



Australian
Human Rights
Commission

Rahimi (deceased) v Commonwealth of Australia (DIBP)

[2015] AusHRC 94

© Australian Human Rights Commission 2015.



ISSN 1837-1183

The Australian Human Rights Commission encourages the dissemination and exchange of information presented in this publication.

All material presented in this publication is licenced under a Creative Commons Attribution 3.0 Australia licence, with the exception of the Australian Human Rights Commission Logo.

To view a copy of this licence, visit <http://creativecommons.org/licences/by/3.0/au>.

In essence, you are free to copy, communicate and adapt the work, as long as you attribute the work to the Australian Human Rights Commission and abide by the other licence terms.

Design and layout Dancingirl Designs

Printing Masterprint Pty Limited

Electronic format

This publication can be found in electronic format on the website of the Australian Human Rights Commission:

www.humanrights.gov.au/publications/index.html.

Contact details

For further information about the Australian Human Rights Commission, please visit www.humanrights.gov.au or email communications@humanrights.gov.au. You can also write to:

Communications Team
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001

**Rahimi (deceased) v
Commonwealth of Australia
(Department of Immigration
and Border Protection)**

[2015] AusHRC 94

Report into arbitrary detention

Australian Human Rights Commission 2015



**Australian
Human Rights
Commission**

Contents

1	Introduction	3
2	Summary of findings and recommendations	3
3	Background	3
4	Legal framework	4
5	Human rights relevant to this complaint	5
6	Assessment	5
	6.1 Act or practice of the Commonwealth	5
	6.2 Inconsistent with or contrary to human rights	6
7	Recommendation	7
	7.1 Power to make recommendations	7
	7.2 Consideration of compensation	8
	7.3 Recommendation that compensation be paid	10
	7.4 The Department's response to my recommendation	10



**Australian
Human Rights
Commission**

June 2015

Senator the Hon. George Brandis QC
Attorney-General
Parliament House
Canberra ACT 2600

Dear Attorney,

I have completed my report pursuant to s 11(1)(f)(ii) of the *Australian Human Rights Commission Act 1986* (Cth) into the complaint made by Mr Rahimi against the Commonwealth of Australia – Department of Immigration and Border Protection (Department).

I have found that Mr Rahimi's detention at Villawood Immigration Detention Centre from 15 September 2010 until his death on 27 February 2012 was arbitrary within the meaning of article 9(1) of the *International Covenant on Civil and Political Rights* (ICCPR).

In light of my findings, I recommend that the Commonwealth pay compensation to Mr Rahimi's estate.

By letter dated 15 May 2015 the Department provided a response to my recommendation of compensation. I have set out the Department's response in part 7.4 of this report.

I enclose a copy of my report.

Yours sincerely,

A handwritten signature in black ink that reads "Gillian Triggs".

Gillian Triggs
President
Australian Human Rights Commission

Australian Human Rights Commission

Level 3, 175 Pitt Street, Sydney NSW 2000
GPO Box 5218, Sydney NSW 2001

Telephone: 02 9284 9600

Facsimile: 02 9284 9611

Website: www.humanrights.gov.au

1 Introduction

1. The Australian Human Rights Commission has conducted an inquiry into a complaint by Mr Ali Rahimi, who alleged that certain acts of the Commonwealth of Australia – Department of Immigration and Border Protection, in relation to his detention, were inconsistent with his human rights, namely the rights recognised under the *International Covenant on Civil and Political Rights* (ICCPR).
2. Mr Rahimi made a complaint to the Commission on 12 October 2011. He died on 27 February 2012. The Commission issued its preliminary view in relation to this complaint on 23 April 2013. Subsequently, the Commission placed its inquiry into the complaint on hold as Mr Rahimi's death was the subject of a coronial inquest. In March 2014, the Deputy State Coroner found that Mr Rahimi died of natural causes.
3. In February 2015, the Commission was informed by the late Mr Rahimi's legal representative, Ms Azam Alamshahi, that she sought the continuation of the Commission's inquiry into Mr Rahimi's complaint. In these circumstances, I consider it is appropriate to continue the Commission's inquiry.¹
4. This is a report under s 29(2) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act) setting out the findings of the Commission in relation to Mr Rahimi's complaint.

2 Summary of findings and recommendations

5. As a result of conducting this inquiry, I have found that the detention of Mr Rahimi in Villawood Immigration Detention Centre (VIDC), from 15 September 2010 until 27 February 2012, was not necessary and not proportionate to the Commonwealth's legitimate aim of managing its migration system and amounted to a breach of his rights under article 9 of the ICCPR.
6. In light of this finding, I recommend that the Commonwealth pay an appropriate amount of compensation to Mr Rahimi's estate, in accordance with the principles outlined in part 7.2 below.

