



Australian
Human Rights
Commission

CR and CS v Commonwealth of Australia (DIBP)

[2017] AusHRC 116

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**CR and CS v Commonwealth
of Australia (Department
of Immigration and Border
Protection)**

[2017] AusHRC 116

Report into cruel, inhuman and
degrading treatment and prolonged
detention

Australian Human Rights Commission 2017



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**Australian
Human Rights
Commission**

April 2017

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

Dear Attorney,

I have completed my report pursuant to section 11(1)(f)(ii) of the *Australian Human Rights Commission Act 1986* (Cth) into the complaints made by Mr CR and Mr CS against the Commonwealth of Australia, Department of Immigration and Border Protection (department). I have previously reported on complaints made by the complainants under article 9 of the *International Covenant on Civil and Political Rights* (ICCPR).

Since my previous report, I have found that the department's failure to ask ASIO to assess both Mr CR's and Mr CS's individual suitability for community based detention while awaiting security clearance, and the culmination of this failure in their prolonged detention, is contrary to the prohibition on 'cruel, inhuman or degrading treatment' in article 7 of the ICCPR.

I have also found that the department's failure adequately to assess whether Mr CR's and Mr CS's individual circumstances indicated that they could be placed in a less restrictive form of detention, and the resulting severe impact prolonged detention had on their mental health, amounts to a breach of article 7 of the ICCPR.

In light of my findings, I have recommended that the Minister for Immigration and Border Protection indicate to his department that he will not refuse to consider a person in immigration detention for release from detention or placement in a less restrictive form of detention because the department has received an adverse security assessment in relation to that person from ASIO, unless the department has taken appropriate steps to determine whether any risks the individual might pose could be mitigated (for instance, through the imposition of appropriate conditions). The Minister for Immigration and Border Protection, the Hon. Peter Dutton and the department provided responses to my findings and recommendation on 20 March 2017 and 17 March 2017 respectively. These responses are set out in part 6 of this report.

I enclose a copy of my report.

Yours sincerely,

A handwritten signature in black ink, reading "Gillian Triggs".

Gillian Triggs
President
Australian Human Rights Commission

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1 Introduction

1. This is a report setting out the findings of the Australian Human Rights Commission (Commission) following an inquiry into complaints made by Mr CR and Mr CS against the Commonwealth of Australia – Department of Immigration and Border Protection (department) alleging breaches of their human rights under the *International Covenant on Civil and Political Rights* (ICCPR).¹ It is alleged that acts or practices of the Commonwealth were inconsistent with the rights enshrined in article 7 of that Covenant.
2. This inquiry has been undertaken pursuant to s 11(1)(f) of the *Australian Human Rights Commission Act 1986* (Cth) (AHRC Act).
3. Mr CR and Mr CS have requested that their names not be published in connection with this inquiry. I consider that the preservation of their anonymity is necessary to protect their privacy. Accordingly, I have given a direction under s 14(2) of the AHRC Act and refer to them by the pseudonyms CR and CS in this document.
4. As a result of this inquiry, I have found that the following acts of the Commonwealth were inconsistent with or contrary to the human rights of Mr CR and Mr CS recognised in article 7 of the ICCPR:
 - the failure (either at all, or for an extended period of time) to ask ASIO to assess each of the complainants' individual suitability for community based detention while awaiting his security clearance
 - the failure to assess on an individual basis whether the circumstances of each complainant indicated that he could be placed in a less restrictive form of detention.
5. As a result of this finding, I have made one recommendation in section 5 below.

