

Third Public Interest Address
by
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I'm standing here today with deep disillusionment. I had the misapprehension that I was among idealists; among people who cared for the interests of people who don't have a voice, legally or otherwise. I thought you were all slaving away, with rings under your eyes, doing pro-bono work in your spare time and caring for the little guy (or girl).

This illusion was shattered last week when a column by Janet Albrechtson in *The Australian* set me straight. I'm onto you. Now we're told that public interest lawyers like you really use "civil liberties" as a "smokescreen", according to Albrechtson. She writes that while you dupe a gullible media, you hijack the term civil liberties: "as a feel-good phrase...intended to hide political and personal agendas cunningly camouflaged as community welfare." I believe her. She's a lawyer. What's more, she's on the ABC board!

Apparently you all stand for same sex marriage, bills of rights, the UN all the while spitting on mainstream Australia. She says you reckon sniffer dogs are bad, mandatory detention's bad, the Howard Government's bad, and what's more, you show a dangerous disregard" for the most basic rights to live in freedom and safe from personal harm.

I mean, what do you want? The rule of law? You'll all be saying the police can't have freedom and safety to lock someone up under the merest and unsubstantiated suspicion next!

She says you're all lefties, and what's worse, greenies, lurking with hidden intent under the 'civil libertarian' banner. Her terms are: "Whitlamites, Democrats and Greens", these of course being epithets. She and commentators like her don't specify quite what your motives are in this cunning manipulation of the term civil liberties, but by implication they must be malign.

Is this what passes for intelligent debate these days? When rational disagreement with Government policy translates into "Howard-hating"? When going against the mob is regarded as elitist posturing? When a regard for human rights attracts the pejorative phrase "do-gooder"? I've always found the last one interesting, coming as it often does from self-styled Christians, whose basic religious tenet is surely the need to "do good unto others". Who yet seem all too willing to advocate legal punishments against anyone they regard as "different".

Why emphasise human rights? Cornelia's case, in the end, was and remains one of human rights in a country which has always prided itself on being egalitarian, democratic, and is a signatory to numerous UN conventions on human rights.

In Cornelia's case, and in the case of hundreds of thousands of mental health patients across Australia, the rights in question include adequate medical care in a prosperous western country. Also, the conflicting rights between freedom and safety from self-harm, and the right of those innocent of criminal offence not to be locked up. The same absence of rights applied to her fellow immigration detainees.

For professional reasons, I try to read three broadsheet newspapers every day and columns like Janet's quoted above run daily. I think it's time to question the nature of this sort of debate instead of just shrugging our shoulders and reading on. Janet's not a particular bete noir of mine. I agree with some of her columns. My biggest problem with her and others like her has been frustration at sometimes ill-thought-out arguments, Media-Watch exposes aside. There are much nastier characters out there who are given space these days, mainly in the tabloid press and in commercial broadcasting, but if I go there this'll turn into a media lecture.

Her article, though, just illustrates the many, quite transparent attempts to try and denigrate those like yourselves who stand up for civil liberties and human rights. As if these concepts were somehow cloaked with sinister agendas from the left.

In our case, this strategy of deflecting serious concerns by way of attacking participants in the debate was exemplified in a column in late July, also in *The Australian*, in its Media section, by sometime adviser to John Howard, Graeme Morris.

His theme was the public had had enough of Cornelia Rau and immigration issues, but curiously he himself then devoted 800 words to criticising her - two whole weeks after the release of Mick Palmer's scathing report into Cornelia's wrongful detention, when the story had all but died out anyway.

In what I took to be a veiled message to the media managers who read the section to lay off the topic, he said: "it seems the only people who give a damn about Rau are four lawyers, six dopey journalists, her family, a couple of illness-mongers who want to promote a medical disorder and a couple of do-gooders who have simply latched on to the latest high-profile issue where they can make a noise but have no responsibility."

His argument was the media had used her as some kind of pawn. Again, alluding to Machiavellian agendas. And again this simplistic device of lumping rational critics of a government policy into emotive categories like "dopey journalists", "do-gooders" and (only four) "lawyers" (which to him needed no qualification but was a derogatory term in itself!).

The respected, senior psychiatrists I'd interviewed as part of our submission to Palmer reacted with wry resignation when hearing themselves described as "illness-mongers". A truly creative tag. To them it was nothing new to be criticised for pointing out the obvious: that indefinite detention is deleterious to mental health.

These sorts of broader themes kept coming through during our investigation into Cornelia's case. One thing said by a University of New South Wales psychiatrist and lecturer, Dr Michael Dudley, particularly resonated for me.

