

National Inquiry into Children in Immigration Detention 2014

Sydney Public Hearing

Tuesday, 9 September 2014

President	<p>For those of you who don't know me, Gillian Triggs, the President of the Australian Human Rights Commission. I would like to begin by acknowledging the traditional owners of the land on which we meet and I pay my respect to their elders past and present. May I also welcome the audience and the organisations that are represented here today and to those who have travelled to be here for this fifth and final public hearing into the condition, the mental and physical welfare of children held in mandatory detention. Before I call the Honourable Chris Bowen, as I shall in a few moments, I just wanted to take this opportunity at the last of these public hearings to make a few comments about the work of the Commission in respect of holding children in detention. Many of you who will be aware that one of the stimulants for this inquiry was that ten years ago in 2004 we conducted our first inquiry into children in detention and that was reflected in the work, in the report, A Last Resort and the Commission has maintained its work in this area since. My predecessor the Honourable Catherine Branson conducted an inquiry into the means by which the age of children held in detention, particularly those suspected of people smuggling was determined via wrist x-rays in 2012. That was a particularly successful exercise in the sense that the Government fairly readily accepted the recommendations that were made, that wrist x-rays were not appropriate and policy was changed. You'll also recall shortly after the report, A Last Resort in 2004 most, if not all of the children were released from detention a short period after that report. So we have seen positive responses from the work of the Commission with regards to these inquiries. We have also conducted immigration detention facility monitoring visits over the years particularly in the last couple of years on Christmas Island, Darwin, in Leonora in Western Australia and at Villawood. We persistently and consistently make submissions to Parliamentary Committees that raise concerns about rights of children subject to immigration detention or to third country processing and we make submissions to the Joint Selection Committee on Australia's immigration detention network, to the inquiry into Australia's agreement with Malaysia with regards to the expert panel on asylum seekers and to the Joint Parliamentary Committee on human rights on the regional processing system. We've intervened with of course the consent of the High Court of Australia in the so called Malaysia solution case which concerned the transfer of unaccompanied children to</p>
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Malaysia in 2011 and we've investigated complaints that were brought directly to the Commission by or on behalf of children regarding alleged breaches of their human rights while in immigration detention and we reported on these breaches to Parliament in a number of cases. The Commission's monitory work has continued over the 10 years since the last report was given and it demonstrates the very serious concerns that we had about the continuing detention of children. In April 2013 the number of children in closed immigration detention began to reach unprecedented levels in Australian history. Over 1,600 were held on the 13 April 2013 and they reached 1,992 in July 2013. In light of the significant increase in the numbers of children being detained, the Commission then planned an investigation into the detention of children ten years after our first report named A Last Resort. However given the very clear likelihood of a Federal Election last year it was decided by me that it would not be appropriate to call a national inquiry in mid-2013. We would move we knew very rapidly into caretaker mode and to hold an inquiry at that time, at the peak of children held in detention would not have been a helpful exercise. We then waited until the election and until 6 months after that election for the new Government to adopt any changes that it might choose to do so with regard to holding children in detention and I announced an inquiry on 3 February this year. One of the reasons for holding this inquiry was the growing statistical evidence from the Department of Immigration that the time for which children were being held, those times were expanding and they were going literally by the day to again unprecedented periods of time. At the last hearing I invited the current Minister for Immigration and Border Protection, the Honourable Scott Morrison MP to give evidence which he did and today I invited the Honourable Chris Bowen MP also to give evidence relating to the period during which he was the Minister of Immigration from September 2010 to February 2013. During this time, Mr Bowen as Minister was responsible for a number of key policy developments relating to asylum seeker children including, most significantly the reintroduction in August 2012 of off-shore detention centres in Nauru and in Papua New Guinea. This policy, which I am sure you are all aware has bipartisan support is the reason that there are now currently 183 children detained in Nauru. I am of course very grateful that Mr Bowen accepted that invitation with promptness. After this hearing is concluded I and the team at the Human Rights Commission will gather the evidence over the last six months and will prepare a report of our findings and recommendations for Parliament. We hope then that the facts and the evidence will speak for themselves. Once the report has been tabled in Parliament the report will be available for the public. My expectation is that we will report by the end of September, possibly early October and it will then be a matter for the Attorney to submit the matter to Parliament within 15 sitting days. I will be assisted again in this hearing by counsel Ms Naomi Sharp, the media has been invited to attend and they may film sections of the proceedings. May I remind the media and each of you that I have already 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 this hearing and copies of that direction are available if any of you would like to see it. The hearings today will be recorded as usual and a transcript of the evidence will be available on our website relatively soon. We have only one witness today the Honourable Chris Bowen and he will I understand make an affirmation and he will also have an opportunity to make an opening statement of no more than five minutes, Ms Sharp will then ask some questions. Those questions, and I really stress this point, those questions are framed in light of the human rights obligations that Australia has under international law and as you may know the mandate of this Commission is human rights as defined by international law so that is how and why we ask the kinds of questions we do. So now may I move to the Honourable Chris Bowen and ask for you to take the affirmation.