2 Background

6. Mr CR and Mr CS are of Rohingya ethnicity and were born in Myanmar/Burma. They travelled separately to Australia by boat, arriving at Christmas Island on 9 November 2009 and 11 September 2009 respectively. The Commonwealth has assessed that they are both refugees within the meaning of the *1951 Convention Relating to the Status of Refugees* and the *1967 Protocol relating to the Status of Refugees* (Refugees Convention).
7. On their arrival in Australia, the complainants were detained under the *Migration Act 1958* (Cth), first on Christmas Island, and subsequently in mainland detention facilities.²

8. The Commonwealth asked the Australian Security Intelligence Organisation (ASIO) to conduct a security assessment with respect to each of the complainants. ASIO subsequently advised that each complainant would constitute a risk to security if granted a permanent protection visa. As a result of these negative security assessments, both complainants remained held in closed immigration detention facilities.
9. On 18 December 2013, Mr CS received a revised security assessment. He was subsequently granted a visa and released from detention on 24 December 2013. He had been detained for over four years and three months.
10. Mr CR received a revised security assessment on 14 January 2015. He was granted a bridging visa, and was released from detention on 28 April 2015. He had been detained for over five years and five months.
11. Mr CR and Mr CS complain that their detention was prolonged, arbitrary, and indefinite, and that this detention had significant negative consequences for their mental health to a degree inconsistent with or contrary to article 7 of the ICCPR. Article 7 of the ICCPR protects, *inter alia*, the right not to be subject to inhuman or degrading treatment.
12. I have previously found that the detention of the complainants was arbitrary and inconsistent with article 9 of the ICCPR.³

3 The Commission's human rights inquiry and complaints function

13. Section 11(1)(f) of the AHRC Act provides that the Commission has a function to inquire into any act or practice that may be inconsistent with or contrary to any human right.⁴
14. 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 the reference to, or the doing of, an act includes the reference to the refusal or failure to do an act.
15. The functions of the Commission identified in section 11(1)(f) of the AHRC Act are only engaged where an act complained of is not one required by law to be taken.⁵

4 Assessment

16. The complaints arise from the detention of the complainants by the Commonwealth within immigration detention centres.

4.1 Act or practice of the Commonwealth?

17. Following a previous inquiry, I found that the detention of the complainants was arbitrary, because the Commonwealth had failed adequately to consider alternatives to holding the complainants in closed detention. These findings, and my reasons for making them, are contained in a report to the Minister prepared pursuant to s 11(1)(f)(ii) of the ARHC Act.⁶ In summary, I found that the Minister at all times had discretionary powers which could have allowed each of the complainants to be granted a visa or placed in a less restrictive form of detention. However, the Commonwealth did not fully consider whether those powers could be exercised in the complainants' cases because it had:

- (a) failed (either at all, or for an extended period of time) to ask ASIO to assess each of the complainants' individual suitability for community based detention while awaiting his security clearance
- (b) failed to assess on an individual basis whether the circumstances of each complainant indicated that he could be placed in a less restrictive form of detention.⁷

18. For the reasons given in my previous report, I have found that the failures identified above were acts for the purposes of the AHRC Act. As the present complaints arise from the detention of the complainants in immigration detention facilities, and the acts identified above contributed to their continued detention, I find that these acts are relevant to the current inquiry.

4.2 Inconsistent with or contrary to human rights?

19. The complainants submit that their detention had a severe negative impact on their mental health.
20. Article 7 of the ICCPR states:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

21. In *C v Australia*,⁸ the UN Human Rights Committee found that the continued detention of C when the State party was aware of the deterioration of C's mental health constituted a breach of article 7 of the ICCPR. The Committee stated:

...the State party was aware, at least from August 1992 when he was prescribed the use of tranquilisers, of psychiatric difficulties the author faced. Indeed, by August 1993, it was evident that there was a conflict between the author's continued detention and his sanity. Despite increasingly serious assessments of the author's conditions in February and June 1994 (and a suicide attempt) it was only in August 1994 that the Minister exercised his exceptional power to release him from immigration detention on medical grounds (while legally he remained in detention). As subsequent events showed, by that point the author's illness had reached such a level of severity that irreversible consequences were to follow.⁹

22. More recently, in *F.K.A.G. v Australia* and *M.M.M. v Australia*, the Committee expressly considered claims of violations of article 7 of the ICCPR by a number of asylum seekers detained in Australia as a result of receiving adverse security assessments, who, in consequence, suffered psychological harm. The Committee stated:

...the combination of the arbitrary character of the authors' detention, its protracted and/or indefinite duration, the refusal to provide information and procedural rights to the authors and the difficult conditions of detention are cumulatively inflicting serious psychological harm upon them, and constitute treatment contrary to article 7 of the Covenant.¹⁰

23. The relevant question for the purposes of article 7 of the ICCPR is whether the complainants' detention caused a level of psychological harm such that it amounted to cruel, inhuman or degrading treatment or punishment.