I interviewed him because he'd visited Baxter during Cornelia's time there. He has also assessed many damaged detainees and visited detention centres since 2001. He spoke about the Immigration Department's "profound distrust of (independent) review and transparency". He told how the "mental suffering of detainees is seen as acceptable collateral damage when the purpose of detention is one of deterrence." But it was when we got away from psychiatry and onto wider issues that he became the most despairing. He said he felt he was witnessing the "erosion of democratic discourse in Australia", where reasoned argument was met not with thoughtful responses but with political spin. This went beyond detention and health, into other areas like higher education, where more and more students are being priced out of the "market" and are less likely to pursue courses for the simple purpose of learning how to think.

He felt that people were becoming more anxious, timid and afraid to express their own views if they conflicted with the majority.

Dudley's views were echoed by many of the other people I interviewed for Cornelia's case. They couldn't understand why their advocacy either for the mentally ill or for refugees, often over many years, was either derided or simply ignored by authorities and the media. Refugee advocates, who range across a wide spectrum from public stridency to quiet activism, felt especially isolated from public debate.

Unfortunately, I think Dudley's right. When I started in journalism in the mid 1980s, for a respected national paper, *The National Times*, I can remember the voices of government critics being a lot louder and more diverse. And that was under the Hawke Labor Government - when logically you couldn't dismiss critics as being automatically from the Left. I also don't remember critics of authority being so publicly sneered at; in an automatic, almost knee-jerk reaction. It's as if scepticism is now somehow unpatriotic. It used to be par for the course to hear a great many contrasting opinions on virtually any topic. Now, many of the NGOs with specialist knowledge are beaten into submission by the threat of losing their funds. I'm thinking of bodies like ACOSS who have been deafeningly silent on proposed welfare "reforms" targeting sole parents and the disabled, among other things.

A cursory look at some of the headlines over the past months backs up this theme of a narrowing discourse, amidst an overall malaise of community inertia.

Just a few of the articles I've pulled out include a speech from retiring High Court justice Michael McHugh (SMH, Oct 13, p2) in which he decries Australia's "tarnished" record on human rights, backing the argument for a bill of rights. Where he agrees that Australia's legal system is "seriously inadequate in protecting the rights of the most vulnerable and disadvantaged groups in our society."

Another story quotes an independent analysis of the Federal Government's welfare-to-work strategy where the disabled who find work will end up earning \$2.27 an hour. (SMH, "Disabled to earn \$2 an hr after welfare overhaul", Stephanie Peatling, early Sept). My hairdresser in a modest Sydney suburb charges between \$60 to \$120 an hour; \$25 for a standard 20-minute haircut. This would normally be seen as a "low-income" job. Former Fairfax CEO, Fred Hilmer, was this month quoted as having noble motives in exchanging his corporate salary for a "pay cut" down to a mere \$750,000 to go to academia. This sort of iniquity with a Government seriously willing to endorse \$2.27 an hour rates is reminiscent of the most scandalous Third-World standard.

Another front page article describes how the nation's wealthiest people are paying only 25 per cent of their income in tax. (The Australian, p1, "Nation's rich pay only 25pc tax", Sept 6). While a page three lead a few days later talks about how university students now face a lifetime of debt, with one third of students unable to repay their HECS loans. (SMH, Sept 8, p3.)

Darryl Melham, a former legal aid barrister and now a federal Labor politician, writes in yet another piece analysing what he regards as the "odious" measures proposed in the new anti-terror laws. He argues these "cross a critical threshold" in undermining freedoms, are "divisive and flawed laws" and "disproportionate to the (terrorist) threat." (SMH, p11, "The war on terrorism goes a step too far", Sept 15.) If it weren't for ACT Chief Minister John Stanhope's courageous stance of revealing the draft legislation on his website, the debate on anti-terror laws this week would have again remained stifled.

Where is the community outrage? Where are the specialised lobby groups railing against these injustices? Only on Industrial Relations has there been any sort of concerted effort to counteract a growing social imbalance. Yet there seems to be no shortage of outrage against those people who the Government has so deliberately depersonalised as being "illegals" and "queue-jumpers".

I wasn't involved in the asylum seeker debate in 2001 when the Government's actions on Tampa were, in their own opinion, decisive in getting them reelected.

But the depth of feeling against asylum seekers and those who try and defend them reached us very personally on the eve of the release of the Palmer report. We received a hate letter meticulously smeared with human faeces on one side, with quite vicious threats against our nine-year-old daughter, who the writer named. This was because we'd dared to raise the lid on immigration issues with our own investigation, and because Cornelia had had the temerity to say she'd be seeking compensation further down the track. I wonder if the author is going to be affected by any of the proposed changes to IR or welfare, and whether they will send equally vehement letters about these issues?

