QUESTIONS ON NOTICE

Immigration: Ms Puangthong Simaplee

QUESTION

1369

Monday, 16 June 2003

BY AUTHORITY OF THE SENATE
Senator Greig (Western Australia) asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 27 March 2003:

With reference to the case of Ms. Puangthong Simaplee, who was trafficked into Australia at the age of around 11 years, and forced to work as a prostitute:

(1) Is the Minister aware that, after 16 years of bonded labour, Ms Simaplee died in September 2001 in detention, having been seized by authorities and taken straight to Villawood and subsequently given inappropriate treatment for her drug addiction.

(2) Given that Australia has the ability to provide the victims of this insidious trade with a Criminal Justice Stay Visa and witness protection: (a) how many times has such a visa been issued in relation to trafficked women; and (b) is it true that the Australian Federal Police (AFP) currently cannot initiate a Criminal Justice Stay Visa unless requested to do so by the Department of Immigration and Multicultural and Indigenous Affairs.

(3) Will the Government now create a people trafficking taskforce to provide the AFP with more comprehensive search and rescue powers to locate and protect women held captive in brothels and to prosecute traffickers.

(4) Are trafficked women who are held in detention awaiting deportation provided with information regarding their eligibility for a Criminal Justice Stay Visa and provided with appropriate legal advice or Legal Aid.

Senator Ellison (Western Australia—Minister for Justice and Customs)—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator's question:

(1) I am aware that on 23 September 2001 Ms Simaplee (aka Simplee) was located by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) as part of a compliance operation on a number of premises, including several associated with the sex industry. Ms Puangtong Simaplee was detained because of inconsistencies in her claims. Ms Simaplee initially identified herself as an Australian citizen and later provided a further alias and claimed to be a Thai national. It was not until after her death that more information became available identifying her as Ms Puangthong Simaplee, an unlawful non-citizen.

I am also aware that on 25 September 2001 Ms Simaplee made a number of claims in relation to her previous personal circumstances, including how she came to be in Australia. Based upon the information she provided to my Department, she was somewhere between 12 and 25 years of age on arrival in Australia. These claims were being examined by DIMIA at the time of her death on 26 September 2001 but were suspended due to the coronial inquest.

The issue of Ms Simaplee's medical treatment and subsequent death were investigated by the NSW Coroner and the report of the inquest's findings was released on 24 April 2003. The Coroner found that Ms Simaplee died as a result of narcotic withdrawal with an antecedent cause being malnutrition and early acute pneumonia.

(2) (a) Nearly 270 Criminal Justice Stay Visas (CJVs) have been granted by DIMIA since 1999. These were granted for a range of reasons, including for perpetrators, witnesses and victims of sexual offences. Of these some 20 related to sexual offences. While the Department does not keep specific data on CJVs issued for people trafficking purposes, seven of these CJVs were issued either to witnesses or victims of sexual offences, and at least three were related to people trafficking.

(b) No. The criterion for a Criminal Justice Stay Visa is that a Criminal Justice Stay Certificate is in force. Under the Migration Act 1958 a Criminal Justice Stay Certificate can be issued by any of the following:

- in Commonwealth matters, the Commonwealth Attorney-General; and
- in State matters, the State Attorney General, State Director of Public Prosecutions or the highest ranking member of the police force of the state (eg the Commissioner of Police)

Should the Australian Federal Police (AFP) determine that an individual is required to remain in Australia for criminal justice purposes, the AFP can request that the Attorney-General’s Department issue a Criminal Justice Stay Certificate. The certificate prevents the individual's removal from Australia. DIMIA plays no role in the issue of the certificate.
(3) While the reply to this question rests more appropriately with my colleague, Senator Ellison, I can advise that the Government is currently examining how to improve its existing arrangements for combating people trafficking. Close cooperation already exists between the relevant agencies, which the Government is seeking to strengthen. Similarly, a large number of policing and prevention measures are already in place in Australia and through our overseas aid program. In reviewing the scope of its current range of measures, the Government may consider, among other potential responses, whether a taskforce is the most effective means of addressing the real challenge of people trafficking.

(4) A Criminal Justice Stay Visa is not a visa category for which an individual can apply. The decision on whether a non-visa holder should remain in Australia for law enforcement purposes is made by the relevant law enforcement agency, which can then request a Criminal Justice Stay Certificate.

To enable DIMIA to identify people who have been trafficked they are questioned as a part of a structured interview. If any indication of people trafficking emerges from this interview, the case is referred to the AFP.

Section 256 of the Migration Act 1958 states that all detainees must be provided reasonable legal assistance on request. DIMIA does afford all reasonable facilities to obtain legal advice for persons in immigration detention and conducts interviews using an interpreter where necessary.