

Joint Select Committee on Australia's Immigration Detention Network

Submission by

9 August 2011

I write this submission as a member of the Blue Mountains Refugee Support Group and as a volunteer who regularly visits detainees at Villawood Immigration Detention Centre. As a child, I lived in South East Asia (Indonesia and the Philippines) over a period of 15 years. I speak Indonesian and have a good understanding of Indonesian culture. I have had over ten years experience teaching primary school and LOTE (Indonesian). In recent years I have developed some close friendships with a number of Hazara refugee families who have been granted asylum here in Australia.

Over the past year I have spent a significant amount of time with detainees at Villawood IDC and have listened to them recount their experiences of being detained in Australia's Immigration Detention Network. The following points are based on those conversations as well as my own observations. The points below outline my main concerns about the current Australian Government policies and procedures in dealing with asylum seekers in the mandatory immigration detention system. I trust that each point will be carefully considered by the Joint Select Committee.

1. Mandatory detention replaced by community-based processing

I propose that mandatory detention should be abolished and community-based processing implemented as the norm. Between 1948 and 1992, Australia successfully and peacefully resettled over 450,000 refugees. They were processed in the community as there was no policy of mandatory detention. At approximately 20% of the cost, and with far less damage to their mental and physical well-being, asylum seekers can be processed while being cared for and supported in the community. This is a more humane method compared to detention. We are one of the only Western nations (if not the only one) who has indefinite mandatory detention for those who seek asylum in their country. If other countries are managing without it, then so can we.

2. No more children in detention

Detention is harmful to children. It is widely known that immigration detention centres are not suitable institutions of care for children and have negative impacts on their development and mental health. There is ample medical evidence demonstrating that prolonged detention has severe adverse effects on psychological and physical health. Children and people who have previously suffered torture and/or trauma are especially at risk¹. Also, the Migration Act 1958 states "as a principle that a minor shall only be detained as a measure of last resort". Currently, detention is routine and mandatory. The children of families I have visited in detention are lonely, scared to make friends (because friends come and go with no warning) and bored. In spite of the government's promises to release all children by June this year, this promise was not met. There are still children in detention. Children are still being born in detention. I am a witness to this fact.

3. The length of time taken to process asylum claims

The time taken to process asylum claims (including security checks) can take many months. The cases of some detainees I have met are taking years to be resolved. The apparent endlessness of the wait is having a serious effect on the mental health of these detainees (see point 2). They experience feelings of hopelessness, despondency,

¹ <http://www.asrc.org.au/media/documents/myths-facts-solutions-summary-sheet.pdf>

frustration and anger. The longer they are indefinitely detained, the harder they find it to sleep, eat and concentrate. They feel an overwhelming sense of despair and powerlessness at living 'in limbo', particularly those whose claims have been rejected, without any clear explanation of the reasons for the rejection; yet they cannot be deported. Indefinite detention is harsh and certainly unfair.

The decision to detain should be determined on a-case-by-case basis and not as an all-inclusive policy for all unauthorised arrivals. However, this power should not be left unchecked in the hands of the government, as is the case presently. Any decision to detain should be subject to the judicial review process so that ongoing detention is legally justified by the courts. Alas, this is not the case for asylum seekers who, although not suspected of committing any crime, can be detained indefinitely without judicial oversight. I therefore recommend "that the decision to detain asylum seekers should be subject to mandatory judicial review after 28 days and every seven days thereafter to ensure the grounds for the detention are properly and continually assessed and justified. This includes the right for asylum seekers to challenge any adverse security assessments. Mandatory non-reviewable detention for all asylum seekers regardless of their individual circumstances should be abolished. Children should not be detained under any circumstances. All of these changes must be incorporated into the law to ensure they are free from political interference"².

4. Detention centres are not safe places for asylum seekers

I contend that detention centres are not safe places for asylum seekers. Detainees have told me that convicted criminals are being held at Villawood sharing the facilities with asylum seekers and visa overstayers. It is unacceptable that asylum seekers who have not committed a crime are made to share facilities with those who have. One detainee reported to me that one of these criminals has threatened him on a number of occasions. I asked him if he had reported it but he replied that there is no point; that Australian law and order does not apply inside the detention centre; that there is no one to appeal to for protection. Another detainee told me that he was attacked by a fellow detainee; that he was struck on the head and back and bitten on the hand. I saw the wound on his hand for myself. He was too afraid to report the incident and stayed in his room for fear of being attacked again. Many of the detainees are also traumatised by the riot and fire at Villawood earlier this year. One detainee told me how he called 000 because he was so afraid he would be burned alive. The 000 operator told him the guards would help him but he replied that all the guards had left the premises and left the detainees locked in, unable to escape the fire.

Furthermore, if a detainee is deemed to be suicidal or at risk they are often moved to Stage 1 (Blaxland) for closer observation. Here more criminals are housed as well as those who are to be deported. This and the fact that security is so high only increases the anxiety of the detainee who is already suffering great emotional distress. There is seems to be no reason why detainees who are so distressed should be placed in an even more distressing situation.

5. Asylum seekers at breaking point

I am very concerned for those detainees who are so traumatised by their past experiences and present circumstances that they reach breaking point. I am not condoning rioting, arson or self-harm but it disturbs me that the incidents of these are so prevalent in detention centres across Australia. I believe there is a great deal that can be done to alleviate these causative levels of desperation and frustration.

² <http://www.asrc.org.au/media/documents/myths-facts-solutions-info-apr-2011.pdf>

6. Refugees who are released

Another concern is that detainees who are deemed to be refugees are often released arbitrarily into towns or cities where they have no established networks or community. If such a refugee then moves to a different location to be closer to people they trust and know, they forfeit the support of the government. This shows little concern for the well-being of the refugee or for the vulnerable position they are in. This is of particular concern in the case of unaccompanied minors.

7. Legal documents need interpretation

A final point of concern is for detainees who receive legal documents from the Department of Immigration and Citizenship advising them on the outcome of their cases. Although interpreters are provided for interviews, there is no such service to ensure understanding of the content of the documents. All the documents received by the detainees that I have seen are in English and full of legal jargon. This is unfair to the detainees whose first language is rarely English. This omission also does not account for those detainees who may be illiterate. As a regular visitor to Villawood IDC I am often handed a pile of legal documents by a detainee and asked to read and explain them. The detainees often have no idea of the content of the documents or how they can defend themselves. They do not have knowledge of or ready access to information about their options with regard to legal assistance and representation. I am especially concerned for those in remote IDC's who do not have visitors. How can they possibly defend themselves against negative legal decisions under such circumstances, seeing they have no one to turn to? There are often time constraints in these documents also. By the time the detainee has found a way to understand the document the deadline is often too close for any effective response. It hardly seems fair that DIAC do not adhere to time frames in processing asylum applications and yet they give asylum seekers a 35 day limit to defend themselves against a negative decision.