



Newsletter December 2023

## A reflection on 2023

*This article was written before the recent High Court decision that indefinite detention is unconstitutional in cases where deportation is not possible. The decision and its implications are addressed in the article on page two. There is also an article on the Richardson report into offshore contracting on page three.*

**2023 has certainly seen progress on the status of those refugees who have been waiting some 10 years for certainty about their future. Early in the year, Minister Giles announced a process for resolving the status of some 19,000 asylum seekers on Temporary Protection and Safe Haven Enterprise visas. We understand that progress in working through these cases has been slow but steady, although for many the process must seem agonisingly slow.**

Progress has been evident too, in relation to those asylum seekers still held offshore: all those who were stranded on Nauru have been brought quietly to Australia, and the numbers in PNG are now believed to be just over 60. There are reports of discussions between the relevant immigration authorities which may result in about 16 men desperately in need of medical care being brought to Australia, with others likely to go to New Zealand. Some of the men have formed relationships and families in PNG and reportedly have chosen to stay there.

And there are signs of systemic reform: following two reviews of the system, Minister O'Neil has declared it 'broken' and introduced measures and additional resources to reform processes and improve effectiveness and efficiency. A review is also underway into allegations of bribery in relation to funding for offshore detention.

Despite these signs of hope, there is still much to be done and we must continue to stand strong. Boat turn backs and offshore processing are still in place and there are reports that 11 asylum seekers have recently been taken to Nauru. We must remain vigilant to ensure that Labor's policy of a 90-day limit on assessment of refugee claims is adhered to.

Most egregious of all, is the fact that some 10 to 12,000 asylum seekers remain caught by the system and without a pathway to resolution. This group was the subject of our petition earlier in the year, to which we are still awaiting a response.

The desperation and determination of these people is evidenced by three walks to Canberra in the last few months. Our hearts go out to them; subjected to cruel uncertainty and without a clear way forward. Most of this group were caught by the so-called 'fast track' assessment process with limited appeal rights. Labor's platform acknowledges that this system does not provide 'a fair, thorough and robust assessment process for persons seeking asylum' and has vowed to abolish it. While the Albanese government has abolished the Administrative Appeals Tribunal and will replace it, it has not yet moved to abolish 'fast track'.

The recent ALP conference, however, agreed to a review for people rejected under fast track, allowing consideration of new material and access to independent advice. The conference also made a stronger commitment to provide rights to work, income support, health and other support. These commitments have not yet been formally reflected in the party's platform, nor is there yet evidence of them being acted upon.

**As the year draws to a close and we consider 2024, our focus must be on:**

- > ensuring a fair assessment or reassessment of the 10 to 12,000 trapped in limbo without a pathway to resolution;**
- > ensuring they have access to a dignified level of economic, social, health and educational supports; and**
- > transfer to Australia of those asylum seekers in PNG who wish to come here.**

Grandmothers call on the government to finish the task it has commenced: safe settlement of all those who came here ten years ago and are found to be genuine refugees. This needs to be followed by fundamental reform to a system which, over the last ten or so years has become cruel, callous, and unworthy of a country like Australia which prides itself on fairness and equality.

*Margaret Browne*

# The recent High Court decision ruled indefinite detention is illegal

**In the wake of the recent high court decision which deemed indefinite detention, where there is no option to deport, is illegal, it's useful to understand the historical and legal context of the decision.**

In 2015, the Citizenship Act was amended to allow the Minister to cancel citizenship if they decided a person's actions were inconsistent with their "allegiance to Australia". The Labor Party voted in favour of these amendments.

The High Court in recent judgements has acted to preserve the separations of powers. In the constitution the federal courts have been given sole control over determining guilt and its punishment. In 2022 the High Court invalidated clause 36B which had allowed the Minister to cancel a person's citizenship if they were convinced that a person had satisfied physical elements of one of many serious offences. That is, the Minister acting in the place of a criminal court.

In the recent judgement 36D was invalidated. 36D operates like 36B but requires a criminal conviction to have occurred. These rulings determine that involuntary revocation of citizenship is unconstitutional because it is seen as punitive. It is equated with banishment which should, it is argued, only be imposed by a court of law.