3 Background

7. Mr Rahimi was a national of Iran who arrived in Australia by plane on 24 April 2010. He presented a false passport and was not able to produce any valid evidence of his identity. He did not hold a visa. He was considered to be an unlawful non-citizen and was placed in VIDC.
8. On 7 May 2010, Mr Rahimi applied for a Protection visa. His application for a Protection visa was refused by the Minister's Delegate and this decision was affirmed by the Refugee Review Tribunal (RRT). Mr Rahimi sought judicial review of the RRT's decision, however this application was dismissed as it was made out of time.

9. Several requests for Ministerial intervention were made by Mr Rahimi. On 28 March 2011, the Department assessed Mr Rahimi's request for intervention under section 48B of the *Migration Act 1958* (Cth) (Migration Act) – for the Minister to lift the bar and allow him to make a further protection visa application – as not meeting the Minister's guidelines for referral. At this time, the Department also assessed Mr Rahimi's request as not meeting the Ministerial guidelines under section 417 of the Migration Act, which allows the Minister to substitute a more favourable decision for a decision of the RRT.
10. On 29 March 2011, the Department forwarded Mr Rahimi's request under section 417 on a detention schedule to the Minister. The Minister requested from the Department a further submission in relation to Mr Rahimi's case, including a submission under section 48B. In addition, on 24 June 2011, the Department initiated ministerial intervention requests under section 195A (to consider the grant of a bridging visa) and 197AB (to consider placement in community detention) and included these options in a submission for the Minister.
11. On 14 July 2011, the Department provided its submission to the Minister, seeking his advice on whether he wished to exercise his public interest power under sections 48B, 417, 195A or 197AB. On 21 July 2011, the Minister declined to exercise his powers under these provisions of the Migration Act.
12. From about August 2011, it appears that Mr Rahimi was experiencing difficulties in coping with the detention environment. In a report dated 8 September 2011, Dr Michael Dudley and Dr Katherine Mullin diagnosed Mr Rahimi with Major Depressive Disorder and Post Traumatic Stress Disorder (PTSD) and recommended that he be 'released from prolonged, restrictive detention into community detention'. On receipt of this psychiatric report in mid-October 2011, the Department initiated a fresh assessment to establish whether Mr Rahimi's circumstances met the Minister's guidelines for referral under section 197AB. On 15 February 2012, the Department assessed Mr Rahimi as meeting these guidelines.
13. On 27 February 2012, Mr Rahimi died due to heart failure. On 19 March 2014, Deputy State Coroner C. Forbes found that Mr Rahimi died of natural causes, due to a ruptured dissecting aorta.

4 Legal framework

14. Section 11(1)(f) of the AHRC Act provides that it is a function of the Commission to inquire into any act or practice that may be inconsistent with or contrary to any human right.²
15. Section 3(1) of the AHRC Act defines 'act' to include an act done by or on behalf of the Commonwealth. Section 3(3) provides that a reference to, or the doing of, an act includes a reference to the refusal or failure to do an act.
16. The functions of the Commission identified in s 11(1)(f) of the AHRC Act are only engaged where an act complained of is not one required by law to be taken.³

5 Human rights relevant to this complaint

17. The rights and freedoms recognised by the ICCPR are ‘human rights’ within the meaning of the AHRC Act.
18. The article of the ICCPR that is relevant to this complaint is article 9(1). It provides:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
19. The following principles relating to arbitrary detention within the meaning of article 9 of the ICCPR arise from international human rights jurisprudence:
 - (a) ‘detention’ includes immigration detention;⁴
 - (b) lawful detention may become arbitrary when a person’s deprivation of liberty becomes unjust, unreasonable or disproportionate to the Commonwealth’s legitimate aim of ensuring the effective operation of Australia’s migration system;⁵
 - (c) arbitrariness is not to be equated with ‘against the law’; it must be interpreted more broadly to include elements of inappropriateness, injustice or lack of predictability;⁶ and
 - (d) detention should not continue beyond the period for which a State party can provide appropriate justification.⁷
20. The United Nations Human Rights Committee has held in several cases that there is an obligation on the State Party to demonstrate that there was not a less invasive way than detention to achieve the ends of the State Party’s immigration policy (for example the imposition of reporting obligations, sureties or other conditions) in order to avoid the conclusion that detention was arbitrary.⁸
21. In the case of Mr Rahimi, it will be necessary to consider whether his prolonged detention in a closed detention facility could be justified as reasonable, necessary and proportionate on the basis of particular reasons specific to him and in light of the available alternatives to closed detention.

