

Committee decided that Australia had breached Article 9.1 of the ICCPR (prohibition against arbitrary detention) by maintaining a policy of prolonged detention without consideration for individual circumstances.

In July 2000, the Human Rights Committee urged "the State party to reconsider its policy of mandatory detention of "unlawful non-citizens" with a view to instituting alternative mechanisms of maintaining an orderly immigration process. The Committee recommends that the State party inform all detainees of their legal rights, including their right to seek legal counsel".

The policy has been maintained, with bipartisan support, to the present day. In February this year, the Labor Party reiterated its support for mandatory detention, albeit raising questions as to its form and length.

The protests, suicide attempts, hunger strikes and lip sewing that recently took place in Woomera Detention Centre have been seen before, most notably at the Curtin RAAF Airbase in October 2000. The criticism of the policy by the United

Nations High Commissioner for Refugees, the Australian Human Rights and Equal Opportunity Commission, the Commonwealth Ombudsman and non-government organisations has been sustained, but the policy has not changed.

Mandatory detention dehumanises detainees and is extremely detrimental to their physical and mental health. Its indeterminacy places extreme stress on asylum seekers.

Detention is a punitive and extreme measure that is applied inconsistently. Those asylum seekers arriving with a valid visa (even if they intend to apply for asylum immediately after entry) are not detained. Those in detention are routinely not advised of their rights to seek legal advice. If granted asylum, they are given permanent residency, whilst released refugees receive three year temporary protection visas (to be reassessed at the end of the period), with access to fewer government benefits and services. The detention policy has also been completely ineffective in achieving its stated aim of deterring asylum seekers.

Having reduced judicial review to the barest minimum, successive Labor and Liberal governments have secured for themselves unchecked power to redraw the legal rights of asylum seekers. By preventing media access to detention centres, the government has controlled public opinion. They have created a legal and political rhetoric that ignores the realities of detention and the exigencies of international human rights obligations.

I still remember a news report I heard of a group of asylum seekers landing on the coast of New South Wales. They walked to the nearest house and were welcomed in by a local resident, who offered them a cup of tea. And so they were, when the police arrived to remove the asylum seekers to detention.

I suppose it gives me hope that after 10 years of mandatory detention, we can find another way.

You can become involved in the issue of mandatory detention by joining the Refugee Law Reform Sub-Committee of the Law Institute. Contact Nicole Hogg on Nhogg@liv.asn.au for more information.

From here to where?

A closer look at the Woomera and Maribyrnong Detention Centres.

Janine Schloss

In a humanitarian appeal made by refugee claimants in the Maribyrnong Detention Centre, Melbourne, the 'detainees' discuss the rights of the child: "Is this the democratic country we thought we were coming to? Or is this a country where the abuse of human rights and the rights of the child is ignored? The immigration department seems to have no understanding of the suffering they continue to inflict upon us who are in fact seeking sanctuary."

Dana Krause, a young lawyer and a regular visitor to the Maribyrnong Detention Centre, has recently returned from a visit to the Woomera Detention Centre. Ms Krause arrived at the gates of Woomera to interview the detainees as part of a legal taskforce. Inside, about 370 people were on a hunger strike, detainees had sewn their lips together and some were considering committing suicide.

Ms Krause cannot detail all that she saw for professional reasons, however it is hard

for her to hide all of it from view. She feels that it is her duty as the grand daughter of a Holocaust survivor to do all that she can to uphold basic principles of human rights.

Ms Krause talks of the numerous cases of incontinent children who now wear nappies at age 10 due to the severe stress of their situation, of the numbers that replace their names upon arrival, of the incidents of insomnia, self-torture, starvation, depression, the list goes on. She cannot see an end to the situation,

for as long as Australia refuses to wake up to what is happening before their eyes. The environment is devastating these children. She questions how it can be justified:

“Children are watching people drinking shampoo and jumping off fences. They want to do the same. In such a volatile environment, parents can no longer control what their children do. A seventeen year old girl begged me to pass on a message to all the mothers and women of Australia; ‘Please hear the voices behind the fences...’”