We were an easy target and could be accused of personal bias. But even lawyers' groups like your own are often publicly dismissed as being on the fringe, when the reality in my experience is that overall, you tend to be a fairly conservative bunch.

This mindless antipathy towards anyone defending human rights has become increasingly accepted. I think all of us should recognise it for the bullying and outright lying that it is. We should make a point of exposing the linguistic atrocities which are now routinely applied, where less freedom, fewer rights, less access to Medicare, less access to education and less income is trumpeted as more. Mike Carlton in his SMH column on October 22 very ably illustrates the Orwellian nature of this kind of double-speak.

To counteract this tide of hostility against legitimate debate it's time for *more* of us to speak out, calmly and rationally, against injustice, and not to be intimidated. If nothing else, it's important that these messages, alternative to the mainstream, get through to our young people. Before a growing number of them, able, capable of thought, and therefore of criticism, can no longer afford a decent education.

Debbie Kilroy, the head of Brisbane's prisoners' support group, Sisters Inside, put this point quite passionately in a speech she gave to the Queensland Prisoners' Legal Service in August. A former prisoner, she's now in the fourth year of her law degree. She told the lawyers present that they were privileged: privileged to have had lives not tainted by deprivation and abuse, unlike the lives of most prisoners. She said: "We also have...not just any old education, but a law degree and all the information and power - and the voice - that it entails." "I would also urge you to use your voice to talk about what is just and fair. In other words to look beyond the work you do for individuals...and to use your knowledge...to advocate powerfully, to argue against the systemic wrongs perpetrated every day against the individuals within.." - in this case, the prison system, but the same applies to all systems where there is inbuilt injustice.

I couldn't agree more. Debbie's life intersected with our own in the past 18 months when she was one of the only people who gave support to Cornelia inside the Brisbane women's' prison. Debbie was among the people we talked to in investigating Cornelia's case, and I admire her and her organisation tremendously. They are grappling with a huge social problem. The statistics are bleak and vary from State to State. In Queensland, it's estimated 60% of women prisoners have some form of mental illness. In South Australia, more than half the population in some prisons are on psychotropic drugs. In NSW, a recent study showed 71% of males and 90% of females in prison had diagnosable mental conditions.

It was purely by an accident of circumstance that my family was given a voice this past year. It's only a fleeting opportunity, which is one of the reasons I agreed to speak here today. As daunting as it is, I didn't see there was much choice *but* to debate the issues. We had an obligation to point out the hypocrisy in having one set of human rights for citizens and another for suspected illegals who are left to rot for years in detention centres without even the rule of law to protect them. Especially when it was the concern of Cornelia's fellow detainees, without families on the outside to champion their cause, which led to her identification. Vivian Alvarez' case even further illustrated how brutally unfettered power can be used against vulnerable individuals. And the unexplained

deportation of peace activist Scott Parkin made us realise how even innocuous dissent can now be silenced in unexpected and unscrutinised ways.

Even though it took some months for all of the nasty specifics of Cornelia's treatment to emerge in our investigation, the broader themes were clear from the outset.

The lack of morality – not to mention the expense - of detaining innocent people; of hiding them away in the desert; overall levels of secrecy; the farming out of detention centres to for-profit corporations; the use of punitive isolation to control behaviour; the unchecked power of ill-qualified immigration bureaucrats and privately-employed security guards; the absence of judicial review.....It was this discussion which caused such hatred in our anonymous letter writer.

The failures exposed by Cornelia's case have hardly been addressed. Post-Palmer reforms have seen a greater review role given to the Federal Ombudsman (but only after someone's been detained for two years), many long-term detainees being quietly released, a couple of sports fields added to Baxter, and some of the razor wire in Villawood coming down with great fanfare - only to be replaced by electrified fence.

Since Palmer, and more recently, Neil Comrie's report into Vivian Alvarez, ongoing events have shown the Government's responses to be in large part an expensive sop to the electorate and so much hot air. In the \$230 million restructuring and retraining package targeted at the Immigration Department, for example, who is actually going to teach compassion to a callous bureaucracy? Are the teachers going to be yet more bureaucrats trained in the Phillip Ruddock school of human rights?

In detention centres, the lack of palatable food has been a deeply-felt source of contention. This is inevitable when a private corporation cuts corners in a climate where a humane duty of care is a pale imperative compared with profits for shareholders. The American medical model has shown us what happens when duty of care intersects with monetary concerns, but it seems we haven't learnt from that example.

