

26 June 2014

The Hon Richard Marles MP  
17A Yarra Street  
Geelong, VIC, 3220

By email: [richard.marles.mp@aph.gov.au](mailto:richard.marles.mp@aph.gov.au)

Dear Mr Marles

### **Children in Immigration Detention**

Australian Lawyers for Human Rights (ALHR) remains seriously concerned about the situation of children held in immigration detention and the lack of transparency regarding their situation, living conditions and treatment. ALHR's view is that regular and in-depth monitoring is part of a preventative approach to human rights violations that is necessary for keeping people in places of detention safe.

We acknowledge that agencies such as the Australian Human Rights Commission, the Australian Red Cross, the United Nations High Commissioner for Refugees (UNHCR) and the Commonwealth Ombudsman conduct occasional visits to a number of immigration detention facilities. This, however, does not provide sufficient oversight. Regular, coordinated, consistent and systematic monitoring, is lacking with the view to taking a preventative approach to violations and ensuring appropriate treatment.

We further acknowledge the Interim Joint Advisory Committee on Nauru and Manus as a mechanism that provides some advice to government, however, it is not independent and gathered information is not publicly available. Genuine monitoring relies on independent, systematic and transparent public reporting. In developing such a mechanism, the Australian Government may achieve:

- the efficient collection, verification and use of information to prevent and address ill treatment, abuse and violence
- transparency and public confidence in the humane treatment of asylum seekers
- the protection (and quality of life improvements) for children and families in held detention.

ALHR strongly recommends that you provide an ongoing and systematic, independent monitoring presence at off-shore detention sites. There are models that could be adopted for an independent monitor, including relying on representatives from a number of skilled civil society groups to conduct monitoring as a consortium. We further recommend that such a mechanism has:

- operational independence
- regular access to the site
- adequate resourcing
- mandate to conduct private and unsupervised interviews with detainees

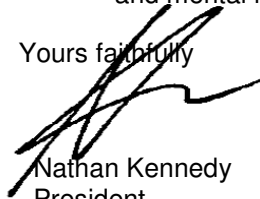
In line with the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment 1975, the Convention on the Rights of the Child 1989 and the International Covenant on Civil and Political Rights 1966 ALHR considers that the following broad criteria should be monitored:

- Treatment: inhumane treatment, violence, isolation, the use force and restraints, the use of disciplinary procedures, periods of detention.
- Protection measures: protective programs (parenting support programs, support for unaccompanied children) provision of information about complaints/accessibility of complaints

pathways, access to legal representation, child protection procedures (age determination, best interest determination and incident reporting) and disability support.

- Material conditions: accommodation, personal hygiene, public health, sanitary, clothing, food, lighting and dedicated spaces for children and young people.
- Activities and access to others: contact with family, contact with persons outside of the closed environment, exercise, recreation, faith practices and recreation/play.
- Health and mental health: timely access to the spectrum of primary health and psychosocial and mental health support, nutrition and maternal and newborn health.

Yours faithfully



Nathan Kennedy  
President

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