Ms Krause emphasises the importance of examining all the detention centres around Australia. “We cannot just focus on Woomera. People or detainees as we now label them are languishing in detention centers all around Australia. The situation is dire and it will only escalate.”

Asylum seekers arrive here with hopes and believe that they will be protected. These are quickly quashed. “One boy said to me that he was told before arriving that ‘even if you harm a dog in Australia, you will be punished.’ He said that when he arrived he bowed down and kissed the ground. However, after 10 months in Woomera, he has become completely demoralised. After all, a dog is a citizen.” Ms Krause proclaims.

Ms Krause reflects on her experiences at Maribyrnong: “I have met some of the most inspiring people.” Women who have been the subject of brutal rapes or have been the victims of sex slavery in their country, have lost their children and husbands, yet still find the strength and will to fight the system that was meant to protect them.

“I have also watched unbreakable bonds develop between people”, Ms Krause remarks, “I have watched beautiful relationships develop between adults and children who desperately yearn for familial relationships. One man loved and

cared for a little girl so much, that I am sure that if it wasn’t for him, she would not have survived her experience in detention. He has since been deported, and when she speaks of her father, she refers to him. She was hysterical the night he had to leave. I remember feeling like crying myself.”

The mental health issues are numerous in detention. Not only are these people suffering dislocation as new arrivals and trauma from their pasts, loss of their loved ones and the fear of return, they are also having to deal with incarceration. Ms Krause says “The uncertainty of their fate plagues them daily. However, unlike prisoners, they do not know how long their sentence will be. It can range from 2 months to 4 years. To me, this is not administrative detention, it is clearly punitive.”

During this prolonged period of mandatory detention, the people suffer anxiety, claustrophobia, severe depression, isolation, uncertainty, and boredom. Adults find that they can no longer fulfill their roles as parents.

“I have watched children slowly disintegrate and numbed by their world. Many cry themselves to sleep every night. Many are suffering severe post traumatic stress disorder, from their past experiences. They cannot even begin to heal in such an environment. They are treated like criminals. They walk around for days, months and years like caged animals. They are denied simple things, like walking in a garden, picking a flower, smelling the ocean, cooking themselves a meal and deciding when to eat. Many watch people around them going crazy and mutilating themselves. One 12 year old girl was so distressed that she starved herself for days. Babies are born and grow up in detention. One little girl was detained with her mother at 9 months and when she was finally released at 3 years of age, she was terrified of cars, houses and animals. She cried when she saw water.”

Ms Krause is constantly confronted with remarks that question her purpose and enthusiasm towards the cause. “Just because the conditions in detention might be better than those that the asylum seekers are running from does not make it right to treat people inhumanely. What sort of a world are we bringing these children into, what sort of a future are we painting for them, when unaccompanied minors prefer suicide to detention?”

Ms Krause is all too aware of the paradoxical nature of the situation that Australia has created for itself. “In several countries, like New Zealand, Sweden and Canada, asylum seekers around the world are innocent until proven guilty. In Australia, they are criminals from the moment they reach our waters and are treated as such for months, sometimes years. There needs to be an efficient, effective and humane processing system put into place, one that combines the recognition of human rights with issues of security. Sweden can do it, why can’t we?”

At the moment, new laws established in Australia attempt to further deter people from seeking our protection, but we are obliged both legally and morally to help refugees. Ms Krause says; “the refugee problem must also be resolved on an international level.” The situation needs to be transformed from burden shifting to ‘burden’ sharing. In fact “there should be no burden at all.”

Her experiences within the Australian detention centres have given Ms Krause the insight and the enthusiasm to inform others of the situation, in the hope that Australians will stand united on this issue. As she considers Woomera, Maribyrnong and all the people seeking asylum in Australia, Ms Krause concludes “I wonder how long it will take, how many more people will have to be devastated indelibly, for Australians to see the immorality and illegality that they condone. I urge all Australians to open their hearts.”