The food issue, so seemingly trivial when compared with indefinite detention, can lead to avoidable tension and abuses. This has not changed for all the talk of reform. It was in this context in August, for example, a Zimbabwean Baxter detainee had his leg bent backwards so hard by guards that his ankle broke, resulting in a plaster cast up to the knee. Police were called. Criminal assault charges are warranted. His crime? He was trying to prevent the guards from using force on another detainee who'd just had a hernia operation. The other detainee was among many inmates who had been complaining after three days of inedible dinners. The Zimbabwean man's redress? He's too frightened to seek official sanctions in case a ministerial decision about his visa, a 417, is denied as retribution for making a fuss. Fear of retribution among detainees – and indeed among DIMIA bureaucrats - is as powerful a force as it ever was, despite the Ombudsman's new role.

What is needed is an overhaul of the Migration Act and its byzantine regulations, which were introduced by stealth, largely under the previous minister, Phillip Ruddock's reign, to avoid the scrutiny of Parliament. Even seasoned DIMIA officials find it hard to keep up with which latest regulation to follow. That overhaul won't be coming any time soon.

Quite the opposite. The Senate is now considering measures which will further limit migrants' legal rights with its Migration Litigation Reform Bill 2005. Among other things, the bill will effectively make it harder for legal aid and pro-bono lawyers like many of you to represent detainees, by imposing personal liability on legal costs on lawyers. George Newhouse, the solicitor for Vivian Alvarez, whose firm also represents Cornelia, wrote this month that the proposed bill flies in the face of Palmer's recommendations for increased scrutiny and openness. He says the bill will put even more constraints on the already extremely limited judicial review of immigration cases. (SMH, Oct 6, "Immigration reform reaches a dead end", op-ed page). A new hockey field in Baxter when you're sitting in the sweltering heat indefinitely, waiting for the outcome of your visa application, is not much consolation under the circumstances.

Despite all of this, there have been some positive developments in recent years. In a way, the sheer blatancy of many Government measures has attracted grassroots opposition from a hitherto non-'activist' group of Australians. Far from being some sort of fringe minority, those who campaign for human rights are growing in number – just look at the huge rise in Rural Australians for Refugees and Circles of Friends' groups. These are people from across the education and income spectrum. I recently wrote about a growing network of doctors, for example, of all ages and political persuasions, who are quietly providing pro-bono medical networks to those thousands of refugees who can't access Medicare under their Bridging and Temporary Protection Visas (BVEs and TPVs). Fund-raising events I've attended in Sydney were replete with angry eastern-suburbs and north-shore matrons, not the usual types of people you'd see in the 1980s at anti-Government forums. All these people can no longer be dismissed so easily, and if they're a minority, it's no longer just a small one. Historically, it has always been the quiet and consistent work by minorities that has precipitated social awareness among the majority; the abolition of slavery in America, initially started by the Quakers, springs to mind.

On Wednesday, 5th October, I was lucky enough to see the launch in Sydney's Town Hall of a draft Human Rights Act, promoted by New Matilda online magazine.

This was attended by such 'radical' speakers as Malcolm Fraser, Elizabeth Evatt, John Menadue and Spencer Zifcak, the main author of the draft Act. In what was an ironic political twist, the crowd of 700 human rights supporters cheered for Fraser, the architect of the Dismissal, who was deploring the new anti-terror laws. The same crowd booed when the inaction of a Labor Opposition was mentioned. Not a single office-holder in the current Labor parliamentary Party spoke. The biggest cheer came when former Hawke Government minister Susan Ryan introduced the ACTU's Greg Combet as "the most respected speaker for the Australian Labor Movement today". It was an implicit criticism from the audience that no ALP parliamentarian was willing to stand up on that platform and be counted. But hey, everyone there must have had hidden agendas. They

must have been cunningly camouflaged civil libertarians. I also note this launch got almost no media coverage. If you want to look at the draft Act, it's on the New Matilda website.

Now, a bit more on our case. When we first heard about what happened to Cornelia, many people advised me not to say anything publicly. "You'll be hijacked by people who want you to jump on their bandwagon," they said, meaning of course refugee advocates. I didn't know any refugee advocates at that point, and decided to keep an open mind.

It has certainly been a surreal nine months. In early February, Cornelia was just another non-person in Baxter, receiving no treatment for a florid psychosis. The rest of our family was living in suburban obscurity. My parents are retired. My own family's priority was to steer the youngest of our three children through his first week of school. Always at the back of our minds was a great sadness about Cornelia, but by then, after more than ten months missing, when her birthday and Christmas had passed by in silence, we had few hopes she was alive.

We were dragged into public life with an enormous jolt when the media became interested less than 24 hours after Cornelia was identified. Luckily my parents were on holiday so we were able to shield them from the storm of attention that followed. Even after working in the media, nothing really prepares you for the onslaught we received.

