

# Deportees are 'human beings with rights'

Australia's former human rights head says the number of New Zealanders awaiting deportation on "character" grounds has soared. And she sees little hope for change. **by SARAH CATHERALL**



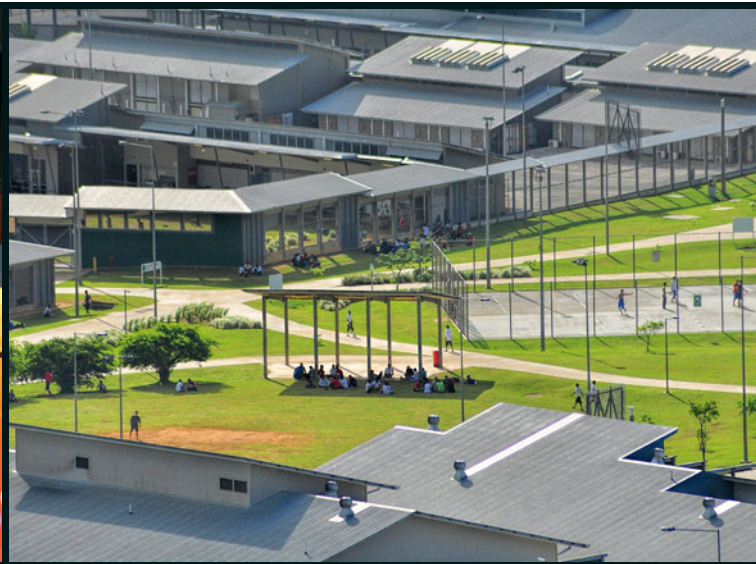
**G**illian Triggs knows what it is like to be a migrant arriving in a strange land. Sixty years ago, aged 12, she left her London home with her parents and sister and sailed to Melbourne seeking a better life.

The Australian human-rights battler thinks it was possibly this, along with her

The policy of holding asylum seekers, including newborns, on offshore islands attracted a Greenpeace protest in 2016. Left, Gillian Triggs.

upbringing in post-war London when she saw refugees who had flooded into the city, that made her particularly sympathetic to the plight of asylum seekers and Australia's immigration crisis.

"As a child, I was very conscious of



people arriving in great strife, and with no work, and I was very conscious of how concerned my parents were, too," the 72-year-old says.

As the president of the Australian Human Rights Commission from 2012 to 2017, the academic and international public-law specialist fought hard for the rights of asylum seekers, refugees and migrants held in Australia's detention centres.

Her role in bringing Australia's immigration policy to national and international attention got Triggs into political strife. It was thanks to her, and the work of the commission, that more than 800 children were released from detention centres.

In 2014, the mother of three exercised her powers to launch a national inquiry into the care of children in detention centres, called Forgotten Children. She found 1100 children were detained for 231 days on average. Most either arrived by boat with their parents without visas or were born in the centres. "The conditions were horrific. And 34% of those children were found to have medium to high levels of mental illness from being there."

During the inquiry and visits to detention centres – on Christmas Island three times, Nauru, Manus and mainland Australia – Triggs also noticed the number of Māori and Pacific Island men

being held. Their visas had been cancelled and they were waiting either to be deported or for an appeal.

New Zealanders are now the biggest group being held in Australian immigration detention centres. "On one of my detention monitoring visits, I saw Pacific Islanders six bunks to a small room, in cramped facilities the size of a suburban house."

**WORSE THAN PRISON**

On a recent visit to give the inaugural address for the Holocaust Centre of New Zealand's human-rights series, she told her Auckland audience: "Detainees have

**"This is an extraordinary change in immigration policy. Only 8.6% of New Zealanders arriving in Australia since 2002 have gained citizenship."**

reported acts of violence, abuse by security guards and a lack of medical treatment."

New Zealand men wait on average 434 days for their deportation to be processed or for an appeal against cancelled visas, she tells the *Listener*. One in five have been held against their will for more than two years. Latest reports suggest 173 New Zealand men are still being detained.

"They're often just cells within prisons. People in these places tell me they'd much prefer to be in a proper prison, where they have a supervised programme. They are in very cramped conditions, with no access to

From left: a 2016 protest against children being held in offshore detention centres; Christmas Island Detention Centre; Villawood Immigration Detention Centre after a riot in 2011; a 2017 protest over conditions on Manus Island.

education or training, and they have no idea when they are getting out."

She calls Australia's immigration policy "racist", saying 1300 New Zealanders have been deported since 2015 – the biggest group kicked out of Australia.