(a) Mr CR

24. Mr CR was detained in immigration detention facilities for almost five and a half years. The documents the parties have provided to me indicate that since that time he has been assessed by a number of mental health professionals, and has received a significant amount of treatment for his mental health.

25. His legal representatives have stated:

Whilst some of Mr [CR]'s mental health problems stem from his experiences in Burma..., it is clear that he has suffered exacerbated psychological harm as a result of his immigration detention. The cumulative effects of the fact of his confinement, its arbitrary nature and its indefinite duration have worsened his mental state in a way that is serious enough to engage the application of Article 7.

26. In response to the complaint, the department has stated:

A review of Mr [CR]'s medical records indicates that his mental state has fluctuated since his arrival in detention. However, there is very little clinical evidence to indicate that his treating Psychiatrist was of the opinion that his mental health has significantly deteriorated as a result of his environment.

27. The department notes that since he was first detained, Mr CR has seen a number of psychologists and counsellors, as well as a psychiatrist. The frequency of these appointments has varied depending on Mr CR's needs, being 'at times quarterly, monthly, fortnightly, weekly and, when required, daily'. The department notes that Mr CR has also received specialised torture and trauma counselling from the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS).
28. The department has provided copies of Mr CR's medical records relating to his time in immigration detention. These include records of consultations with nurses, doctors, counsellors, psychologists and a psychiatrist provided by the International Health and Medical Services (IHMS). They also include psychological reports and treatment summaries relating to sessions provided by STARTTS. Mr CR's representatives have provided two further psychiatric reports.
29. Mr CR has been consistently diagnosed with depression and anxiety by mental health professionals. He has also been diagnosed as exhibiting symptoms or features of post-traumatic stress disorder. I do not understand these diagnoses to be in dispute. The department rather claims that these conditions have fluctuated with time, and have not been caused or exacerbated by his detention.
30. The IHMS medical records for Mr CR are for the most part comprised of short notes of consultations or treatment sessions. A note dated 29 April 2010 records that at that time Mr CR was 'depressed and frustrated'. It records his 'feelings of hopelessness and helplessness' and that he was 'extremely frustrated' at the length of time he had been in detention. IHMS records over the next three years regularly include notes of symptoms of depression and anxiety. They also include frequent references to these conditions being caused by or related to his ongoing detention.
31. More detailed assessments have been carried out by STARTTS.

32. A detailed psychological assessment report for Mr CR prepared by STARTTS dated 29 June 2011 records a diagnosis of clinical depression and anxiety. It states that:

[Mr CR] feels desperate about his situation and the uncertainty of how long his detention will last.

....

The present prolonged situation of stress, fear and uncertainty acts as a constant reminder of Mr [CR]'s previous life experiences [including traumatic experiences in Burma/Myanmar].

....

It is my view that the stressors associated with the detention environment will continue to negatively impact Mr [CR]'s mental health. A more appropriate alternative would be to allow Mr [CR] to live in the community where he could have a sense of normalcy and be able to devote his time to his emotional and physical health issues.

33. A STARTTS 'Summary of psychological treatment' report dated 18 May 2012 states:

[As] the length of time in the detention centre increases it is likely to have a negative impact on his mental and emotional functioning and worsen his feeling of hopelessness.

34. STARTTS reports dated 29 May 2012 and 4 September 2012 record assessments that ongoing detention was having a negative effect on Mr CR's health, and contain explicit recommendations that he be allowed to live in the community.

35. A STARTTS psychological assessment report dated 21 September 2012 repeats diagnoses of anxiety, depression and post-traumatic stress disorder. The report goes on to state that:

[Mr CR]'s symptoms of PTSD and Depression have exacerbated since his last assessment at STARTTS and his mental and emotional health has progressively deteriorated over the prolonged time he has spent in the [immigration detention centres].

