New changes in immigration practice mean families and the more vulnerable will await decisions on their asylum claims in community accommodation rather than detention. This is welcome, as prolonged detention is bad for everyone. But one significant reason for the delays is not being addressed.

'Karim' is calling me nearly every second day now. His protection visa application was lodged nearly six months ago and he was interviewed nearly four months later.

His case is one of the strongest I have seen in 12 years. He was brutally tortured in his home country and has lived with the debilitating trauma of that ever since. He is severely depressed and showing signs of paranoia. He wrongly thinks his case will be refused because of the long delays in processing.

The delay is not caused by Immigration, but by ASIO security checks.

Despite my assurances and those of his excellent psychologist, Karim's paranoia makes him think we are lying to him and that he will be sent home for more torture.

Sadly, his experience is the rule, not the exception for refugee applicants.

In 2005, the Howard Government changed the Migration Act to speed up the processing of protection visas. A processing time of 90 days was introduced unless delayed by security checks. This was a welcome reform and one of the few positive changes in refugee processing made by that government in 12 years.

For a while, cases were processed quickly. Then the number of asylum seekers arriving increased, especially those arriving by boats. The delays in ASIO checks are now very long. Complaints to the Inspector General of Intelligence and Security (IGIS) no longer result in satisfactory replies, but more Yes Minister style letters telling you the case is being processed and legal requirements are being met.

These delays affect people who have been positively assessed for the refugee criteria. For all purposes, they are refugees but legally they need a security clearance. It is reasonable that people get security checks, but why does it take more than a year for ASIO to advise that someone is not a security risk? As an Australian citizen, I would hope ASIO could assess someone as a security risk in less than 12 months!

The delays are now one of the biggest problems faced by asylum seekers. Those in detention get priority, but still the processing takes a long time. Those in the community on bridging visas live in limbo. Employers are reluctant to employ them: they need more certainty. But certainty is a long time coming.

Refugees who want to sponsor their spouse and dependent children face long periods of separation from them. Not only must they endure a long wait for their own case to be approved, their spouse and children then have to go through the same long security process.

Waiting up to a year for the visa is becoming more common. Several cases which were so strong they were approved by the Refugee Review Tribunal on the papers, without a hearing, are still waiting for their protection visas more than a year later. Children are being born while this process grinds on.

This processing delay is causing delays at all stages of the system. Refugees who'd otherwise be able to get on with their lives are stuck waiting on a decision by an agency that moves at its own slow pace.

The delays are also affecting agencies and people who work with asylum seekers as they are unable to help refugees move into the community while their cases remain in limbo. The psychological strain of uncertainty is adding to the existing trauma of the refugee experience. Once again we are seeing the process of seeking refugee protection becoming, itself, a significant cause of trauma.

Kerry Murphy is a partner with the specialist immigration law firm D'Ambra Murphy Lawyers. He is a student of Arabic, former Jesuit Refugee Service coordinator, and teaches immigration law at ANU.

Thank you Kerrie for putting this reality into print. This is what is happening - and in so many cases it
appears the detainees (or those in the community waiting for a result of their application) are being told the issue is one of their identity being questioned. Surely if identity cannot be verified in a reasonable time justice demands that a person's statement about their own identity be accepted. What is happening is cruel.

PAULINE SMALL | 20 OCT 2010

Our family is still assisting people who were so damaged in the Woomera/Baxter years. It is dreadful to see children who were toddlers there, now recovering the memories of the trauma - memories they could not understand and could not articulate. The psychological damage is immense and ongoing. It was a no-brainer that if the Govt suspended processing for the sake of the election, there would be a huge backlog. Did they never think of how they would manage that, and the human cost?

BEAT ODERMATT | 20 OCT 2010

The security of Australians has to come first. Health and security checks are very important. Many of arrivals claiming to be "refugees" had their papers destroyed in order to gain sympathy. Our security agencies have a very hard job trying to verify the status of these people. If they get it wrong, they risk having Australians exposed to activities of potential criminals and or terrorists.

There is a conspiracy of convenience between people smugglers, people wishing to enter Australia and some "welfare agencies." The fact is that this conspiracy of convenience is actually a large multi-million dollar industry, which can exist because of the tax-free status of the "welfare industry".

