that include overcrowding, little or no outdoor exercise, insufficient clothing, limited hygiene products, and insufficient quantities of food.

Local jails are designed to hold accused and convicted criminals on a short-term basis, and therefore, usually do not offer educational programs or work opportunities – leaving detainees absolutely idle for months or years at a time. Libraries are limited or non-existent, and few facilities have reading materials in the languages of the detainees. Detainee complaints about the physical environment of jails range from cigarette smoke-filled air, to cockroaches, and vermin sharing their cells.

Physical Space

The physical environments of the jails used by the INS vary in management, cleanliness, and size. But jails, new and old, have one thing in common: they are designed to control and contain accused or convicted criminal populations for limited periods. As a result, even the cleanest, newest jails subject detainees to hours of mandatory lockdown; house people in small, crowded spaces; punish people for failure to understand rigid jails rules; and, in general, are inappropriate places to hold administrative detainees, especially asylum seekers.

One of the most inappropriate jail arrangements Human Rights Watch encountered during the course of its research was in the Chicago INS district. According to detainees, the city jails are little more than police lock-ups and therefore have no on-site medical units, no kitchens, no shower facilities, and no libraries, nor do they offer outside recreational time. Detainees are not allowed visits from their friends or family and, in some jails, are prohibited from making telephone calls, including to legal counsel.

Worst of all, the INS detainees that are most likely to be placed in the city jails each night were ill or disabled detainees that the larger county jails would not house, and asylum seekers waiting for credible-fear interviews. According to the INS, DuPage County Jail would not accept detainees who were taking heart medication, disabled, or who had active tuberculosis. As a result, one blind Jamaican detainee was held in the city jail arrangement for eight months.

In Liberty County Jail in Texas, Human Rights Watch found 18 female INS detainees living in one large, cold, damp room in the old part of the jail built in 1936. Euless City Jail, located outside Dallas, is used by the INS because of its proximity to the international airport. It is a small facility of 48 beds built almost 30 years ago and intended to hold people only on a temporary basis. It has no on-site food preparation, no doctor or nurse on staff, no outside recreational facilities, no library, and one shower for all inmates. There are no windows in the living area, where detainees spend all day on bunk-beds in cold dark cells. When Human Rights Watch visited the jail at midday, all of the INS detainees were lying on their beds wrapped in wool blankets.

Recreation/Exercise

Exercise and fresh air are fundamental to maintaining adequate physical and mental health, especially when people are detained for months or years in poorly ventilated, smoke-filled jails with few other activities. International standards dictate that prisoners should receive one hour per day of exercise in the open air. The American Correctional Association standards also provide that inmates should be allowed one hour daily of physical exercise outside the cell, outdoors when weather permits.

The INS policy requires that all new and renegotiated contracts stipulate that detainees be given the opportunity to "recreate daily." Yet the lack of the policy's enforcement was evident when dozens of INS detainees told Human Rights Watch that they are seldom or never allowed outdoor recreation time or that recreation often depends on the whims of the correctional officers on duty on any particular day. "We never get to go outside," a Vietnamese detainee held in Dallas County Jail told Human Rights Watch. "[T]here is a weight room, but you have to sign up and share it with other, criminal inmates." At Clark/Frederick/Winchester Adult Detention Center in Virginia, jail officials stated that no inmates are allowed outdoor exercise when the temperature is lower than 55 degrees because the jail did not want to have to provide outerwear.

Food

Complaints about the quality of institutional food are common among detained individuals, and INS detainees in local jails are no exception. Often, Human Rights Watch was told that food

rations were insufficient or served so early in the morning that detainees were hungry by the end of the day. For example, one Somali asylum seeker who had been detained at DuPage County Jail in Illinois for five months at the time of our interview told Human Rights Watch that he had lost 20 pounds because of stress and anxiety and because there was "not good food. Not enough food."

Many jails tried to accommodate religious dietary restrictions when ordered by doctors or tried to accommodate detainees who requested vegetarian meals for religious reasons. Still other jails made their own limitations: "We don't do kosher," a jail official at Fort Lauderdale City Jail told Human Rights Watch. "Unconstitutional. We don't have to." Hardeep Singh, a Sikh Indian asylum seeker held at Orleans Parish Prison, told Human Rights Watch that when he asked for a vegetarian meal, jail officials told him to just throw away the meat. "But there's not much food left after you throw away the meat, so now I just eat it."

