

Childhood in Detention

Gillian Calvert

Giving Refugee Children a Voice

My job as Commissioner for Children and Young People is to consult with children who live in NSW, listen to their point of view and speak up for them. The Commission exists because kids need others to speak up on their behalf and work beside them to create social change.

Last year, the Commission conducted in-depth interviews with ten former detainee children now recognised as refugees and living in NSW on temporary protection visas. The kids had spent, on average, 140 days in immigration detention during 2000 and 2001. We wanted to hear directly from the kids about their experience of spending part of their childhood in detention so we could understand their experience and views about detention. We wanted their views to make a difference to the immigration detention system in this country.

Their views formed the basis of our submission to the Human Rights and Equal Opportunity's Inquiry into Children in Immigration Detention. What they had to say was enlightening and frightening. It gave us a direct window into the traumatic events that led them to seek asylum, the deprived lives they led in detention and the uncertainty they faced once they were released on temporary protection visas. The children's stories raised disturbing questions about how a country as wealthy and fortunate as Australia can allow these conditions to occur in the guise of 'administrative detention'.

The refugee children described the harsh conditions they were subjected to and how their basic needs for education, health care, protection, play and recreation weren't adequately met while they were in detention. When we measured their evidence against Australia's obligations to them under the United Nations Convention on the Rights of the Child, it was clear that Australia's treatment of them was in breach of their rights.

The children and young people were emphatic in their views. They believed that kids should not be deprived of their liberty at all. An unaccompanied teenage boy said:

First of all there should not be any detention or camp and it is absolutely difficult to be in a camp situation, particularly for a child without parents, as in my circumstances (CCYP Inquiry Submission, 2003).

Another teenage boy said:

I think there should not be any detention for children at least. All these Afghans that are spending months or years in detention, they have not done anything wrong, they are not criminals and they should listen to them. But

there should not be any detention for children. They should be free (CCYP Inquiry Submission, 2003).

Impact of Detention on Kids

Australia's detention policy is imposing conditions on asylum seeker children that we would not tolerate for our own children. If an Australian parent imprisoned their child, did not send them to school, and exposed them to violence and self-harm, child protection authorities would have undeniably strong grounds to intervene. Detention is hardest for children. Denying children the chance to experience childhood damages them now and in ways that will stay with them for the rest of their lives. That is why the *Convention on the Rights of the Child* (or CROC) stipulates that children be detained 'as a last resort and for the shortest appropriate period of time' (Article 37(b), United Nations Convention on the Rights of the Child).

But in Australia, detention is the first and only resort and for an indefinite period of time. We are letting these children down by neglecting this provision of the CROC. The difficult lives these children have suffered at the hands of their own governments or fellow-citizens¹ are beyond the comprehension of most Australians. Yet we compound that damage by allowing children to spend their formative years in detention. This is not in children's best interests.

Asking refugee children about detention conditions was very revealing. Here are some examples. One boy who fled his country without his parents said:

For just one hour in the morning we come out of the room to see the sky and one hour in the afternoon. And then the doors closed, locked in (CCYP Inquiry Submission).

Another teenage girl observed:

The children were always fighting because of the playground and because of the toys, as there were very little toys. [There was] a small playground and there were so



Gillian Calvert, NSW Commissioner for Children and Young People, Level 2, 407 Elizabeth Street, Sydney, NSW 2010 Australia. Email: kids@kids.nsw.gov.au

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little toys and sand – not grassy (CCYP Inquiry Submission).

An unaccompanied teenage boy referred to the general atmosphere in the camps as one of violence, conflict, threat and intimidation.

Two detainees attempted suicide. They took some pills and got taken to hospital. A few detainees climbed trees. One of the detainees in the basketball court took a razor and wanted to cut himself in the basketball court, cut his neck (CCYP Inquiry Submission).

Some children referred many times to being called by number rather than by name while in detention.

Most of the police did not know the name, so we have a number. The people all wrote our card number and he read for us, '[my number], you come'. The first time the police came into my room and he told me, I was very scared (CCYP Inquiry Submission).

These institutions resemble maximum-security prisons. They are no place for any child. The Minister also continues to allow these institutions to run in ways based on the way adult prisons run.

Australia and the Convention on the Rights of the Child

The Federal Government in its report to the UN in March on its compliance with CROC, claimed that the best interests of the child are the primary consideration when deciding whether to release them. The children's experiences tell a different story.

The actions taken in relation to them have not been in their best interests but in the interests of government policy. It doesn't have to be like this — the Government can still protect Australia's borders and find alternatives to keeping children and their families in jails. Under the *Migration Act 1958* the Minister or her delegates can declare *anywhere* a place of detention. If they must be detained, then make it home detention or detain them in a community hostel with bail-like conditions. There are alternatives open to the Minister. There is no need to detain children and their families in a maximum-security facility in the desert.

In January last year for example, the then Minister moved a group of unaccompanied asylum seeker children from Woomera to an 'alternative place of detention' — that is, Adelaide foster families. This was just for a small group of unaccompanied children who had been detained at Woomera in 2002. However, the majority of detainee children do not arrive here unaccompanied.

Improving Conditions

The refugee children in NSW who told their stories to the Commission nominated their priorities for changing the detention centres:

More teachers, a nice room, computers and they have to put effort in to teach them so they can use their time

effectively. Probably, entertainment and activities like football and swimming in a timetable, something that is structured ... (Unaccompanied teenage boy, CCYP Inquiry Submission).

... for education they have to have more hours and more teachers and different subjects and according to their age. Because they are putting people of different age in one group and it is hard to catch up (Unaccompanied teenage boy, CCYP Inquiry Submission).

They have the right to be human and treated as human, to live free within the camps. In the closed camp you feel like a prisoner. Even if there is a camp, people should have access outside the camp, children especially (Unaccompanied teenage boy, CCYP Inquiry Submission).

Helping the people — put in taps and TV and playgrounds and toys in the detention centre, clothes. No washing the toilets (Teenage girl, CCYP Inquiry Submission).

The children have spoken loud and clear. The welfare of kids in immigration detention is further jeopardised because the three agencies supposedly caring for them — the federal government, the private correctional firm that runs the detention centres and the state governments — won't consider children's interests before their own. Where are the kids in this picture while the adults are fighting with each other over jurisdictional and policy issues? They are unheard and ignored.

I have called for the abolition of detention of children and their families because the children I spoke with expressed a clear desire for it to end and because it flies in the face of everything we know about children's development. It is our responsibility to right this wrong — all of us. At no other time has the need for an independent Australian Children's Commissioner been more. An Australian Children's Commissioner, responsible to federal Parliament — not the sitting government — would be able to speak up for these children.

Child asylum seekers, just like our own children, need access to education and health care, and have the right to live with their families and be reunited with them when separated. They are entitled to a safe environment, free of fear and intimidation. Why do we recognise this for our own children but deny it for Iraqi, Afghan and Iranian children? We must take them out of the detention centres and welcome them into the community where they can play, learn and grow. At least then when our children look back on this time and ask us what we did to stand up for refugee kids, we can say we gave them their childhood.

Endnote

- 1 Iraqis and Afghans have been persecuted by their governments; Iranians are often from religious minorities persecuted by their fellow-citizens, including other kids at school. ©