A long series of cases has established that detention is punitive by nature – except immigration

detention for the purpose of deciding a person's visa status. Indefinite immigration detention usually results from the inability to deport these people, as happens with others who either are not citizens or have dual citizenship. These people cannot be deported either because they are stateless or because of refoulement rules.

**The latest decision has ruled that detention is punitive and therefore may only be imposed by a court. Therefore, all those detained under this provision must be released.**

At least 93 and possibly 340 people are affected by this decision; the numbers change day by day. The High Court's reasons have not yet been handed down.

In response to the High Court decision and a political furore from the Coalition and many media outlets, the government rushed to bring in emergency legislation to control all those who have been released into the community, into what amounts to detention without walls. The bill was introduced on Thursday morning, 16 November and passed the parliament that night. The bill imposes strict conditions including ankle bracelets and curfews with infringements of these conditions punishable with jail terms. Human Rights experts have expressed concern and there is already a legal challenge to these provisions.

This in the face of all logic since people are released into the community from prisons every day.

*Ann Butler*

## Campaign for a royal commission into immigration detention

**Recent polling by the Australia Institute has shown overwhelming public support for a Royal Commission into Immigration Detention.**

The Sydney Justice and Peace office, in conjunction with North Sydney MP, Kylea Tink, launched a campaign for a Royal Commission at Parliament House on Tuesday 28 November.

Refugees, Members of Parliament, refugee advocates, lawyers and economists were among the attendees at the campaign launch.

**Grandmothers For Refugees supports the campaign, as a Royal Commission would provide a voice for those with lived experience as refugees and for those who were employed to administer the system.**

Policies will not change without the Australian people being made more fully aware of the human

and monetary cost of immigration detention and its subversion of the justice system.

Once they are more knowledgeable, then Australians would have a greater capacity to demand change from their parliamentarians.

A petition in support of the campaign has been prepared by Kylea Tink's office and sent to coordinators of all Grandmothers groups.



Please sign the petition [here](#) before the closing date of the 13 December 2023.

For more information regarding this important campaign, please visit [here](#).

*Virginia Schneiders*

# Meet Ned Kelly Emeralds

**Taha Zomorodian was born in Iran in 1985. He changed his name to Ned Kelly Emeralds by deed poll while in Australian immigration detention.**

His girlfriend in Iran had taken him to a faith meeting. This was stormed by the religious police, Ned was arrested and jailed for four days during which time he was tortured.

Sanmarti Verma, Ned's lawyer, in a 24 June 2022 request for Ministerial intervention, describes Ned's circumstances as some of the most extraordinary she has ever seen in over a decade of practice in immigration law. Ned left Iran because of persecution. He has been detained since 2013 while pursuing his application for refugee status, in circumstances where all his peers have been released from closed detention.



Ned has recently received a non-adverse security finding from ASIO. However, this has not led to any change in his circumstances. It appears that Ned continues to be detained for reasons of 'character.' Ned suffers from severe and complex mental health issues linked directly to his ongoing detention. There have been suicide attempts; Ned currently sees no hope for his future as the most recent (October 2023) request for Ministerial intervention has been denied.

Litigation on matters relating to his detention is ongoing. Ned's lawyers and supporters continue to work towards his eventual release. Ned's supporters have offered him accommodation in Perth in an environment where he would be able to regain his health. Continued indeterminate detention is likely to cause further deterioration of Ned's mental well-being.

**UPDATE** Ned Kelly Emeralds has won his challenge against his ongoing detention. Ned's case is the first to be heard since the High Court recently ruled that indefinite detention was unlawful. He was released on Thursday 30 November. However in a cruel twist, within 24 hours of his release he was compelled to wear an ankle bracelet to monitor his movements despite never being convicted of a crime.

*Nikola MacLennan, Coordinator Curtin Group*

**A recent string of damning reviews into our broken immigration system reveals a sorry tale.**

## **Incompetence, exploitation and corruption**

**The review by *Dennis Richardson*, former secretary of the Department of Foreign Affairs and Trade and the Department of Defence, into the management of regional processing procurement is the fourth into the Home Affairs Department.**

***Martin Parkinson***, a former secretary of Prime Minister and Cabinet, found that, "the migration program is no longer fit for purpose"; that there is evidence of "systemic exploitation" of a migration system that poses "a risk of a permanent temporary underclass".