36. Mr CR's representatives have provided two reports prepared by a psychiatrist, Dr Michael Dudley. In a report dated 19 December 2011, Dr Dudley wrote:

There are prominent signs and symptoms of a major depression, generalised anxiety and features of post-traumatic stress disorder which have worsened since the adverse security clearance by ASIO in September.

37. He went on:

Given the indefinite nature of his situation, and the risks of mental deterioration should this continue, there is a pressing need to clarify the nature of [Mr CR's] alleged security risk.

38. I note that the decision of ASIO to grant a negative security assessment is not the subject of this inquiry. However, in my view the passages from Dr Dudley's report above record an opinion that ongoing detention posed a risk to Mr CR's health.
39. Dr Dudley prepared a further report on 18 November 2013. In it, he stated:
- My impression was that [CR] was suffering from a major depression of moderate to marked intensity, and an associated generalised anxiety disorder. This depressed and anxious clinical state was accompanied by prominent somatic features, and some features of a likely traumatic stress disorder. Of interest is that his traumatic stress symptoms seem to pertain less obviously to his past experiences, and more to the immediate news context in his country, his family's situation, **and his current situation of uncertainty** [emphasis added].
40. I note the department's submission that *'there is very little clinical evidence to indicate that his treating Psychiatrist was of the opinion that his mental health has significantly deteriorated as a result of his environment'*. The only documents the department has provided that record the opinion of a psychiatrist are a page of IHMS 'progress notes' dated 14 May 2012. These notes record a diagnosis of 'adjustment disorder with depressed mood and anxiety'. They also record that Mr CR 'has chronic low mood secondary to ongoing detention'. In my view these notes are consistent with the more detailed reports prepared by STARTTS, and support the view that Mr CR's detention had a negative impact on his mental health.
41. I note also the department's submission that while in detention, Mr CR has had access to support services, including counselling and psychological treatment. That submission is supported by the documents the department has provided. That, however, is a different question from whether Mr CR's detention has had a significant negative impact on his mental health.
42. It may be expected that there appear to have been fluctuations in Mr CR's psychiatric health over time and that that is reflected in the opinions of the mental health professionals who have assessed him. Whilst it appears that some aspects of Mr CR's symptoms were related to other events, including his experiences in Burma/Myanmar, the information before me indicates that his condition was significantly exacerbated as a result of his detention by the Commonwealth, in combination with the arbitrary and prolonged nature of that detention.
43. Based on all of the information before me, I find that Mr CR's prolonged detention amounted to cruel, inhuman or degrading treatment within the meaning of article 7 of the ICCPR. I therefore find that with respect to Mr CR, the two acts described in section 4.1 above were inconsistent with the right protected by that article.

(b) Mr CS

44. It is claimed that Mr CS suffered from depression as a result of his prolonged detention. While his symptoms were partly attributable to his experiences in Burma/Myanmar before coming to Australia, it is claimed his prolonged detention exacerbated that condition to such a degree as to be inconsistent with article 7 of the ICCPR.
45. In response to the complaint, the department has stated:

A review of Mr [CS]’s medical records indicates that his mental state has fluctuated since his arrival in detention. However, there is very little clinical evidence to indicate that medical professionals, including several psychiatrists, were of the opinion that his mental health significantly deteriorated as a result of his environment.

Mr [CS] was diagnosed with an Adjustment Disorder and Depression in November 2011. He was commenced on medication to treat his condition which he took with varying levels of compliance.

As a result of the treatment Mr [CS] received for his Depression and Adjustment Disorder, his condition appeared to stabilise. This is evidenced by the fact that at no point did his Psychiatrist document that he needed to be relocated to a less restrictive immigration detention environment for the sake of his mental health. Mr [CS] also consistently denied thoughts of self-harm during the period that he was in held immigration detention.

