

National Human Rights Consultation Submission

AGWW-7N766B

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Submission Text:

Please treat this e-mail message as a preliminary outline of certain concerns. Subject to your concurrence I should like to forward a more detailed submission in the light of any roundtable discussions I attend this year.

Generally speaking for quite some time I have been most concerned that in this country persons may be detained for long periods without a hearing before a tribunal, court or commission. For example there have been persons held in immigration detention centres, some of whom have been young children, who have spent an inordinate time in confinement without a hearing of their case. There have been incidents of self harm, attempted suicide, protests, demonstrations. It has been stated by reputable psychiatric consultants that the prolonged detention had been detrimental to the mental health of a number of detainees.

It is troubling that the High Court has ruled that there is no limit to how long persons may be detained under the provisions of the Commonwealth's migration legislation. It is completely unacceptable in a civilized country especially one that has a common law tradition for persons to be held indefinitely in detention without a hearing before a properly constituted board, commission, tribunal or court with powers to determine whether the persons in detention may be released into the community or not, whether or not they are to be granted residency rights, whether they are to be deported, the duration of any further detention. As a corollary of a right to a prompt hearing of their case all such persons should have the right to legal representation and to medical and psychiatric treatment until their cases are held.

The Commonwealth's anti-terrorism laws although an understandable response to frightening possibilities of attacks against persons and properties in this country are perhaps too drastic. That a person may be held incommunicado without the right of legal representation seems to deprive a person of basic rights hitherto taken for granted. I am not comfortable with an approach based on the assumption of guilt by association. A person might have an innocuous acquaintance with someone under suspicion subject to surveillance. A casual meeting in a pub or shop, a few words exchanged could lead to A.S.I.O swooping onto the person and interrogating him or her without his friends or family knowing his/her whereabouts. This could be an extremely traumatic event for anyone but especially for a young child. While acknowledging that national security is of paramount importance again I would contend that someone in ASIO or Federal Police custody should be brought before a Magistrate or Judicial Officer without undue delay or released and while in such custody be entitled to legal representation and to consult and be treated by a medical practitioner.

In this age of intrusive media I am concerned that the right of privacy is given scant regard. I concede that the life of a celebrity is very much in the public domain and that the price of fame is to have one's private life exposed to the common gaze. That should not be so as far as relatives, friends or associates of a famous or infamous person are concerned. To give an example: I recall a television segment a long time ago now when the journalist Mungo MacCallum deplored a broadcast by the presenter Derryn Hinch in which the daughter of the then Prime Minister Bob Hawke was reported to have a drug problem. Mr. MacCallum pointed out that being the relative of a V.I.P. did not deprive that person of a right to privacy. The story had no bearing on the conduct of the Hawke Government and there was no need in the public interest to go to air with the story. At the time I thought it was muckraking. It might be difficult to achieve in practice but I should like some kind of protection against unauthorized disclosures by media journalists, reporters, presenters, newsmen of an individual's relationship, association, connection, etc., with any famous or infamous person of media interest.

For the time being I shall conclude my preliminary remarks on the understanding that at a later stage I might forward additional comments for consideration.

Edward Infield