For four days, the phones literally didn't stop ringing and we could have used a few secretaries. We could only get to about a quarter of the calls and would clock up 40 messages in the space of a couple of hours while answering other calls. There was no point in trying to run from the media. This seemed to be a story bigger than our decision whether to comment or not, so it was better to at least try and keep the debate measured. Journalists we dealt with were overwhelmingly decent, courteous and professional, although I did wince professionally at how many errors crept in during those first days. It's what a TV crew would call "fast and dirty footage", but it was some of the print journalists who surprised me. In one case, a detailed explanation about why something was off-record that could have been defamatory was printed verbatim in the *Daily Telegraph* the next day. Months later, when people should have known better, Cornelia was still being referred to as a 'citizen' when she's a 'permanent resident'. Being a bit of a pedant for facts, it was a bit grating. But overall our experience with the media was positive. As it turned out, the media gave us a fair few unpublished leads that were to help us in our investigation.

Even before the Government announced the Palmer inquiry – only five days after Cornelia was identified - we were getting calls from people with information about what had happened to her during her brush with the Immigration Department (DIMIA).

This set off my journalistic instincts, and I was determined to investigate her case. My initial aim was simply to find out as much as possible about what had happened to her, and to expose the more appalling misuses of power we found during her time behind the wire, much of it in punitive isolation.

It was pretty daunting to think we were up against the resources of a monolithic government department. In the first few days, Senator Vanstone's office had already put out various bits of misinformation about how wonderful DIMIA had been to Cornelia – and to us, when no-one at all had contacted her family.

So it was intriguing to get a couple of messages from a professor at the University of Newcastle Legal Centre (UNLC), Ray Watterson, who wanted to get in touch. Coincidentally, I rang Ray the morning before the Palmer inquiry was announced, and he offered pro-bono help. He, like many others, had just assumed we were already getting legal help and was astonished to find we were pretty much on our own.

It sounded too good to be true. The UNLC had specialised in public interest law and mental health advocacy, had experience in the Coroner's court and with the health system and had also played crucial roles in the NSW Leigh Leigh and Ron Levi cases. (These cases, high profile at the time, involved a bungled police investigation into a young girl's murder and the unlawful police shooting of a mentally-ill man on Bondi beach.) In each of these cases, as in our own, senior law students became involved and helped with research.

Thanks to the five lawyers and 25 students from the University who helped us, Cornelia's case was given far more strength than it would have had if it'd just been me doing a journalistic investigation. I wouldn't have known how best to structure a submission to an inquiry like Palmer's, for example.

But since Palmer, there's been a twist. As it turns out, the legal centre's involvement *was* too good to be true. Under the aegis of financial difficulties, the University has cut back the Legal Centre's public advocacy role to the extent that Ray and some of his team will be quitting at the end of this year. Ray and the others don't think it's entirely coincidental their public interest role, so pivotal to their centre over the past decade, was cut back so hot on the heels of their help on the Palmer submissions. Ray and some of his colleagues are flagging the idea of an independent pro-bono legal centre for the Newcastle area, and are cautiously optimistic about possible funding.

Cornelia's case is also a question of perspective. One of the people who called during those frantic first days was a woman who had lost her daughter. Her daughter, a talented young scientist called Karen, had also had a mental illness. She had been briefly the responsibility of the same NSW area health service as Cornelia, was of a similar age, and like Cornelia, had absconded from hospital while on unsupervised day leave. The difference was Karen was suicidal and was found dead three days later in the Blue Mountains. Why weren't there front page articles about Karen's death? Why is mental health still so underfunded as to get 7 per cent of health spending when about 25 per cent of the demand on health systems comes from the mentally ill? Why were other tragedies like young people who died in drownings and car accidents only given briefs in the paper while Cornelia's case attracted acres of newsprint?

In the end, we were extremely lucky in dealing only with a Federal inquiry like Palmer's, as unsettling as it was. We didn't have to deal with a coronial inquest. We didn't have to identify a dead body. Unless we really address the question of mental health in this country, many more people will be wrongfully detained, usually in jails, without therapeutic care. And many more potentially talented people will end up on a mortuary slab.

Each tragedy brings its own perspective, and overblown or not, we had to address the suffering Cornelia had gone through in the public eye.

Thanks in great part to the University, we were able to run a full-scale parallel investigation into Cornelia's case for a family submission to Mick Palmer. The legal analysis and context given by Ray Watterson and his team put real gravitas behind the submission. (QPILCH has copies both of our submission and the Palmer report.)

Mind you, it wasn't easy. I averaged four hours sleep a night for six months. Kids' homework didn't get done. Our phone bills nearly crippled us. Printer and fax ink always seemed to run out at crucial moments. There were travel costs to Adelaide, where Cornelia was and still is based. We have yet to pay off the debts. In Newcastle, the lawyers often sacrificed nights and weekends, as they still had busy teaching schedules.