6 Assessment

6.1 Act or practice of the Commonwealth

22. I find that the Minister’s failure to grant Mr Rahimi a visa or place him in a less restrictive form of detention than VIDC constitutes an act under the AHRC Act.
23. Section 189(1) of the Migration Act requires the detention of unlawful non-citizens.
24. However, under section 195A of the Migration Act, if the Minister thinks it is in the public interest to do so, the Minister may grant a visa to a person detained under section 189 of the Migration Act.

25. Under section 197AB of the Migration Act, if the Minister thinks that it is in the public interest to do so, the Minister may make a determination that particular persons are to reside at a specified place, instead of in immigration detention.
26. Further, the definition of 'immigration detention' includes 'being held by, or on behalf of an officer in another place approved by the Minister in writing.'
27. Accordingly, the Minister could have granted a visa to Mr Rahimi, made a residence determination in relation to him under section 197AB of the Migration Act or could have approved that Mr Rahimi reside in a place other than VIDC.

6.2 Inconsistent with or contrary to human rights

28. Mr Rahimi was detained in VIDC from 24 April 2010 until his death on 27 February 2012. It is claimed on behalf of Mr Rahimi that his detention in VIDC was arbitrary.
29. Under international law, to avoid being arbitrary, detention must be necessary and proportionate to a legitimate aim of the Commonwealth.
30. Detention in the course of proceedings for the control of immigration is not *per se* arbitrary, but the detention must be justified as reasonable, necessary and proportionate in light of the circumstances, and reassessed as it extends in time.⁹ The United Nations Human Rights Committee has stated that:

Asylum-seekers who unlawfully enter a State party's territory may be detained for a brief initial period in order to document their entry, record their claims, and determine their identity if it is in doubt. To detain them further while their claims are being resolved would be arbitrary absent particular reasons specific to the individual, such as an individualized likelihood of absconding, danger of crimes against others, or risk of acts against national security.¹⁰

Further, detention for immigration purposes without a reasonable prospect of removal may contravene article 9(1) of the ICCPR.¹¹

31. Mr Rahimi was security cleared on 15 September 2010, using the name and details he provided to the Department. In *Al Jenabi v Commonwealth of Australia*, former Commission President, Catherine Branson QC, accepted that detention may be justified in order to conduct initial investigations including security checks by the Department.
32. There is no information before me to suggest that it was necessary to detain Mr Rahimi in an immigration detention centre after he was security cleared.
33. There is no information before me to suggest that it was necessary to detain Mr Rahimi in an immigration detention centre because he was a flight risk, or because he posed a risk to the Australian community. There were no incidents in detention recorded in relation to Mr Rahimi. I note that on two separate occasions, 24 June 2011 and 15 February 2012, Mr Rahimi was assessed as meeting the guidelines for referral to the Minister to consider placement in community detention.

34. The Commonwealth claims that Mr Rahimi's detention was not arbitrary because the Commonwealth was attempting to remove him from Australia. Mr Rahimi had a live application for a Protection visa from 7 May 2010 until 26 May 2010. Mr Rahimi had proceedings on foot in relation to the refusal to grant him a Protection visa from 2 June 2010 until 13 October 2010 (RRT) and from 15 September 2011 until 22 December 2011 (judicial review). It is contrary to the Department's policy to attempt to remove someone while their visa application is being considered or while RRT or judicial review is in progress. However, no official explanation has been provided as to why Mr Rahimi could not have resided in the community pending the conclusion of the judicial review process.
35. Further, it appears to have been known throughout the period of Mr Rahimi's detention that there was little chance of resolving his immigration status in the short term by returning him to Iran. The Department's submission to the Minister of 14 July 2011 (discussed at paragraph 11 of this report) states:
- no timeframes for issuing of travel documents for involuntary Iranian clients are available and the process is protracted. To date, the department has not been able to obtain a travel document for an involuntary Iranian national.
36. Accordingly, I find that the detention of Mr Rahimi in VIDC, from 15 September 2010 until 27 February 2012, was not necessary and not proportionate to the Commonwealth's legitimate aim of managing its migration system. The Department has not explained why Mr Rahimi could not reside in the community or in a less restrictive form of detention while his immigration status was resolved.

