

National Inquiry into Children in Immigration Detention

Sydney Public Hearing

Friday, 4 April 2014

President Good morning everyone, for those of you who don't know me, I am Gillian Triggs the President of the Australian Human Rights Commission and I do very warmly welcome each of you for coming here today and for those of you who will be giving some evidence, I really appreciate that you have taken the time and are willing to give some serious thought to your evidence. And in doing that, may I acknowledge the traditional owners of the land on which we meet, the Gadigal people of the Eora Nation and I pay my respect to their elders past and present. Well I thought what I might do is just take a very few minutes to explain why we are here and what's the object of the Human Rights Commission is in conducting this inquiry into children held in closed detention throughout Australia. As you may know, we've held, as a Commission, grave concerns for a very long time in fact since the early 2000s when the first policy was adopted to detain children and we held an inquiry reported under the name of The Last Resort for I think, obvious legal reasons and that report was issued in 2004 and it had some influence on Government policy and ultimately the release of all children into the community. We have remained, of course actively engaged in observing the conditions in which children are held and of course you will be aware of my predecessor's inquiry into the means by which the age of Indonesian children was determined through the x-ray process. That was a particularly interesting inquiry because the Honourable Catherine Branson was able working with Government and Departmental Officials to change the use of x-ray means to determine a child's age before she actually finally handed down the final report. And I mention that because it is an illustration of the way in which this Human Rights Commission can work very productively with Government and with Government Departments to achieve a result which is in accordance with international law and the international treaties that underpin the statute of the Commission.

That's a little bit of the history, but of course you will also know that the numbers of children held in closed detention dramatically increased last year and peaked around July with nearly 2,000 children in closed immigration detention. The highest number ever recorded in Australian history. We became also aware from objective facts available on the Department of Immigration and Citizenship's website that the length of time on average that children are being held in immigration detention was last year and is now increasing. So there are a combination of reasons why we wanted to hold, if you like a third inquiry both to follow up on the 10 year report from 2004 or the anniversary of that report but also to examine the conditions and circumstances the

health and particularly the mental health of children held in closed detention for what appear to be increasing periods of time with what the evidence suggests is increasing impact on their health and mental wellbeing. It was impossible or certainly not appropriate for us to call that inquiry last year when the numbers peaked because as you will all remember we were moving rapidly into a period of caretaker government and an inquiry by the Commission at that time would not have been a helpful exercise. The Government has now been in office for six months or more and in February we decided that there had been time to consider policies to consider the impact of detaining children and it was appropriate that I should exercise my powers as President under section 11.1F of the Australian Human Rights Commission Act of 1986 to launch an inquiry focussed on children and on children in closed immigration detention. As of 28 February this year there were 929 children being held in facilities in Australia and a further 177 children in detention in Nauru. The focus of the inquiry is on assessing the impact of immigration detention on health, well-being and development of children and we focus particularly upon the laws, practices and policies that relate to children under Australia's international legal obligations. Particularly those arising under the Convention on the Rights of the Child. And I will focus and phrase many of my questions by reference to international law and that Convention on the Rights of the Child so that is how we will make our assessments on the evidence when we finally report hopefully in September of this year. As part of the inquiry I have invited individuals and organisations to give evidence at the public hearings and this is the first of those hearings and the second will be held in Melbourne it's possible that we will hold a third but we will decide that later.

In addition to the general question of the impact of closed detention on children, the hearing today will focus on the issues of detention in Christmas Island, the pre-transfer assessments and processes that take those children to Nauru, we will also focus on unaccompanied minors and in particular on the access to health and mental services for children and their families.

These are public hearings. They are open to all members of the public to attend and to observe. The media is also invited to attend and to film and may film some sections of the proceedings. Any media present at the hearing today are advised that I have made a direction under section 14 of the Australian Human Rights Commission Act which prohibits the disclosure of the identity of certain persons who may be mentioned during the hearing and it may be that we do mention particular people or people who are readily identified from the circumstances and we do require that the identity if it can be established of those mentioned during the hearing is kept confidential. Copies of the media guide to this direction are available just outside the room if you want to read it more precisely. The hearings are being recorded and a transcript of all the evidence given will be available on our inquiry website within the

next few weeks. As I have said, as a matter of process the witnesses who are appearing today are ones whom we have specifically invited to give evidence. Prior to each witness giving evidence, he or she will be asked to swear an oath or make an affirmation. The importance of this lies in the fact that it is absolutely vital that our report be accurate and that the evidence that we receive from you and reproduce in our report is evidence that is credible and has the weight of the law and the weight of an affirmation or oath behind it.

Each witness will be given the opportunity to make an opening statement although they don't need to but most particularly I do ask that opening statements be confined to less than 5 minutes. I will then ask questions of witnesses and again, those questions will be framed by reference to Australia's Human Rights obligations under international law, those obligations being the ones that underpin the authority of the Commission and my authority as President to hold this inquiry. So with those basic comments in mind, may I call the first witness.