The cancellation of Australian visas on the grounds of "character" has soared since December 2014, when the Australian Government amended its immigration law. Last year, more than half of those visas belonged to New Zealanders, whereas before the legal changes, New Zealanders were not even in the top 10.

Australia's hard-line policy of deporting non-citizens who have committed crimes that attract a jail sentence of one year or more has raised fierce political and public opposition in New Zealand, particularly in relation to the deportation of people with no connection here, such as those born in Australia or with family across the Tasman.

Justice Minister Andrew Little took former Australia Immigration Minister Peter Dutton to task over the detention and deportation of New Zealanders, and an offer by the Key Government to take 150 refugees each year off Nauru is still on the table.

On the widening gulf between the countries, Triggs says, "This is an extraordinary change in immigration policy. Only 8.6% of New Zealanders arriving in Australia since 2002 have gained citizenship. Of those that do get citizenship, Māori and Pacific



Hardliner: Peter Dutton



Islanders comprise only 3% of successful applicants. Māori and Pacific Islanders are particularly vulnerable to deportation.”

Conservative media commentators argue that some of those kicked out of Australia have committed serious crimes – a point Triggs accepts. However, she says some visas have been cancelled when detainees have no criminal convictions or charges against them, but simply on character grounds.

“While one might not have much sympathy for some of these people, they are human beings with rights under international law: rights to family, not to be detained arbitrarily without charge or trial, freedom of movement, right to a nationality.”

As she talks, hundreds are still being detained: 140 children on Nauru, 600 men on Manus, 304 people on Christmas Island and 1400 in immigration detention in mainland prisons, including 264 in Perth’s Yongah Hill.

“One of the most disturbing things that I’ve seen was in the Blaxland compound [the high-security facility in the Villawood Immigration Detention Centre in Sydney]. That’s where I saw these men held in appalling conditions, like caged animals. They wait in some cases for many years to be deported or to be heard.”

#### PUBLIC AND PRIVATE

At Melbourne University in the 1960s, Triggs was one of just 15 female students in a law class of 350. After graduating with a law degree in 1966 – she was named Miss University one year – she devoted most of her career to international public law and international commercial law.

In her job at a commercial law firm in

London, she fought for oil concessions in the Gulf of Thailand and helped clients seeking bank loans in unstable countries. She fought in disputes over boundaries and fishing rights, publishing books and papers on international law.

Legal work paid the bills until she moved into the public sphere in 2005 with her appointment as director of the British Institute of International and Comparative Law in London. Two years later, she returned to Australia to take up the role of dean of Sydney Law School, before moving to the commission, where she oversaw 17,000 human-rights complaints a year.

### **New Zealand men wait on average 434 days. One in five have been held against their will for more than two years.**

Triggs doesn’t prefer one type of work over the other; they’ve both helped shape her. She thinks there is a rising call for businesses to act ethically, as demonstrated by Australia’s banking inquiry. “I’m glad I have done both,” she says.

During her tenure at the commission, Australia’s population hit 25 million. There was growing debate about migration policy, fuelled by asylum seekers arriving by boat, the perceived growing threat to national security, rising Islamophobia and Australia’s expanding cities.

The Federal Government has since cut immigration numbers by 21,000 to the

lowest levels seen since 2007 – a move Triggs doesn’t agree with.

Dutton’s argument that being too lenient to detained children and their families will open the floodgates to asylum seekers doesn’t wash with her. He has said that if Australia is too sympathetic, its border security will be at risk and the country will see a return to 2013, when 50,000 asylum seekers and refugees arrived by boat, aided by people smugglers.

Triggs, who is calling for Australia to have a bill of rights, as other common-law nations do, says, “Military vessels around the seas in Australia are stopping ships coming in. This notion of backdoors and stopping boats and so on are all slogans that really create a false legal position.”

She does not believe Australia’s latest political upheaval, with Scott Morrison replacing Malcolm Turnbull as Prime Minister and Liberal Party leader and Dutton losing the immigration portfolio but retaining border protection, will lead to any significant policy changes towards asylum seekers or refugees.

As immigration minister under Tony Abbott from 2013-14, Morrison vigorously endorsed the policy of extraditing migrants convicted of serious offences.

“At the end of the day, if you’re here on a visa and you’ve committed sexual assault, if you’re a gangster, if you’re a bikie gang member, if you’ve engaged in physical assault or murder or something like that, you’ve worn out your welcome in this country,” Morrison said in 2015. “I don’t care how long you’ve been here. You’ve worn out your welcome if you’re here on a visa.” ■