**16 April 2011**

**Child detention a festering sore**

It’s been nearly seven years since I was Australia’s Human Rights Commissioner and tabled a report in Federal Parliament detailing the repeated human rights breaches of children in our detention centres. While travelling the country investigating the issue I met children with clinical depression and post traumatic stress disorder, children who were plagued with nightmares, bed-wetting and suicidal thoughts. The final report, *A Last Resort? National Inquiry into Children in Immigration Detention* sparked a national debate about our immigration detention policies and lead to children being released from detention. But it seems basic decency and dignity in Australia for these extremely vulnerable children is being squandered by a chronic lack of moral leadership among our national leaders. The current situation in our detention centres is nothing short of a national disgrace.

According to statistics released by the Immigration Department in February, more than 900 children are currently living in secure, locked detention facilities. The government’s claim that children are not being held in detention centres is a dangerous sham. Many of the facilities currently being used have simply been renamed, and many, such as the ‘Alternative Places of Detention’, are actually worse for children, as they lack recreational facilities and outdoor spaces. It speaks volumes that the lobby group ChilOut (Children Out of Detention), which was disbanded after the Howard government’s decision to release children from detention in 2005, has reformed to again push for change. In the absence of any leadership from the government or the Human Rights Commission, it’s heartening to see our NGOs again taking up the cause.

In my time as the Human Rights Commissioner I was struck by how little and how much authority I was afforded. On one hand the role is mainly symbolic, such as issuing strongly worded press releases that are generally given lip service by people of influence. But the power afforded to the Commissioner once an inquiry is called is phenomenal. The Commissioner can call witnesses, subpoena evidence, and as I discovered help bring about meaningful change. I note the Commission has recently announced an enquiry into the treatment of women in the Defence Force, and I hope their recommendations are enacted in full. Yet what of the children suffering in our detention centres, the boys and girls who are forced to live like animals in a supposedly civilised country?

Part of the problem, in my opinion, is the fact that our current Human Rights Commissioner is also the President of the Human Rights Commission. As President, Catherine Branson QC is required to mediate internal disputes, while as Commissioner she is forced to advocate for change. It’s hard to see how this arrangement could produce a Commissioner who is prepared to pick a fight with well resourced and powerful parties wielding influence at the board level. It’s one thing to issue media releases raising concerns with detention centres, or to table a report restating the Commission’s long held view that the Christmas Island detention centre should be closed. It’s another thing entirely to spark ructions with powerful political and bureaucratic colleagues who are intimately involved with the inner workings of the board.

The other part of the problem is obvious. The federal government foolishly brought the Pacific Solution to a close without allowing asylum seekers to settle in the community while their claims are processed. We are now left with the worst of both worlds, a situation where more innocent children are being placed in detention, for longer amounts of time. Much has been made of Robert Manne’s admission that it would have been better to keep the Howard era border protection policies, as they reduced the number of boats and subsequently reduced the number of children being placed in detention. But that only looks at one side of the equation. It seems no one’s considered dismantling the border protection regime without also doing away with mandatory detention. Surely this would be the Labor way?

But it seems the government is in no mood to revisit the issue. Aided in part by an acquiescent Human Rights Commission, the government is refusing to acknowledge that the system is failing. It’s failing the asylum seekers, who are forced to live in increasingly cramped conditions for longer periods of time while their claims are processed. It’s failing the children who are seeking a new life in Australia, by breaking their wills and their minds in what can only be described as state sanctioned sensory deprivation facilities. And it’s failing the taxpayers who are forced to cough up the when asylum seekers win compensation for the hell they’ve been put through. Surely there must be a better way. Considering the lack of movement by the Federal Government, an inquiry by the Human Rights Commission, as opposed to strongly worded press releases, would be a good first step.