The review by ***Christine Nixon***, former Victorian Police Commissioner, found that, "other than the limited capacity of the Migration Agents Registration Authority, there is currently no compliance or investigative capability within the Department's Immigration Group." Her report has been leaked but not released. Neither has Richardson's. Lynelle Briggs' report into Michael Pezzullo has been handed down. The report found that Pezzullo had breached the Australian Public service code of conduct 14 times. He has subsequently been sacked as Secretary of Department of Home Affairs.

What has been leaked from the Richardson Report tells us of corrupt practices by two companies – Paladin and Construct. We have learned through the

media that Paladin was paid \$530m for 2017-19 and that they transferred \$3m to the account of a businessman who is now the subject of a Federal Police investigation. He also apparently has associations with motorcycle gangs recently involved in a series of shootings. This information can be added to the major investigation conducted by Nine Media earlier this year into wasted funds and corruption in the management of Australia's offshore detention program. The people who remain on PNG are particularly the victims of these failures now.

Grandmothers will continue to prioritise the removal of all those who wish to leave PNG in our advocacy with government.

**We call for people in PNG to be offered urgent evacuation to Australia to receive medical care and pursue permanent resettlement. They have been separated from family and friends and denied their freedom and safety for a decade.**

*Ann Butler*



Click [here](#) to add your voice.

## OUT AND ABOUT WITH GRANDMOTHERS

**Grandmothers have certainly been out and about!**

Five members of Parliament were approached during September and October by their electorate grandmothers.

**Michelle Ananda-Rajah** (Higgins)  
**Kate Thwaites** (Jagajaga)  
**Monique Ryan** (Kooyong)  
**Senator Lines** (Curtin)

The vigil at Clare O'Neil's office continues.



*Kate Thwaites, Member for Jagajaga, with Grandmothers.*

For **Grandmothers in Dunkley**, September was Red Cross Food Drive month. The response to the call out for donations was very positive with many members giving several bags of groceries.



Grandmothers in Dunkley found that the food drive was a way to make a positive contribution and to assist refugees who rely on charities such as the Red Cross to meet basic needs.

And while we are outraged that people who came here seeking refuge and safety are forced to rely on the goodwill and charity of others, we will continue to support them in whatever ways we can.

*Dunkley grans with their donation to the Red Cross.*



**Casey Grandmothers** organised a fundraising film night on 26 October with wine and finger foods at Tudor Village in Lilydale.

Prue Licht, Coordinator of Casey explains:

Approximately 40 people attended a screening of *The Staging Post*, an inspirational film about refugees living in Indonesia. Margaret Sinclair from RAC spoke about her recent fact-finding visit to Indonesia with Ian Rintoul from the Refugee Council of Australia. They spent two weeks with refugees from many different countries who have found themselves stuck in Indonesia, many for years, waiting for resettlement. We made \$850 that was sent to Sister Brigid at the Brigidine Asylum Seeker Project. An extra \$110 was made from homemade jam which was donated to Kindred.

The local paper covered the event comprehensively. Read the article from Star Mail [here](#).

*Above: Casey Grandmothers for Refugees members Evol, Sally, Ann, Valerie, Susan and Prue.*

## OUT AND ABOUT WITH GRANDMOTHERS

### Special congratulations to Wills who are marking their eighth year of weekly vigils!

That's an incredible effort! Helen Hill, Coordinator of Wills group tells the story:

Since July 2015, Wills Group have been protesting on the corner of Sydney Road and Bell Street, Coburg, each Tuesday for an hour. We were then known as the "Grandmothers Against the Detention of Refugee Children."

It is a busy intersection on Sydney Road. There are trams and traffic lights that change four times in every five minutes. Traffic passes at 50 vehicles per change each way.

On Bell Street there 40 vehicles per change each way as well as buses running on different routes. Using these numbers, we have guesstimated that our presence and signs have reached over three million vehicles as well as pedestrians and passengers.