Educational Programs/Activities

Since jails are intended to be short-term facilities, many do not have any educational or vocational activities. At DuPage County Jail in Illinois, jail officials said that detainees could participate in Alcoholics and Narcotics Anonymous programs, high school equivalency classes (GED), college-level classes and anger control classes: the jail official even included commissary (where candy, batteries, etc. are purchased) in the list of programs. Detainees held at the jail, however, told Human Rights Watch that no programs are offered to them, so they just sleep and watch TV during the day. One detainee stated that he could take the GED test through the jail, but was not allowed to take the preparatory classes.

Even when detainees take the initiative to try to acquire skills during their detention, some jails thwart these efforts. Soeung Chhunn, a long-term Cambodian detainee in Orleans Parish Prison in Louisiana, made a request to take a correspondence course for which his family had offered to pay. On the request form, he wrote, "I'll pay for the tuition and book, there is no expense to the government." He received a response the next day: "Request denied." No further explanation was offered.

The ability to take classes is especially important to Chhunn, and others like him who are long-term unremovable detainees, since efforts at self-improvement will help them obtain release in the New Orleans pilot release project. When a jail offers no vocational or educational programs, there is no way for people to earn credits toward release. No detainee interviewed by Human Rights Watch in Orleans Parish Prison had ever received classes in anything.

Some jails allow detainees to work. Vermilion Parish Jail in Louisiana even allowed long-term detainees to gain trustee status, such that they could work outside the jail facility. But at Liberty County Jail in Texas, detainees told Human Rights Watch that working in the jail was voluntary but that once one had agreed to work, failure to do so would result in disciplinary action. One female detainee from Mexico said that she fell while she was working in the kitchen at the jail. After four days of recuperating, she was told by jail staff to go back to work. "They told me, `If you quit, there is a penalty.' The usual penalty is getting locked down in your cell."

Mental Health Care

The stress of months or years in INS detention takes a severe emotional toll on INS detainees. The punitive environment of a jail, the detainees' frequent fear of local inmates, and the uncertainty of when, if ever, they will be released or deported is often too much to bear and has led to depression and suicide attempts. Asylum seekers are particularly vulnerable as detention often evokes memories of past persecution and anxiety over being returned to the countries from which they fled.

International standards for the treatment of prisoners call for medical staff who have knowledge of psychiatry and require that the effect of continued detention on the mental health of prisoners be considered. ACA standards also contain several provisions for the diagnosis and mental health care needs of inmates. Unfortunately, the new INS Detention Standards, applicable only to Service Processing Centers and contract facilities, make no mention of mental health care needs of any detainee, much less any reference to the special needs of asylum seekers.

Again and again, detainees expressed to Human Rights Watch the emotional anguish caused by incarceration. In Berks County Prison in Pennsylvania, Guy Mbenga-Mondundou, an asylum seeker from the former Zaire, explained to Human Rights Watch that he attempted suicide by hanging himself after he learned that his wife had miscarried while he was detained. "I have become depressed," wrote Chinese detainee Chen Sie En from Orleans Parish Prison in Louisiana. "I can't stand it any more. I don't care if I am sent back to China or released on bail. I just have to get out." An Indian asylum seeker at Krome Service Processing Center, who had been detained more than two years at the time of our interview, echoed this sentiment: "I want deportation. No more jail – if I die, then I die. Fine."

Communication with Legal Counsel

Two very basic requirements for adequate legal representation are not being met when INS detainees are held in local jails: the ability to make initial contact with attorneys for possible representation and the ability to maintain ongoing communication once an attorney is retained.

The first obstacle is the difficulty of simply obtaining a list of legal service providers who will represent immigrants at little or no cost. Internal INS procedures require that the list of legal service providers be given to detainees at the same time the Notice to Appear is issued (usually upon their initial detention by the US Border Patrol or when transferred into INS custody). But Human Rights Watch found that this rarely happened in the districts visited. Many detainees only received a list of legal service providers after they were brought to immigration court – in other words, when it was too late to make a difference.

If detainees have not been able to consult with a legal representative before their first hearing, they may have no idea about what relief from deportation is available to them; as a result, they run the risk of accepting deportation when they, in fact, have other options. Such ignorance of legal rights can have deadly consequences in the cases of refugees fearing persecution who may not know that they have a right to apply for asylum.