7 Recommendation

7.1 Power to make recommendations

37. Where, after conducting an inquiry, the Commission finds that an act or practice engaged in by a respondent is inconsistent with or contrary to any human right, the Commission is required to serve notice on the respondent setting out its findings and reasons for those findings.¹² The Commission may include in the notice any recommendations for preventing a repetition of the act or a continuation of the practice.¹³
38. The Commission may also recommend:¹⁴
- (a) the payment of compensation to, or in respect of, a person who has suffered loss or damage as a result of the act or practice; and
 - (b) the taking of other action to remedy or reduce the loss or damage suffered by a person as a result of the act or practice.

7.2 Consideration of compensation

39. There is no judicial guidance dealing with the assessment of recommendations for financial compensation for breaches of human rights under the AHRC Act.
40. However, in considering the assessment of a recommendation for compensation under section 35 of the AHRC Act (relating to discrimination matters under Part II, Division 4 of the AHRC Act), the Federal Court has indicated that tort principles for the assessment of damages should be applied.
41. I am of the view that this is the appropriate approach to take to the present matter. For this reason, so far as is possible in the case of a recommendation for compensation, the object should be to place the injured party in the same position as if the wrong had not occurred.
42. The tort of false imprisonment is a more limited action than an action for breach of article 9(1). This is because an action for false imprisonment cannot succeed where there is a lawful justification for the detention, whereas a breach of article 9(1) will be made out where it can be established that the detention was arbitrary irrespective of legality.
43. Notwithstanding this important distinction, the damages awarded in false imprisonment provide an appropriate guide for the award of compensation for a breach of article 9(1). This is because the damages that are available in false imprisonment matters provide an indication of how the courts have considered it appropriate to compensate for loss of liberty.
44. The principal heads of damage for a tort of this nature are injury to liberty (the loss of freedom considered primarily from a non-pecuniary standpoint) and injury to feelings (the indignity, mental suffering, disgrace and humiliation, with any attendant loss of social status).¹⁵
45. In the recent case of *Fernando v Commonwealth of Australia (No 5)*,¹⁶ Siopis J considered the judicial guidance available on the quantum of damages for loss of liberty for a long period arising from wrongful imprisonment. Siopis J referred to the case of *Nye v State of New South Wales*:¹⁷
- ...the *Nye* case is useful in one respect, namely, that the court was required to consider the quantum of damages to be awarded to Mr Nye in respect of his loss of liberty for a period of some 16 months which he spent in Long Bay Gaol. In doing so, consistently with the approach recognized by Spigelman CJ in *Ruddock* (NSWCA), the Court did not assess damages by application of a daily rate, but awarded Mr Nye the sum of \$100,000 in general damages. It is also relevant to observe that in *Nye*, the court referred to the fact that for a period of time during his detention in Long Bay Gaol, Mr Nye feared for his life at the hands of other inmates of that gaol.¹⁸
46. Siopis J noted that further guidance on the quantum of damages for loss of liberty for a long period arising from wrongful imprisonment can be obtained from the case of *Ruddock* (NSWCA).¹⁹ In that case, at first instance,²⁰ the New South Wales District Court awarded the plaintiff, Mr Taylor, the sum of \$116,000 in damages in respect of wrongful imprisonment, consequent upon his detention following the cancellation of his permanent residency visa on character grounds.