People in the group have come and gone over the years, but we have managed to be there in all weathers. We have been applauded and abused and had many discussions with passers-by. Lately we have noticed more support for our way of thinking.



### Deakin Members had a stall organised by Lesley King at the Maroondah Festival on Sunday 12 November.

We had the opportunity to talk to many people, some who had not heard about Grandmothers and wanted to learn about what we do. Many congratulated us on our work. Many people signed our petition to support the men still on Papua New Guinea.

We had three people register to join Grandmothers. Many took bookmarks, and information about Grandmothers.

Unexpectedly perhaps at least a dozen asked us if we are the group which has a vigil regularly at Chirside Park. Casey Grandmothers does this regularly. They explained that they do 'toot for humanity' as we request.

It was heartening to receive this feedback and showed us again the importance of being seen and recognised in the community. Others remembered seeing us in Higgins at a vigil during the election.

It shows how important it is to be out in the community, talking to people, raising awareness and giving people the opportunity to engage and learn and perhaps to join and take action themselves.

*Valerie Mayer*



*Above: Virginia Schneiders and Marg Browne with Mary Williams at the Maroondah Festival.*

*Below: Valerie Mayer and Chris Jeffrey at the Maroondah Festival.*



# Meeting with Senator Linda White

Valerie Mayer from Casey recently visited Canberra to meet with Linda White and welcome the women walking from Melbourne.

I had been able to make an appointment with Labor Duty Senator for Casey, Linda White. I met with her to present to her letters from Casey and Deakin Grandmothers for Ministers Giles, O'Neil, and the Prime Minister. She agreed to pass them on, adding a note in support. As I waited for my appointment on the lawn at Parliament House with thousands of people waiting for the Women Refugees who had walked from Melbourne to Canberra to plead for Permanent Visas, I met a young man who had come to join them. He had ridden his bicycle from Brisbane to Melbourne. A Tamil Asylum Seeker, he and his family had fled Sri Lanka over many years ago and lived in refugee camps for 22 years. His life is in danger if they are sent to Sri Lanka. He had his papers with him for Minister Giles and Senator White and she included these with our letters.

The next day, there were once again thousands of people gathered on the lawn. Many were Tamil people who were calling for Permanent Visas. I got talking to three men from Pakistan who come from the minority Shia Moslems. They had fled a decade ago as they also face danger if they return. They are living in limbo, depressed and with little hope as they wait for news about their application for Permanent Visas. I have kept in touch with these four men and written to Minister Giles on their behalf. So far, I have not had any news from the Minister. Casey Grandmothers have offered to write on their behalf.

My visit to Canberra had many unexpected events and meetings. Emotionally it was overwhelming, but I hope that there will be some positive results from it. I feel privileged to have met these young people who have so much to contribute to our society and who are still suffering so much.

The common theme in much of this action seems to be that visibility is very important, whether its vigils or simply meeting in a park or café in full purple regalia. Opportunities are provided for approaches from members of the public for information in a non-threatening, informal manner. It was agreed that sharing information is important – to provide up to date information to sympathisers or to raise awareness. Growing discontent with the current refugee situation can be fed back to MPs. Members are keen to add to street stalls and leafleting by discovering opportunities for more formal engagements using our PowerPoint presentation.

Over the last few months also many interesting ideas were suggested at electorate meetings:

> **Broadening the targets of writing campaigns to chiefs of staff, the Foreign Minister (on PNG) and to Senators. Some groups are looking to include Bowen, Shorten and Marles, particularly for specific cases like Ned Kelly Emeralds. Perhaps more Independents and Greens MPs could also be included.**

> **Letter writing together, perhaps with a speaker first, can be an opportunity to update on current issues.**

> **Participating in rallies organised by other groups to add heft and visibility of the plight of refugees on the street. October 8 saw a reasonable turnout from Grandmothers but was disappointing overall. December 10 is Human Rights Day.**

> **Setting up a Community Consultation Group where an MP is collaborative – like Goldstein with Zoe Daniel (who spoke to BRASA on 2/11/23).**

