

Human rights costs

By Greg Barns

For some time, the Australian Lawyers Alliance has argued that the mandatory detention of asylum seekers by the Commonwealth government will create a sizeable legal liability that will have to be met by the taxpayer. This prognosis has unfortunately – and excuse the pun – proved to be on the money.

Courtesy of the Alliance's Research and Policy Officer, Emily Price, who worked on a Freedom of Information request to the Department of Finance and Deregulation, we now know that since 1999 the total amount paid by the Commonwealth to asylum seekers who have made claims for breach of duty of care, negligence or breach of statutory duty is over \$5 million; claims for unlawful detention have resulted in payouts totalling \$18.2 million.

And that is not the end of it. There are still 64 claims open, so we can expect to see taxpayer-funded payouts well into the millions over the course of the next 12 months.

Putting aside the legal and bureaucratic cost of assessing, defending and negotiating settlement of claims, this means that by the end of next year the total payout figure is likely to be over \$25 million. How many hospital beds, school desks, or Indigenous welfare programs does this amount to? The mind boggles at the gross waste by the Howard, Rudd and Gillard governments on the prosecution of a cruel and futile policy.

It is also likely that future generations of Australian taxpayers will be saddled with meeting the cost of this horrendous policy. The psychological and physical harm

caused to detainees will continue to manifest itself throughout their lives, and there will be a reckoning by a government, courtesy of media, legal and community pressure, to pay compensation and apologise to victims.

The treatment of children, in particular, will necessitate such a course of action. Just as state and territory governments have established abuse in state care compensation funds for those who suffered in orphanages, juvenile detention centres and the like in the 1950s, 1960s and 1970s, so too will a future Commonwealth government have to establish a similar process, because the stories of abuse in immigration detention will resonate so loudly that we will not morally be able to do nothing about it.

But it is not just asylum seekers on whom we perpetrate cruelty, and end up having to compensate. It is young Indonesian boat crew who are arrested on people-smuggling charges and who are, courtesy of federal law enforcement authorities, placed in adult detention. Some of these boys are as young as 13. WA Alliance members, Jon Davies and Tom Percy QC, have been helping to expose this outrage, which is happening at a time when the Australian media is fixated on the plight of one Australian youth in trouble with the Indonesian authorities in Bali.

Jon Davies testified before a Senate Committee on amendments to the people-smuggling laws – rushed through the House of Representatives by the ALP and the Coalition in order to stymie a legal challenge in Victoria – and made this point. Commonwealth law enforcement agencies are putting young Indonesians '...in adult prisons. They put them in protective custody. In



Western Australia, I heard that they put them in protective custody in the same facility with adult sex offenders. Would you believe that? I heard anecdotally from a doctor at Casuarina that one of the kids was prepubescent,' Davies told the Committee on 11 November.

And Jon went on to observe, rightly, that large compensation claims will inevitably flow from this child abuse perpetrated by the Commonwealth.

The ALA is unashamedly taking a frontline position when it comes to exposing the Commonwealth government's serial human rights abuses and the outrageous cost of these inhumane policies to taxpayers. It is simply extraordinary that our legislators each year allocate money through the appropriations and supply bills to enable the commission of what are gross breaches of fundamental rights and in some cases crimes against humanity. And we call this country a liberal democracy? Could have fooled me. ■

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