But our joint efforts – me the impetuous journalist, who was better at interviewing than gathering legal affidavits, and the UNLC, the more patient and thorough lawyers – resulted in a strong voice. I'm convinced the Palmer report would have been less detailed and less courageous if it weren't for the pressure we'd kept on with our own investigation. We ended up with a 108-page submission (not counting the lengthy appendices) which one of Palmer's team told me had forced them to address some issues which would otherwise have been omitted from their report. We essentially put a tripwire under the shield DIMIA so often erected in bungled immigration cases – that of privacy. Because we publicly released most of our submission, excluding Cornelia's detailed medical history, Palmer's team were forced to spell out some of her mistreatment.

I personally grappled with great ethical dilemmas here, first as a family member but also as a journalist, as I wrote about some of our evidence in the *Sydney Morning Herald*. It came back to the same sort of dilemma you'd get in a rape case: you can't expose the perpetrator without explaining how the victim was degraded. You can't sentence a rapist without detailing the nature of the rape. In our case, we couldn't totally shield Cornelia's privacy in exposing – only some of – the detail about what had happened to her. But we were outraged enough to say we were certainly not going to let DIMIA hide behind privacy so such ongoing abuse could continue. It was a fine line which caused many an anguished night.

What did our team actually do? I basically hit the phones and the computer from Sydney, interviewing dozens of people. These included eyewitnesses to what had happened to Cornelia both in Queensland and Baxter, and experts in broader issues like psychiatry, the operations of DIMIA and refugee issues. Interviewees included chaplains,

bureaucrats, researchers, refugee advocates who specialised in collecting documents, lawyers, doctors, prison and detention centre visitors, current detainees, former detainees, several former DIMIA officials and even a Baxter guard. The insiders gave us invaluable material that the Palmer team had to consider.

We learnt of the phantom medical care being given to detainees. There were horrific cases of neglect, all of which can be documented. The case of the young child with a broken thumb which turned purple and swollen in the week it took for him to get medical attention. The man complaining of severe headaches who was fobbed off with Panadol for two years. He collapsed one night between compounds and started to turn blue. After he was finally rushed to hospital, neurosurgeons operated for 12 hours to contain the damage from a burst aneurism. There was the Villawood woman who couldn't establish breastfeeding with her newborn because guards were in her hospital room 24-hours a day. During the delivery, a guard even gowned up to watch the Caesarian, worried no doubt, she might jump up from the table and abscond during the procedure.

There were stories of sexual assaults by guards, and in one case, a hastily-arranged abortion. But, on paper, DIMIA stubbornly contends its proper care of detainees, listing all the corporations and subcontractors it employs to do this (four in the medical field alone), as if the bald list were sufficient to prevent abuses. In our experience, it was this very layering of services that contributed to at best ignorance of detainees' needs, at worst, criminal negligence.

Many of our interviewees were worried about repercussions and asked for confidentiality. The former detainees and their families were able to tell us how places like Baxter really worked in practice. How the medical services which DIMIA described in such glowing terms on paper, in reality breached duty of care requirements by any criteria.

I passed on interview transcripts and contact details to the Uni. Students later followed up on many of those interviews, trying to get sworn statements from each person. They independently interviewed many other people I hadn't even got around to. I collected documents. Documents included court affidavits from DIMIA staff which flagrantly contradicted the sort of eyewitness evidence we were getting. One document was the chilling internal 'Behaviour Management Plan' from Global Solutions Limited (the company which runs Baxter among other corrections institutions), which sets out rules for detainees in the punishment compound at Baxter, Red One. This is where Cornelia spent 94 days in a psychosis easily discerned by other detainees. A refugee advocate ringing from another state who spoke German even diagnosed 'Anna' as schizophrenic after a fluke phone call which got through to Cornelia in Baxter. She consulted with friends who knew something of psychiatry, as concern for 'Anna's' welfare grew among refugee groups.

Evidence we were given showed GSL even flouted its own management plan for much of the time Cornelia was in Red One. For example, detainees have to sign a consent to the BMP before they enter the compound. Cornelia signed no such document. Under the strictest stage of the plan, detainees are allowed four hours out of their cell. In Cornelia's case, we were told by eyewitnesses that on many days she was given only two hours'

egress or none at all. This doesn't even cover accounts of excessive force, where at least on one occasion she was punched in the chest so she fell backwards into her cell so the guards could lock her inside.

Some people gave us material they shouldn't have, and others, like your publicly sympathetic Premier, declined to give us the material they should have. Ironically, Queensland was a much harder nut to crack than Baxter when it came to collecting information. I guess we expected having to use clandestine methods to get information out of DIMIA. At first, our index of suspicion for Queensland was lower, after Peter Beattie assured us personally he'd do everything he could to help. It was, on reflection, unrealistic to take him at his word when so much of the material we later gathered was pretty damning about some of the State agencies.