47. Mr Taylor was detained for two separate periods. The first was for 161 days and the second was for 155 days. In that case, because Mr Taylor's convictions were in relation to sexual offences against children, Mr Taylor was detained in a state prison under a 'strict protection' regime and not in an immigration detention centre. The detention regime to which Mr Taylor was subjected was described as a 'particularly harsh one'.
48. The Court also took into account the fact that Mr Taylor had a long criminal record and that this was not his first experience of a loss of liberty. He was also considered to be a person of low repute who would not have felt the disgrace and humiliation experienced by a person of good character in similar circumstances.²¹
49. On appeal, the New South Wales Court of Appeal considered that the award was low but in the acceptable range. The Court noted that 'as the term of imprisonment extends, the effect upon the person falsely imprisoned does progressively diminish'.²²
50. Although in *Fernando v Commonwealth of Australia (No 5)*, Siopis J ultimately accepted the Commonwealth's argument that Mr Fernando was only entitled to nominal damages,²³ his Honour considered the sum of general damages he would have awarded in respect of Mr Fernando's claim if his findings in respect of the Commonwealth's argument on nominal damages were wrong. Mr Fernando was wrongfully imprisoned for 1,203 days in an immigration detention centre. Siopis J accepted Mr Fernando's evidence that he suffered anxiety and stress during his detention and, also, that he was treated for depression during and after his detention and took these factors into account in assessing the quantum of damages. His Honour also noted that Mr Fernando's evidence did not suggest that in immigration detention he was subjected to the harsh 'strict protection' regime to which Mr Taylor was subjected in a state prison, nor that Mr Fernando feared for his life at the hands of inmates in the same way that Mr Nye did while he was detained at Long Bay Gaol. Taking all of these factors into account, Siopis J stated that he would have awarded Mr Fernando the sum of \$265,000 in respect of his 1,203 days in detention.²⁴ On appeal, the Full Federal Court noted that although 'the primary judge's assessment seems to us to be low', it was not so low as to indicate error.²⁵
51. With regard to whether a recommendation of compensation is appropriate in circumstances where the complainant is deceased, I note that:
- section 29(2)(2)(i) of the AHRC Act allows the Commission to recommend the payment of compensation 'to, or in respect of, a person who has suffered loss or damage'; and
 - there is precedent for the award of compensation to a deceased's estate in the context of discrimination complaints²⁶ and tortious claims.²⁷
52. Accordingly, I consider that it is open to the Commission to recommend the payment of compensation to a deceased complainant's estate where a breach of human rights has been found.

7.3 Recommendation that compensation be paid

53. I have found that the detention of Mr Rahimi in VIDC, from 15 September 2010 until 27 February 2012, amounted to a breach of his rights under article 9 of the ICCPR. I note that I have taken into account the psychiatric assessment conducted by Dr Dudley and Dr Mullin, discussed at paragraph 12 of this report.
54. I recommend that the Commonwealth pay an appropriate amount of compensation to Mr Rahimi's estate, in accordance with the principles outlined in part 7.2 above.

7.4 The Department's response to my recommendation

55. The Department did not accept my recommendation that compensation be paid. The Department stated:

Any monetary claim for compensation against the Commonwealth can only be considered where it is consistent with the *Legal Services Directions 2005*. The *Legal Services Directions 2005* provide that a matter may only be settled where there is at least a meaningful prospect of liability being established against the Commonwealth. Furthermore, the amount of compensation that is offered must be in accordance with legal principle and practice.

The Department considers that Mr Rahimi's detention as lawful and that the decisions and processes were appropriate having regard to the circumstances of his case. The Department therefore considers that there is no meaningful prospect of liability being established against the Commonwealth under Australian domestic law and as such no proper legal basis to consider a payment of compensation to Mr Rahimi's estate. The Department is therefore unable to pay compensation to Mr Rahimi's estate.

Although there are limited circumstances in which the Commonwealth may pay compensation on a discretionary basis, *Resource Management No. 409* and *No. 401* generally limit such payments to situations where a person has suffered some form of financial detriment or injury arising out of a defective administration on the part of the Commonwealth, or otherwise experienced an anomalous, inequitable or unintended outcome as a result of the application of Commonwealth legislation or policy. On the basis of the current information the Department is not satisfied that there is a proper basis of discretionary compensation at this time.

The Department therefore holds the view that there is no basis for payment of compensation to Mr Rahimi's estate and advises that it will not be taking any further action in relation to this recommendation.

