# National Inquiry into Children in Immigration Detention 2014

## Submission form

### Your Details

1. Full name of person or organisation making the submission: *(required)*

   Kommonground Inc- Jema Stellato Pledger

2. Submission material:  
   
   - Confidential
   
   - To be published *(please tick one)*

3. Email address: *(required, but no email addresses will be published)*

   *(Please be aware that while every endeavour will be made to ensure confidentiality, there is a possibility that information marked confidential may be released, in whole or in part, if required by the Freedom of Information Act 1982.)*

4. Please tell us who you are: *(required)*

   - [ ] Child who lived in an immigration detention facility previously
   - [ ] Child currently living in immigration detention
   - [ ] Parent of a child in immigration detention
   - [ ] Guardian or carer of a child in immigration detention
   - [ ] Adult living in immigration detention
   - [ ] Professional working in immigration detention  
     
     - Please specify your role:
       
       - Legal practitioner/academic
       - Medical practitioner
       - Academic
       - Other - please specify:

   Human Rights /Cross Cultural Arts Practitioner  
   PhD Candidate ACU
The impact of the length of detention on children

- Does the timeframe of the detention have a particular impact on children? For example, is there any difference in the ways in which a child responds to immigration detention after 1 week, 1 month, 3 months, 6 months, 1 year? Please give examples.
I shall begin with a story from a play- Los Santos Inocentes (The holy Innocents) 2007 about children in detention told by Australian children (Jema Stellato Pledger)

"I couldn't find my mama, she said something wrong and they put her somewhere. I can't sleep without my mama any more. I am always scared since we came to freedom. Now I ask the other ladies to be my mama at night. Usually they say yes and I am not scared, i have another mama to hold me"

This child's mother had been put in solitary because she complained about the water and created a 'riot'. The child didn't know where her mother was and luckily some of the other women protected her. I say luck, because this child was left wide open for exploitation. The family was in detention for more than 8 months and settled in Melbourne.

In 2012 Alex Pagliaro, a case worker with amnesty visited families on Christmas island and found an almost 'happy' atmosphere which was in direct contrast to them men she visited on the island. These families, had only been detained for 3 months; were revelling in being safel and believed in Australia and its opportunities of a new life - in other words the dream was still alive.

Conversely research indicates that more harm is done the longer the period of detention and Robjant et al, 2009 maintain “longer periods of detention are associated with worse outcomes” (p. 310).

Children and young people are at significant risk in terms of developmental, educational and emotional delays as well as creating an adverse effect within the child and carer relationship.

The length of time in detention also increases thoughts of self harm and self destructive behaviours in addition to the pre detention trauma of events in the country of birth (APS, 2004; Thomas & Lau, 2002 in Submission to Australia's Immigration Network).

In the Human Rights Equal Opportunity Commission inquiry into Children in Immigration Detention (2004), the level of suicidal thoughts and acts of self harm amongst the younger detainees were distressing. Issues such as panic; anxiety, bed wetting and dissociative behaviour to name a few were also evident in the young. In short the young detainees were suffering from Major Depressive Disorder and Post Traumatic Stress Disorder.

Those detained for more than six months showed greater levels of the issues described above and also many met the "diagnostic cut-off for PTSD, depression, and moderate to severe mental health-related disability than those who had been detained for shorter periods or who had not been detained' (Steel et al (2006 p. 10 in APS Submission to Australian Immigration Detention Network).
Further when Coffey et al (2010) interviewed refugees who had been detained on average for 3 years, it was evident that even post release their ability to function and build their lives was severely compromised.

The most extreme account of damage inflicted in detention was to a 7 year old Iranian boy who was diagnosed with post traumatic stress due to his experiences in Woomera and Villawood detention centres between March 2000 and January 2002. (HREOC 2002 and 2004: 343:348 in Grewcock 2008 p.17) ‘His symptoms in Woomera included bed wetting, sleep disturbances, including waking at night and at times griping his chest saying “they are going to kill us” [HREOC 2004:344] This accounts is an examples of many as told through a number of reports cited above. It would not be unreasonable to assume that those in detention, being treated like criminals, have severely compromised senses of self and the psychological damage done is likely to take years to ‘repair’ (Stellato Pledger 2012).

Though much of this research was done more than four years ago, it is is doubtful that many of the issues of detention have changed. In fact there are more children in detention than when the initial Inquiry ‘A Last Resort’ was announced in 2004. Chilout puts the figure at approximately 1,023 children currently in detention.

The longer children are detained the more likely they will come into contact with adult self-harmers; suicide attempts; riots; abuse and a myriad of other potential atrocities, which many will also imitate. The damage being done to children under these conditions is a frightening reality that will pervade into adulthood.

Under Article 37 of the Convention on the Rights of the Child, children can only be kept in detention as a last resort and for the shortest possible time. (Early Childhood Australia- 2011) So many of the children have experienced pre migration trauma only to be placed into further trauma under Australia’s immigration policies.

