

12 August 2011

To the Joint Select Committee on Australia's Immigration Detention Network:

Submission by Linda Jaivin

As someone who visited asylum seekers in detention at Villawood Detention Centre up to two or three times a week between 2001 and 2005, and who has kept up contact, friendship and support for many of those former detainees (now Australian citizens), I can say with conviction that the system needs a complete overhaul and the introduction of legislation mandating an independent, judicial review of any case in which a person is detained for more than thirty days.

There can be no justification for indefinite detention of asylum seekers. The outsourcing of our responsibilities towards asylum seekers, whether to Manus Island or Malaysia, is cynical populist politics at its worst. We need to come up with a solution that is based on our obligations under international law and accords with our sense of ourselves as decent human beings.

Of the many cases that I was involved with as a volunteer, putting together background files on the human rights situations in the countries from which asylum seekers had come and helping them put their cases for a visa in writing, when all that was left was health and security checks, none took over three months and most took considerably less. Detention never needs to be longer than three months.

I believe that following these checks, asylum seekers should be allowed to live in the community albeit with strict reporting responsibilities – they have every incentive to stay legal in this situation, they can begin to 'decompress' from the situations of war and trauma from which they've fled, and they can seek the help and support of the community. This would be good for them and good for Australia – no one is well served by the current situation, which severs these people from community support, increases their desperation, adds to their trauma and denies children the right to education.

Mandatory indefinite detention takes a horrific toll on the health of detainees. This is something that we visitors witnessed over and over again as we saw people begin to break down, become less resilient, less able to make sound decisions for themselves and their families. The health care inside the centres was always far below the standard that any Australian would consider basic, and the

psychological pressures of detention often manifested in physical ailments. While some of the guards were kind and decent, others were cruel and sadistic, and none of them were properly trained to deal with people who had suffered torture or trauma.

There was a man with a broken leg who was offered Panadol, a girl with hepatitis who was not allowed to see a specialist – I could go on. I saw many things I could not reconcile with the idea of Australia as a decent, civilized country – including the imprisonment, for that's what it was, not only of children, but of innocent men and women as well.

The detention values policy of 2008 needs to be enshrined in law, put into practice. It is one of the few glimmers of sanity, sense and humanity in the sordid history of mandatory detention in this country that began in 1994 under Keating, was perfected as a means of punishing asylum seekers under Howard and now sadly continues as a system with far more regard for political expediency than it does for justice. Mandatory detention is a truly bipartisan failure.

As I mentioned above, I am still in contact with many former detainees. While most are doing well in terms of work, they still bear emotional scars from that time. Vilified and made to feel like criminals ('illegals'), many are still unable or unwilling to tell Australians whom they meet socially or work with that they are refugees; they prefer to hide their past, which they've been made to feel is shameful, then acknowledge it and deal with it in a healthy manner. Their continuing long and faithful friendships with former visitors like myself has been very important to them in their social integration – which leads to another point about offshore 'processing' and that is that it denies them a community of friends for when their claims are finally recognised.

The politicization of the process of refugee determination is another major worry – with the government declaring, quite illegally, that the claims of certain groups will be rejected. I have personally examined refugee tribunal decisions that were based on almost insanely ignorant and lazy assessments. As someone who was approaching the research into countries as diverse as the Sudan, Syria and Afghanistan with no background at all, I was still able to help the refugees refute such decisions with enough persuasiveness that ministers including The Honorable Philip Ruddock and Amanda Vanstone ended up overriding the tribunal and giving the individual refugees visas.

As an author I have written and spoken many times and in many forums on this issue including to the Joint Standing Committee on Migration whose report on Immigration Detention was published in May 2009. It hardly seems believable that we still need to argue the point that the system of mandatory detention is cruel and inhumane, that it violates our international obligations to people who seek asylum on our shores and that it is the result of cynical populist politics that must be renounced if we are ever to be able to look back on this issue without shame.

Thank you for your attention to this urgent issue.

Yours sincerely,

Linda Jaivin  
Author

cc The Honorable Malcolm Turnbull MP