*Thank you to all the contributors of stories.*

## Parliamentary Friends of Refugees Group

**The Parliamentary Friends of Refugees Group was launched on 20 March 2023 with the support of the Refugee Council of Australia.**

As with all parliamentary friends' groups it was to be multi-party as is reflected by the four co-chairs: Kate Thwaites (Labor), Dan Tehan (Liberal), Nick McKim (Greens) and Zoe Daniel (Independent). The group's main function is to help inform other parliamentarians about the situation facing refugees and people seeking asylum and promote fairer, more welcoming policies for those who seek protection in Australia. There are now approximately 54 members. Zoe Daniel has indicated that the group directs its advocacy towards Andrew Giles, especially for the 12,000 refugees in Australia who do not have fundamental supports. While sharing

information is useful, pressure needs to be applied from inside the government to overcome their fear of the divisive powers of the Opposition. That power was on full display during the Voice debate.

In a recent development, Nick McKim, Greens spokesperson on Immigration, resigned as the co-chair of the Parliamentary Friends of Refugees Group he said that "I cannot in good conscience remain as Co-Chair given the failure of other Co-Chairs to oppose the Migration Amendment (Bridging Visa conditions) Bill2023."

Grandmothers have developed good relationships with many friends and will continue to lobby members to promote refugee issues in parliament and caucus.

*Ann Butler*

## Thank you, Marita Keenan

Marita joined the executive in November 2022 after both WA and NSW were invited to nominate one of their members to join. As our membership has grown in both these states, we thought it important that this be reflected in the composition of the executive. Marita has decided to step down from the executive as the end of year approaches and we hope very much that the membership in WA will nominate someone to take her place. We hope to receive a nomination from NSW following Gael Walker's withdrawal earlier in the year.

As well as faithfully taking minutes at our meetings and sharing that responsibility also for the Electorate Representative Committee, Marita has been indefatigable in working to grow the membership in WA. She played a key role in establishing groups in Curtin and Fremantle, is working on establishing a group in the electorate of Perth, and most recently has visited Bunbury and Margaret River in the Forrest electorate with the objective of establishing a group there. The situation is looking very positive, and we are hopeful that a group will take off next year. Moreover, Marita has acted as coordinator of a Greater WA group, consisting of members in electorates where membership is not large enough (yet) to form a group.

Marita's record keeping skills have also been invaluable. She has been helping to collate refugee stories with a view to their use (with appropriate permissions) to inform the public of the cruelty of our treatment of refugees over the last 10 years. Finally, she has been working on the best method of archiving our records to ensure that the history of our movement is not lost.

Thank you, Marita, for all you have done, and will continue to do to advocate for a better future for refugees.

## Saluting Judy McKenzie



*Judy McKenzie with Linda Sparrow.*

Judy McKenzie was a stalwart of Grandmothers Against Detention of Refugee Children and then of Grandmothers for Refugees. Judy died on 31 October 2023. She coped with her illness with wonderful courage, grace and humour. She was a role model to the end.

Judy was a member of our very first Planning Committee formed in 2014. She was the initiator of the Grandmothers' Goldstein electorate group and an unfailingly supportive, encouraging mentor to all within the group. She was an indefatigable attendee of vigils, demonstrations, and rallies in support of refugees. She braved Tim Wilson's electorate office many times and wrote to him after she received a kindness from one of his staff to bring this kindness to his attention and to request him to emulate this compassion in helping formulate policies affecting refugees.

She was an intrepid participant in Grandmothers Freedom Ride to Canberra in 2016 and lead the posse onto the lawns of Parliament house at 6.30 in the morning to plant 1,000 cut-out kids in preparation for the Grandmothers rally. Judy remained a participant in Grandmothers right through her illness and kept displaying purple and contributing ideas during her time in the palliative care unit. Her courage and her compassion and her sense of fun will continue to inspire us.

*Clare Forbes*

### Daily Blog

You can access current information [here](#) on the daily blog on the Grandmothers' website.



If you have some time over the holidays, [here](#) is Latest ARAN letter writing kit to inspire you.



*We look forward to joining you in picking up the fight again in 2024.*

*Our first ERC meeting will be on 31 January. The next newsletter will be prepared during March.*