I think our security agencies are doing an excellent job considering all the obstacles put in the way by some self-serving people pretending to care.

ERIK H | 20 OCT 2010

Beat, your first two sentences are the only ones in your rant that any reasonable person would agree with.

TOM BYRNES | 20 OCT 2010

It illustrates once more for me that governments are too frequently not good managers of problems, but so often make them worse.

Poor 'Karim' had thought the West would be better. Sad!

Again, the Scriptural quote about "impossible burdens on the people which they cannot bear" comes to mind. Recent administrations in this nation have proved Christ understood misuse of political power, long before Calvary.

BEAT ODERMATT | 20 OCT 2010

Erik, I am well aware that the foot soldiers of the political correct chardonnay set have a huge arsenal of slogans such as rant, racism, intolerance, colonialism etc. It spares the use of logic and common sense. It is so easy to help the down trodden and underdog as long it is the taxpayer who pays the bill.

I may suggest that you read a recent book by Jared Diamond called "Collapse", which shows how societies choose to fail or survive.

MARILYN SHEPHERD | 21 OCT 2010

Well ASIO have been busy stopping all those so-called "terror" attacks mate.

Questions on notice to the senate by Scott Ludlam show that ASIO actually do not do anything. They do not enquire in home countries because they know that would be highly illegal and endanger lives, and they state that they have never done a security check on the thousands of kids we have locked up over the years.

Previous Articles by this Author

NON-FICTION

Back road encounter in the Italian countryside
We drove up a narrow road, on the dubious instructions of the GPS. Suddenly the car became unbalanced and the front wheel spun above the side of the road, which had collapsed. We were stuck. We could hear dogs barking in the night. After a while a car approached from one direction, and then a utility from the other.

POLITICS

Rise of the Kurds in Syria
It is not only Arabs that stand to benefit from the Arab Spring. Kurdish autonomy has long been a desire of the Kurds, who are spread through Turkey, Syria, Iraq and Iran. In Syria, while the Assad regime is occupied by rebel groups in Aleppo and Damascus, the Kurds are establishing their own armed security in their areas.

EULOGY

Farewell to the concierge of Pitt Street
Yassin made sure the bins were out for the garbage collectors, and that people had parking tickets on their cars in case the rangers passed by. He looked after the area so well that we nicknamed him 'the concierge'. Last Monday a security guard found him lying unconscious and without a pulse.

POLITICS

Refugees in the dark over security checks
Hayder and Mariam were found to be refugees in mid 2009. This year they had their second child. They have patiently awaited their security clearance, but when they make inquiries they are merely told that Immigration is awaiting the security checks from 'outside agencies'. The long process is affecting them mentally.
POLITICS
A tale of two refugee movement speeches
Tony Abbott did not mention the term 'human rights' in his 3000 word speech to the Institute of Public Affairs on Friday. 'Ille gal' appeared 11 times and 'asylum' once. In February, Antonio Guterres, the UN High Commissioner for Refugees gave a 3000 word speech to the Lowy Institute. A search of that speech finds 'human rights' five times, 'asylum' 21 times and no use of 'illegal'.

POLITICS
Australia playing catch-up with latest refugee reforms
Australia’s refugee processing regime saw two major reforms take effect on Saturday. They bring Australia into line with the EU, Canada and New Zealand. The changes are welcome but do not go far enough.

POLITICS
Refugee Scrabble
Last week there were three significant events affecting refugees including, tragically, more deaths. The use of language in the debate about asylum seekers is always striking, and has evolved and adapted over the years. It does not always reflect reality.

POLITICS
In a spin over Malaysia solution reboot
Yesterday the Government announced it will change the Migration Act to enable the Malaysia solution to go ahead. This latest action reinforces rhetoric about queues and people smugglers that obscures the real effects and motivations of current asylum seeker policy.

POLITICS
Improving the refugee debate
This week as we mark the 10th anniversary of Tampa, the High Court is hearing a legal challenge to the Malaysian solution and an inquiry into suicide and self-harm in detention is underway. Meanwhile a new report hopes to change the direction of the debate on refugees.

POLITICS
Refugee lotto
An old legal maxim is 'hard cases make bad law'. Maybe complex cases compromise policy. Refugee law and policy is complex and the Malaysian agreement signed this week is another example of a compromise on human rights principles for political expedience.