56. I report accordingly to the Attorney-General.



Gillian Triggs
President
Australian Human Rights Commission

June 2015

- 1 *Lydia Stephenson as Executrix of the Estate of the Late Alyschia Dibble v Human Rights and Equal Opportunity Commission and St Vincent's Hospital Limited* [1996] FCA 1654.
- 2 Section 3(1) of the AHRC Act defines human rights to include the rights recognised by the ICCPR.
- 3 See *Secretary, Department of Defence v HREOC, Burgess & Ors* (1997) 78 FCR 208.
- 4 United Nations Human Rights Committee, General Comment 8 (1982) *Right to liberty and security of persons (Article 9)*. See also *A v Australia*, Communication No. 560/1993, UN Doc CCPR/C/59/D/560/1993 (1997); *C v Australia*, Communication No. 900/1999, UN Doc CCPR/C/76/D/900/1999 (2002); *Baban v Australia*, Communication No. 1014/2001, UN Doc CCPR/C/78/D/1014/2001 (2003).
- 5 United Nations Human Rights Committee, General Comment 31 (2004), [6]. See also S Joseph, J Schultz and M Castan, *The International Covenant on Civil and Political Rights Cases, Materials and Commentary* (Oxford University Press, 2nd ed, 2004) 308 [11.10].
- 6 *Manga v Attorney-General* [2000] 2 NZLR 65, [40]-[42], (Hammond J). See also the views of the UNHRC in *Van Alphen v The Netherlands*, Communication No. 305/1988, UN Doc CCPR/C/39/D/305/1988 (1990); *A v Australia*, Communication No. 560/1993, UN Doc CCPR/C/59/D/560/1993 (1997); *Spakmo v Norway*, Communication No. 631/1995, UN Doc CCPR/C/67/D/631/1995 (1999).
- 7 *A v Australia*, Communication No. 900/1993, UN Doc CCPR/C/76/D/900/1993 (1997) (the fact that the author may abscond if released into the community was not a sufficient reason to justify holding the author in immigration detention for four years); *C v Australia*, Communication No. 900/1999, UN Doc CCPR/C/76/D/900/1999 (2002).
- 8 *C v Australia*, Communication No. 900/1999, UN Doc CCPR/C/76/D/900/1999 (2002); *Shams & Ors v Australia*, Communication No. 1255 of 2004, UN Doc CCPR/C/90/D/1255/2004 (2007); *Baban v Australia*, Communication No. 1014 of 2001, UN Doc CCPR/C/78/D/1014/2001 (2003); *D and E v Australia*, Communication No. 1050 of 2002, UN Doc CCPR/C/87/D/1050/2002 (2006).
- 9 United Nations Human Rights Committee, General Comment 35 (2014) *Article 9: Liberty and security of person (Advance Unedited Version)*, UN Doc CCPR/C/GC/35 (2014), [18].
- 10 United Nations Human Rights Committee, General Comment 35 (2014) *Article 9: Liberty and security of person (Advance Unedited Version)*, UN Doc CCPR/C/GC/35 (2014), [18].
- 11 *Jalloh v The Netherlands*, Communication No. 794 of 1998, UN Doc CCPR/C/74/D/794/1998 (2002); *Baban v Australia* Communication No. 1014 of 2001, UN Doc CCPR/C/78/D/1014/2001 (2003).
- 12 AHRC Act s 29(2)(a).
- 13 AHRC Act s 29(2)(b).
- 14 AHRC Act s 29(2)(c).
- 15 *Cassell & Co Ltd v Broome* (1972) AC 1027, 1124; *Spautz v Butterworth & Anor* (1996) 41 NSWLR 1 (Clarke JA); *Vignoli v Sydney Harbour Casino* [1999] NSWSC 1113 (22 November 1999), [87].
- 16 [2013] FCA 901.
- 17 [2003] NSWSC 1212.
- 18 [2013] FCA 901, [121].
- 19 *Ruddock v Taylor* (2003) 58 NSWLR 269.
- 20 *Taylor v Ruddock* (unreported, 18 December 2002, NSW District Court (Murrell DCJ)).
- 21 *Taylor v Ruddock* (unreported, 18 December 2002, NSW District Court (Murrell DCJ)), [140].
- 22 *Ruddock v Taylor* [2003] 58 NSWLR 269, 279.
- 23 *Ruddock v Taylor* [2003] 58 NSWLR 269, 279.
- 24 The court awarded nominal damages of one dollar for the unlawful detention of Mr Fernando because as a non-citizen, once he committed a serious crime, he was always liable to have his visa cancelled: *Fernando v Commonwealth of Australia (No 5)* [2013] FCA 901, [98]-[99].
- 25 *Fernando v Commonwealth of Australia* [2014] FCAFC 181, [113].
- 26 *Bligh, Coutts, Coutts, Foster, Lenoy, Sibley, Sibley and Palmer v State of Queensland* [1996] HREOC 28.
- 27 *AW & Ors v State of New South Wales* [2005] NSWSC 534.

Further Information

Australian Human Rights Commission

Level 3, 175 Pitt Street
SYDNEY NSW 2000

GPO Box 5218
SYDNEY NSW 2001
Telephone: (02) 9284 9600

Complaints Infoline: 1300 656 419
General enquiries and publications: 1300 369 711
TTY: 1800 620 241
Fax: (02) 9284 9611
Website: www.humanrights.gov.au

For detailed and up to date information about the Australian Human Rights Commission visit our website at: www.humanrights.gov.au

To order more publications from the Australian Human Rights Commission download a Publication Order Form at: www.humanrights.gov.au/publications/index.html
or call: (02) 9284 9600 fax: (02) 9284 9611
or email: publications@humanrights.gov.au