As well as all of this, I had to deal with the media, first reactively and later proactively. If you're not used to it, and not a natural public speaker, this isn't easy.

But there were funny moments. Our first encounter with a TV crew was early on a Saturday morning, with me answering the door in a ten-year-old dressing gown. It was a perfectly manicured male TV reporter, in a suit and with a silk tie, who shook my hand, which was still covered in suds from doing the dishes, who told us his boss wouldn't let him leave till he had his footage. He courteously but firmly told us he and his colleagues were unlikely to be leaving anytime soon without an interview. To our dismay, we found he was quite right as he was only the first of four crews who arrived on our doorstep that day, interspersed with radio and print requests.

The deadline for Palmer kept extending, first from March 24 to May, and then indefinitely when the news about additional unlawful detentions including the Alvarez case broke.

By May, we'd become better equipped at handling the media. We called a press conference in the NSW Parliament House at a time of our choosing to release our submission, written speech and all. (That was followed by another joint family and UNLC press conference after the Palmer report was released in mid-July.) It didn't become any less daunting but at least this way was more convenient!

In Newcastle, the legal centre dealt with practical legal matters and also the broader coordination of detail required in such a large investigation.

First there were was the correspondence with Senator Vanstone's office. There were letters to Palmer, especially when we found out how he was conducting some of his interviews. By that stage we had a head start on Palmer (March). People we'd already interviewed were telling us in surprise that many of the so-called official interviews weren't even being recorded.

We ended up having quite a cordial relationship with Palmer, and some of his team, although we had no joy in our requests for documents and witness lists. This is what the

UNLC called a denial of natural justice - where we weren't even given a witness list. Nor were we able to test any of the evidence he was getting. We regarded this as quite a serious omission for the quality of both our investigations.

The University took official statements from Mum and Dad and myself for Palmer. There was all the paperwork involved with a Guardianship Board hearing. Cornelia was in the process of getting her legal status determined by the Board and my parents initially wanted guardianship. (This ultimately failed and Cornelia's guardianship now rests with the South Australian Public Advocate, John Harley. It was for the best, because my parents were already so worn out by dealing with mental health authorities and with Cornelia's denial of her illness that the minutiae of dealing with day-to-day matters from a distance would have destroyed their already fragile health.) Ray set up a to me incomprehensible array of databases. I used to joke that whenever he needed to find something it was lost in this data jungle, but I could always find a file among the chaotic mess that was now stacked up inches high on the large kitchen table. My material remains disorganised, whereas the University's material is now superbly organised.

What I as a layperson couldn't do was analyse the Migration Act, which the UNLC did with great aplomb and not a little outrage.

You're all probably a lot more familiar with the Migration Act than I am. We focused on those sections dealing with reasonable suspicion and the length of detention, sections 189 and 196 of the Act, with reference to the al-Kateb case. Our contention is that sometime during Cornelia's detention, DIMIA was no longer justified in their initial suspicion she was an illegal. The task for Cornelia's lawyers in any future case will be to determine when that "reasonable suspicion" no longer applied. Ray has also said there are constitutional implications in her case.

There are many practical parallels here with the proposed anti-terror legislation. The definition of 'reasonable suspicion' and the use of unscrutinised detention could have been transplanted straight from the Migration Act.

After five months of working with the UNLC, I'm impressed more than ever by the unsung commitment of lawyers who are willing to work pro-bono on public interest cases. The students can't be forgotten either. They put so much heart and idealism into the case that I'm sure the ones I met will go on to become fine and empathetic lawyers - to start with, at any rate!

Also, an amazing legal aid lawyer and barrister in Adelaide, Claire O'Connor, fought on Cornelia's side, as she has done for many asylum seekers then and now, with what can only be described as a ferocity for social justice. Claire represented Cornelia while the University's legal centre represented the family. Claire also wrote a lengthy submission to Palmer, which I can email to QPILCH if anyone wants a copy. She has had many a stoush with the Immigration Department, and it was her determination to pursue a mental health in detention case that led to a strong finding for detainees in the Federal Court in

Adelaide in May. In it, Justice Finn found DIMIA to have breached its duty of care in looking after the mental health of two Baxter detainees.

The UNLC went over Justice Finn's Federal Court findings with a fine tooth comb. They also coordinated internet searches and analysed the company that runs detention centres, GSL. They examined Migration Standards to see whether GSL had breached them. They analysed a detailed paper from the Parliamentary Library in February that explored the Migration Act. They and myself waded through reams of Senate Estimates Committee transcripts.

