

## Mandatory Detention of Asylum Seekers

***“Detention Centres are jails. We jail women, men, and children who have not committed, technically speaking, a crime and we don’t give them bail, we don’t give them information about why they are being held there, the processes, how long they are going to be held there, (or) how their application is going”.***

Australia is the only country in the world, other than Poland and Turkey, that detains its asylum seekers after health and security checks have occurred. Liz points out that the UN Convention on Refugees states that detention is to be a last resort for children. The government should therefore explain why detention is chosen as a *first* resort, or even at all, especially when there was a successful community release program (particularly of Vietnamese asylum seekers) was run under the Malcolm Fraser government.

Interestingly, Liz points out that in Sweden, where there used to be mandatory detention, there were similar protests, hunger strikes, and allegations of assaults such as what we have seen at Woomera. Instead of the Swedish government viewing this as evidence of a wonderful deterrence policy, they changed to a community release program. Our government’s response, says Liz, is to ensure that no one can view the conditions for themselves. This raises

doubts about the conditions within them and the validity of the scheme. Taxpayers are not entitled to view what they are funding and the government claims that UN observers criticising the centres are incorrect in their interpretation of international law. Commercial confidence arrangements prevail to the point where some doctors and nurses are scared that they won’t be allowed in the detention centres to treat detainees if they speak out about the conditions within the centres.

## Human Rights Protection in Australia

***“...An Australian Rights Survey conducted by the ANU found that of those surveyed, 72% of citizens were in favour of some form of Bill of Rights.”***

Liz points out that we are the only Western country in the world without some type of statutory human rights protection. Even in the UK, there is a statutory list of human rights objectives, against which all new legislation is measured. Legislation must also be re-written before it can be passed by Parliament if it does not meet such criteria. And while Liz does not see the need of going down the American path of an overpowering Bill of Rights, there is a distinct need in this country for adherence to a set of human rights principles – which should be openly discussed, debated and formulated.

The main issues that Liz is keen to highlight in terms of our overall approach to human rights in Australia is the lack of available information for the general public, the blatant misinformation from government and others, and the fear and misunderstandings that this causes within our country. Indeed, surely the very least the government is obliged to do is to actively inform the community of their human rights obligations under national and international law and how these may be achieved. This would allow for discussion as to whether the government is falling short of such obligations, including what methods can be employed to uphold them.

### What can Young Lawyers do?

Liz recommends that if young lawyers want to be involved in human rights activities, they should consider involvement in the following organisations:

**Join the Law Institute Human Rights or Bill of Rights Committees**

Ph: 9607 9374  
Email: Nhogg@liv.asn.au

**Join Liberty Victoria**

Ph: 9670 6422  
Email: vccl@iosphere.net.au

**The Criminal Bar Association**

Email: punshon@aickin.com.au

# La vida esta bella (life is beautiful)

## A Young Lawyer volunteers abroad

*Christy Ditchburn, Mallesons Stephen Jacques*

***Christy Ditchburn recently returned to Mallesons Stephen Jacques after taking 6 months leave of absence from her position as a solicitor to undertake volunteer work in Costa Rica with Youth Challenge International.***

The sun beat down on my Melbourne wintered skin as I travelled across the Gulf of Nicoya to Isla Venado, Costa Rica. The

little blue fishing boat seemed barely able to cope with the weight of the 15 volunteers. All of us were with Youth Challenge International (affiliated with Australian Volunteers International), an organisation that sends young Australians and Canadians to communities in Central America and the South Pacific to help with various projects. Our two Costa Rican leaders chatted with the driver of the boat, the

rest of us sat in silence, our basic (or in my case, non-existent Spanish) small aid to understanding the conversation.

### Isla Venado

The island is stunning. From the top of the mountain in the middle of the island are spectacular views of the surrounding ocean and other islands. The beaches of

the island are pebbly and there are coconuts all around. The locals warned us very early on not to walk under coconut trees for fear of being hit by stray falling coconuts. The island houses only 900 people, living in two communities, (Jicaro and La Florida). There are no cars and one phone for the 900 people.

The heat was stifling and the work was hard. There were lots of mosquitoes and lots of big spiders. I felt a long way away from the Rialto. I had to evict a scorpion from my sleeping quarters. However, the beauty of our surroundings made going to work a pleasure and in time our bodies acclimatised to the heat. In the afternoons, we were sometimes delayed by the tropical storms that swept across the island without warning. Hurricane Michelle, which swept through Central America late last year, stopped our work for over a week as the strong winds buffeted the island.

### The Projects

Education is not highly valued on the island. As there is no school, students take their classes outside with a teacher from the mainland. Our first project was to help to build a school. I helped transport bricks, cement and rocks to the island in boats, then to build the walls and the roof. One of the locals was the foreman for the project and he and other community members taught us the new skills we needed to lay bricks. By the end of our

time on the island, the school was well underway, and I was a rather clumsy but very enthusiastic apprentice bricklayer. In between manual labour activities we ran English classes for students and adults. I am not sure if my students learned more English in these classes or if I learned more Spanish!

Another major problem for the island is that one of its biggest sources of income is fishing. Every year in the Gulf of Nicoya there are less fish and consequently less income for the people. The University of Costa Rica is developing projects for people on the island for alternative income raising activities (eg, chicken raising). We dug the foundations for a chicken coup.

### The Goodbye

On the day that we left, school was cancelled for the day. All of the children and their parents stood on the beach crying. They hugged us and kissed us and told us that we would always be in their hearts because of the work we had done for their community. All 15 of us loaded back into the little blue boat. As the boat left the shores of the island, the islanders held up a sign, in English "We will remember you forever". This left us with a distinct feeling of having done something worthwhile, which had made a difference.

Although my career until now did not prepare me incredibly well for my brief



**CHRISTY CARRYING MATERIALS IN PREPARATION FOR 3 SOLID DAYS LAYING CEMENT**

time doing manual labour, it made me realise more fully the rights and opportunities that I have as a member of the legal profession. The most that many of the teenagers can hope for is a career fishing the ever depleting resources of the Gulf. The final part of the program with Youth Challenge is to take the knowledge and experience that we have gained and to put it back into our own community. I look forward to using my skills as a lawyer and the experiences I had overseas in future work with my own community here in Melbourne.

### For More information

Check out Youth Challenge's website: [www.youthchallenge.com.au](http://www.youthchallenge.com.au).

# The PILCH secondment experience

*Eve Stagoll, Refugee and Immigration Legal Centre, seconded to PILCH from Mallesons Stephen Jacques from November 2001 – February 2002*

**Many young lawyers reading this journal will be familiar with the Public Interest Law Clearing House ("PILCH") – an independent, non-profit public interest law centre and referral centre. A large number of young lawyers will also have contributed to PILCH through work done on matters referred to their firm under the PILCH Scheme. Young lawyers are**

**also a driving force behind the work of PILCH through the contributions they make under PILCH's solicitor secondment program.**

For those readers unfamiliar with the work of PILCH, PILCH specialises in referring matters of public interest to lawyers who

are its members, who then provide legal assistance to clients of PILCH on a pro bono basis. PILCH has 33 members, including law firms, community legal centres and university law departments. PILCH also refers many matters to barristers who have volunteered to act pro bono in public interest matters.