At the Dallas County Jail, Human Rights Watch interviewed a Mexican detainee, JosŽ Reyes, who had been held for four months and had yet to appear before an immigration judge. After living illegally in the United States since 1990, Reyes did not believe that he was eligible for any immigration relief and wanted to accept deportation to Mexico, a process that normally takes days after appearing before a judge. Reyes wanted to contact a lawyer, but since he had not been to court, he was never given a list of legal service providers. As the weeks went by, Reyes said he wrote to the INS several times about his case, but never received a reply. He told Human Rights Watch that he did not even have an immigration case file number that he could use to check the status of his case.

Once a detainee actually receives a list of legal service providers, the obstacles to legal assistance are still not removed. Virtually all of the advocates with whom we spoke told us that the lists provided by the INS featured outdated, incorrect, or useless information. Also, telephone access at jails is usually limited to collect national calls only. International collect calls are rarely allowed, which may prejudice asylum seekers who need documentation from their countries of origin. Restrictive telephone policies make it hard for detainees to know what is happening to them procedurally. For example, an INS detainee reported that at Dallas County Jail in Texas, the INS's toll-free number that provides information on court dates and immigration case status is blocked on jail telephones.

Privatizing Deportation from Australia

What should happen to asylum seekers whose request for refugee status has been rejected? The question has been much debated in Australia, after it was disclosed that the government had employed a private South African firm to deport Somalis. Eve Porter explains.

Where an asylum seeker has failed in her or his bid to secure refugee status through a fairly-implemented determination procedure in Australia, the Minister for Immigration is entitled to take steps to remove such a person from Australia.

The Department of Immigration has established a practice of engaging the services of a company known as P&I Associates International. P&I is a South African company specializing in "a complete management service in the repatriation of inadmissibles É to the individual's country of origin." This is their "core business."

In June 1998, P&I arranged for the removal of a Somali asylum seeker, who had been found by the Refugee Review Tribunal not to be a Somali and therefore not to be a refugee. Subsequently, however, and without his knowledge, the Immigration Department procured Somali travel documents for him. They also entered into an arrangement with P&I for his removal from Australia to Somalia. The fee was to be something in the order of $12,000, plus a daily amount for guarding and a daily amount for accommodation.

An injunction was granted preventing the removal. The notion of privatized deportation procedures certainly appeared to alarm Judge Hayne, before whom the application was heard. The application has been withdrawn, the putative refugee having been granted permission to

make a second application for a Protection Visa under s48B of the Migration Act on the grounds of new evidence.

But the incident raises obvious questions about the morality of allowing a private firm to remove rejected asylum seekers (usually via South Africa to other parts of Africa) when the country of origin has not been identified and the documents for return to the country of origin have not been obtained prior to removal.

Is there any justification? It is true that the Australian Government has been faced with some difficult removal cases where an asylum seeker's country of origin has not been established. The Government's argument is that it is, therefore, reasonable to remove such people to South Africa in the custody of P&I pending identification of and return to their country of origin. Identification of a person's country of origin can sometimes be a difficult task and asylum seekers are not always cooperative (sometimes with good reason).

But that does not allow the state to hand the responsibility over to a private company, off shore and after removal of the person in question from Australian territory. In Australia, the Government remains ultimately accountable for what goes on in its prisons and detention centers. Although the Department of Immigration has argued that the Minister remains accountable to the Parliament, the conduct of the executive must still be subject to judicial scrutiny. But once outside Australian airspace, such activities are not amenable to Australian government and legal control or scrutiny. The Australian judicial arm does not, of course, extend to South Africa.

How can the Australian Government remain accountable (politically and legally) for the treatment of a person placed in the hands of a company based and registered in South Africa, to be held in custody outside Australian territory? P&I is a subsidiary of the Rennies Group which is itself a subsidiary of Lloyds, and it has been suggested by a senior Australian Government official that this shows that P&I is respectable and not a group of "fly by night thugs." There are, however, reports that two staff members were some years ago convicted of the torture and murder of a black colleague.

There has to be accountability when human beings are at risk. Yet the Australian Government seeks to disown its responsibilities. The private entity agrees to take responsibility for the transport of a person to a specified place against her/his will. The Australian Government has placed the individual into the custody of another who will hold them for an undetermined period and in conditions over which the government has no control, just as it can have no ultimate control over the person's destination.

In an editorial piece in The Age on 24 June which talked about the P&I case, the following was said: "The use of what many would regard as foreign mercenaries to send people back to war zones can do nothing to enhance our international reputation. Yet even more important than what others think of us is what we think of ourselves. Australia has always prided itself on being a humane democracy and it should remain so."

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