



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**  
**MIGRATION AMENDMENT (DETENTION**  
**ARRANGEMENTS) BILL 2005**

**Second Reading**

**SPEECH**

**Tuesday, 21 June 2005**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Tuesday, 21 June 2005  
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**Questioner**  
**Speaker** Plibersek, Tanya, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Ms PLIBERSEK** (Sydney) (8.28 pm)—I was reminded, when the member for Barker was speaking earlier in this debate, about being in the back seat of my parents' car—I was probably about 14 years old—when my dad was taking a group of us to the blue-light disco. We were driving from Oyster Bay to Rockdale and the station wagon was packed. My friend Kaleen was sitting in the back seat with me and she said, 'I really hate wogs and their big cars.' I had to point out to her that she was, in fact, in one of those big cars driven by one of those wogs. What the member for Barker reminded us of is that people fear what they do not know, but when they know the stories of the refugees who come to Australia they are less fearful and begin to admire the stories of triumph over adversity. They begin to admire the spirit that takes a person from the most adverse circumstances in a depressed or war-torn country and has them come half way across the world so that they can provide a better life for their children.

The members for Kooyong, Cook, Pearce and McMillan have done a very brave thing, considering the way party rooms work, and I commend them on their bravery. I am not embarrassed at all to say that I admire what they have done in putting this issue once more into the public arena. I acknowledge that they were enormously brave to face up to the Prime Minister and the party leadership and say, 'We've done our very best to negotiate these things privately. We have talked and talked.' For years they have been working behind the scenes to get some movement from the government on these very important issues, but their diplomatic and subtle ways did not achieve what they were seeking. They had to take the very brave step of moving outside the usual party structures and putting up suggestions to force the Prime Minister's hand.

The member for Cook spoke very eloquently about what he hopes to see from those changes. I dearly hope he is right about the practical changes that will result from this legislation. I fear that there has been a triumph of optimism over experience and that the measures agreed to will not deliver all that the members of the government who have worked so hard would have hoped for. Consequently, Labor will be moving amendments that relate to a number of the areas we have discussed in the past. In our first amendment we propose the removal of all children from behind the razor wire. We have seen in the government's proposal a lack of clarity on this issue. The non-compellable discretionary power granted to the minister is fine as far as it goes, but in my heart of hearts it does not give me the greatest confidence that we will not continue to see children behind razor wire.

One of the crucial things will be whether detainees will be able to go out into the community as a whole family unit. It is not difficult to understand that a family that has been through so much together, coming to Australia in the most adverse circumstances, does not want to be separated. If it meant leaving father behind, they would stay together in the most adverse circumstances rather than be separated, with all the uncertainty and sadness that involves. That is an area in which we will be moving an amendment.

We propose establishing an inspector-general of detention. This will give a great deal more security to detainees, who will be able to raise complaints with the inspector-general of detention. Our proposal for an ombudsman is very much in line with the government's proposal, in the hope that it will be supported by the government. The difference is that our ombudsman will have to report after 90 days of detention rather than after two years of detention. Two years of detention is long enough to drive a person mad. I think 90 days is a perfectly reasonable period in which to gain some understanding of why a person needs to be in immigration detention. If they need to be in detention beyond 90 days because they are a security risk, a health risk, at risk of absconding or for some other reason, then a case could be made for continued detention, but the onus should be on the department to describe why the person needs to be in detention longer than 90 days. In my view, the two-year period is too long.

We will move an amendment relating to the granting of independent medical access. We have all heard the saddest stories about children, in particular, in need of psychiatric care or some other counselling. We have heard stories of sexual abuse that have not been investigated. In one case a charge of sexual abuse of a five-year-old boy was apparently not investigated until a week after the alleged incident. It is very difficult to gather any convincing evidence a week after a sexual assault has occurred. We heard a story about an adolescent girl—an

unaccompanied minor who had responsibility for her younger sibling—who was so traumatised by her experience in detention that she became incontinent. These tragic stories must be open to scrutiny. Children and adults must have the support of appropriate medical professionals. That does not mean it is a zoo, that professionals can come and go as they please and that detainees have no control over who they see and in what circumstances. At the moment, qualified professionals are being denied access to people who need help. We certainly saw in the case of Cornelia Rau the consequences of that sort of neglect.

We have a further amendment which proposes certainty for temporary protection visa holders. It has been our principle for a number of years now that, after a short initial temporary protection visa period, there is an assumption that people will become permanent residents unless the government can prove that things are safe enough in their country of origin for them to go home. Once this initial period is over and once an assessment has been made that it is not possible to prove that someone should be sent home, we need to give these people certainty. For goodness sake, we have people who are being told that they will never be Australian citizens, that they will never have the ability to see their family again, that if they leave Australia they will never be allowed to come back and that they will never be able to have their family join them. It is absolutely inhumane to say to a person: 'I acknowledge that you are a genuine refugee in need of protection according to all the international rules, but you'll never see your family again. They'll never be able to see you here. You'll never be able to visit them in a third country and you will always have the threat of being sent home hanging over your head.'

We also have concerns that long-term detention is not dealt with by this legislation. Very long term detainees who have no country to which they can practicably be returned still must rely on ministerial discretion. The vagueness of these provisions is of very little comfort to anyone.

I want to conclude by saying that of course any progress in this area is welcome. At the end of the day of course Labor will support even this incremental change, because the notion that anyone would be in immigration detention for a day longer than they need to be because we are not perfectly happy with the package is completely unsustainable. But this is not cause for us to be dancing in the streets with joy that, finally, the great battle for freedom and humanity has been won in this area. That is just not the case. We still have a very long way to go before we will have a truly humane, fair and compassionate policy for refugees and asylum seekers in this country.