The UNLC's barrister, Robert Cavanagh, went over all this information with his forensic skills and wrote the first of many drafts of our submission. Solicitors Jenny Finlay-Jones and James Marshall coordinated much of the information coming through from myself and the students. Solicitor Shaun McCarthy had all of the direct dealings with officialdom. A scientist and systems analyst, Dr John Buxton, grappled with the intricacies of a 50-page time-line of events. This brought interviews, documents and other relevant information together for an all-encompassing chronology provided to Palmer on top of our submission.

I can't leave out Cornelia's guardian, South Australian public advocate, John Harley. He has represented the mentally-ill and asylum seekers in South Australia for many years. Coincidentally, he used to be a friend of Amanda Vanstone's until ideology drew them apart. He has tried to watch over Cornelia – not an easy person and still very much in denial – for eight months, and last week had his guardianship renewed.

The UNLC, Claire O'Connor, and John Harley formed a kind of legal triumvirate, all helping Cornelia and our family, first with Palmer and to this day.

I'd just like to briefly get back to agendas and to human rights. In the whole roller coaster ride this year after Cornelia's case became public, there has been virtually no one without an agenda. It's the contrasting nature of these agendas that I find intriguing. It's as if, in public debate and current linguistic conditioning, only opponents of the Government have 'agendas' and those in authority have some sort of automatic 'trust-me' virtue.

Yes, the refugee advocates who are trying to get people out of detention centres had an agenda. They'd like to see an end to mandatory detention because they believe this policy is unjust. It was their persistence that also led to Cornelia's identification. There were no kudos for them in trying to help an ill detainee they knew only as Anna. They later gave me so much of their time and historical knowledge that I'll be forever grateful to them for putting up with my ill-informed questions.

Yes, someone like Debbie Kilroy has an agenda. She'd like the women, and also the men, who are treated with cruelty or disregard in the prison system be given a fair go and a chance at rehabilitation. She'd like Sisters Inside to regain its visiting rights to prisons. Their access was revoked last July (2004) after threatened industrial action within Corrections.

Yes, those people in Port Augusta who regularly visit Baxter have an agenda. They are dyed-in-the-wool country people who range from professionals to priests. Their agenda is to provide what limited human comfort they can to detainees. They bring detainees food they actually like. And other necessities like phone cards – often at great expense to their own not excessive budgets. They are the only ones who show practical compassion to those who are forgotten by the rest of us, complacent in our suburbs. I asked one of these visitors, a young man not yet out of his teens, why he was an activist. He just said, simply: “It’s wrong”.

Ask yourselves: what fault can you find with those agendas? Misplaced idealism? A quixotic hope that one day justice might prevail?

What then is the agenda of the various governments, State and Federal, who were involved in Cornelia’s case?

Federally, as a previously neutral outsider, it seems to me quite clear the government is cynically sacrificing human rights principles for short term electoral gain. This is compounded by a disturbing tendency to obscure the truth about what really happens under the auspices of the Migration Act.

For the States, they have to get their corrections, health and criminal justice systems in order so there is no longer a blurring between mental ill-health and criminality. No matter what jurisdiction you’re in, you simply can’t lock innocent people up in isolation for months at a time, to jail them or deport them illegally, without there being some consequences down the track. The States’ agendas, it seems to me, were to cover up any deficiencies in their own systems and to avoid addressing the deeper flaws that Cornelia’s, Vivian’s and still other cases have exposed.

It’s too easy for the States and the Commonwealth to point fingers at each other and say “It’s all too hard”. None of this stuff is too hard if you apply some logic to it and if you show some political leadership. It’s too hard in the long term *not* to address some of these issues.

Take just one example from Cornelia’s case. A psychologist from the Prisoners Mental Health Service (PMHS) in Brisbane didn’t see Cornelia until August, after she’d been in prison for four months. If they’d been able to assess her earlier, with the time to do it properly, the outcome of her case might have been a lot different. The PMHS is staffed at 1 ½ positions. These are a social worker and psychologist who have to cover seven prisons – more than three thousand prisoners. This is ludicrous. In one of my many conversations with the head of Premier and Cabinet in your State earlier this year I pointed this out to him. He metaphorically threw up his hands and said there were too *many* votes in mental health; that once you started investing in it it would become a bottomless pit. Rubbish. In an example like this, you don’t pontificate about the sociological reasons for the increase in prisoners with mental health problems. You triple the PMHS’s budget and invest in six positions. That’s still less than one worker per

prison but at least it's a start. It's a relatively small budgetary change and it has an enormous immediate social benefit. It's just one of many changes that are workable with some imagination.

There are solutions to almost every dilemma. It just needs some ability to think through complexities, attention to detail and a willingness to take official responsibilities seriously. After all, politicians and public servants are paid to make decisions, presumably for the public good. It's time they did their jobs.