We have enough evidence of the damage done; that no child should be in detention and Australia’s breech of the convention is shameful.
The guardianship of unaccompanied children in detention in Australia

- What care and welfare services are available for children who arrive in Australia without parents or family members?
- Are the supports adequate?
- Is closed detention appropriate for unaccompanied minors? How can they be best supported?
- The Minister for Immigration and Border Protection is the legal guardian for unaccompanied children in detention – is this an appropriate arrangement?

Write your response here:

I will respond to the last ‘question’ and in doing so, shall answer the preceding questions.

The Minister for Immigration and Border protection as the guardian of all unaccompanied children seeking asylum in Australia is of great concern. As guardian of these children, the minister has the ‘same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have’ (Immigration (Guardianship of Children) Act 1946 (Cth) (IGOC Act), ss6, 4AAA). The minister remains their legal guardian from the moment of arrival until the unaccompanied child turns 18 or leaves Australia (IGOC Act, s6). It is under the minister’s protection that welfare services are available; adequate supports are in place and whether closed detention is appropriate for unaccompanied minors’ (Australian human Rights commission)

If the minister is afforded the same tights and duties as a natural parent/guardian of a child, it is his/her duty to ensure that, like his/her natural child, is safe, has access to education and welfare services, notwithstanding that the child in the minister care is not subjected to danger of any form.

In terms of the minister being the appropriate person to care for children The Convention on the Rights of the Child (CRC) requires ’ Australia to ensure that children lacking the support of their parents, especially those who are seeking asylum, receive the extra help they need to guarantee enjoyment of all rights set out under the CRC and other international human rights or humanitarian instruments the appointment of a guardian is not sufficient in itself to satisfy the obligations towards children. The guardian must address his or her mind to the best interests of the child in all actions affecting children including which include whether or not to detain; location of detention; length of detention and care arrangements whilst in detention’. ( AHRC; CROC)
Clearly Australia, therefore the minister is in breach of the terms of the convention in respect to providing education; welfare services for unaccompanied minors; detaining children in remote locations with limited services, where the adults’ are depressed; self harm and attempt suicide in front of children. How can this be in the best interest of the child? It can’t.

The care and services vary from one detention to another. Some are better equipped to deal with children than others, but in reality, the situation of indefinite detention/closed detention of children is morally wrong.

In a report on ABC- Poor Education for Children in Detention on Christmas Island-(Friday April 4th), Sophie Peer from Chilout states ‘We have known for some time now that education on Christmas Island is inadequate, and in fact, more to the point, it can never be made”. While Gillian Tiggs maintains that Save the Children provide Education for 150 students on Nauru.

In a report today (30 May 2014) from Chilout, it was revealed from five independent medical professionals that there is a the lack of ‘basic health screening and provisions putting lives in danger’. What is interesting is that the educational needs are not being met as originally stated early by Professor Tiggs via information from Save the children Fund. In fact the Fund provides 4 hours of schooling per day and said that they were in dire need of basic such as pens, paper, water bottle and school bags. (Chilout 30, May 2014)

In terms of health issues, the visiting health advisory group to Nauru were not able to access ‘complete documents, which in itself is concerning’. However it is believed that immunisations have been completed, though not confirmed as access to documentation is not available. The group noted an abundance of holes in basic health needs such as no dentist; paediatrician; nor staff with neo- natal or even resuscitation experience for the very young. What is of particular concern is the staff are not educated or experienced in terms of current child protection issues.

ChilOut believes there are currently more than 40 unaccompanied children detained on Nauru. “DIBP does not provide this statistic, the health professionals visited when 10 unaccompanied children were detained on Nauru and were told 100 more would arrive. Following transfers off Christmas Island and numbers available for children on Nauru leads us to the conclusion that there are 40-50 unaccompanied children detainted at the Nauru RPC today ” ( And when a child Dies-In Nauru? May 30th 2014, Chilout.org )

Scott Morrison is the guardian of each of these children and he decided that it was in their best interest to be locked up indefinitely in what are sub standard conditions across healthcare and education.

The Minister is derelict in his duties as guardian of the innocent and in reality can’t make appropriate choices based on the needs of the children under the Convention of the rights of the child as his government is the one committing the breaches.

As someone who was awarded parental responsibility of my niece, and as a foster parent, I feel I have an understanding of what it means to be a responsible guardian with the best interest of the child always in view. From this perspective the Minister has failed these children disgruntly.
I recommend unaccompanied minors can best be supported in the following ways:

1. All children out of detention

2. That the minister relinquish his guardianship of unaccompanied minors - he is unable to be objective in this role.

3. Where possible place unaccompanied minors in foster families.

4. That foster families; DHS (no one better) be awarded guardianship/ parental responsibility.

5. Or that the communities involved in churches, synagogues and mosques share parental responsibility through government funded housing with conscientious live in house parents, to be accountable to child protection agencies.

6. Children must go to school and have access to ESL classes; educational psychologist; trained personnel in child trauma and have the opportunity to play in a safe and secure environment. Have the opportunity to be children.

7. Where foster care may not be an option, (space issues), a family may offer respite care to an unaccompanied minor, giving them a sense of belonging and place.

Children are our future and as adults it is our responsibility to ensure that they enjoy a life filled with care and open hearts.