International Health and Medical Services is confident the clinical decisions made regarding Mr [CS] were in his best interests at all times. Mr [CS] was regularly reviewed by mental health nurses, a psychologist and multiple psychiatrists from the time of his arrival in Australia. This care continued until his release from Villawood Immigration Detention Centre on 24 December 2013....

During his time in immigration detention, Mr [CS] attended the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) counselling to address a past history of torture and trauma which he disclosed in February 2011. In the STARTTS report dated 17 June 2013, the psychologist stated Mr [CS] may benefit from a transfer into the community as means of resolving his prolonged detention. However, the psychiatrists who reviewed Mr [CS] over multiple occasions both before and after the STARTTS review did not concur with this opinion and at no point documented a recommendation that he be transferred to a less restrictive form of detention.

Up until 18 December 2013, due to the presence of an adverse security assessment, Mr [CS] was ineligible for consideration of an alternative management strategy.

46. The department has provided medical records for Mr CS for the period he was in immigration detention. These include records of treatment provided by IHMS, and psychological reports and treatment summaries relating to sessions provided by STARTTS. Mr CS's representatives have in addition provided an independent psychiatric report prepared by Dr Michael Dudley.
47. Mr CS was consistently diagnosed with depression during his time in detention. For instance, a STARTTS psychologist's report dated 6 April 2011 indicated that Mr CS was 'highly symptomatic for depression', had 'some features of [anxiety]', and had 'some symptoms' of post-traumatic stress disorder. The diagnosis of depression was repeated in subsequent STARTTS reports. A psychiatric report prepared by Dr Dudley, dated 18 November 2013, records a 'provisional assessment' that Mr CS was suffering from a 'major depression of moderate to marked severity'.
48. A number of psychologists' reports discuss the causes of Mr CS's depression, and the impact of his detention. For instance, a STARTTS report of 18 March 2011 states:
- A lengthy detention together with uncertainty about his legal situation and no indication of a release date has had a negative impact on his mental health.... Mr [CS]'s coping resources seem to be gradually diminishing....
- ...
- As the length of time in detention increases, his mental and physical states are likely to deteriorate further. Prognosis for Mr [CS] is guarded unless his legal situation is resolved in the near future.
49. A STARTTS report of 6 April 2011 contains similar observations.
50. A STARTTS report of 13 March 2012 states that Mr CS was:
- ...likely to suffer further negative consequences to psychological health due to ongoing confinement in [an immigration detention centre].
51. A STARTTS report dated 8 November 2012 states:
- [Mr CS's] mental health prognosis is directly linked to the length of time he remains in detention.
- ...
- The cumulative stress associated with his extended immigration process is contributing to his clinical presentation and as it becomes further protracted Mr [CS] may become more severely depressed.

52. A STARTTS report dated 4 July 2013 states that Mr CS is ‘chronically depressed’. Further:

[Mr CS]’s psychological and emotional presentation is consistent with the account he provides of a history of discrimination and traumatic experiences along with the impact of his current situation of being in detention.

...

In terms of the future prospects for recovery, the stressors associated with the detention environment will continue to negatively impact on Mr [CS]’s mental health. A more appropriate alternative would be to allow Mr [CS] to live in the community.... This would enable Mr [CS] to have some sense of normalcy, something he never had in Burma and which would provide him with relief from his mental health issues.

53. I note the department has submitted that psychiatrists who reviewed Mr CS on a number of occasions ‘did not concur’ with the view that he would benefit from a transfer to the community, and did not recommend that he be released from detention.
54. The medical records supplied by the department include several IHMS records of consultations between Mr CS and psychiatrists.¹¹ These are brief notes, not detailed reports. They record that Mr CS was depressed, had been prescribed antidepressants, and, in one note, that he was ‘unhappy with [the] length of [his] detention’. There is nothing to indicate these psychiatrists were asked to consider, or did consider, whether Mr CS would have benefited from release from detention. There are many possible reasons why this matter may not be addressed in these notes. It may be that the psychiatrists did not consider release from detention was a possibility and so did not address it. It may be that they considered it obvious that release would have been beneficial. It may be they did not consider release from detention would have been beneficial. Given the brevity of the notes provided, this is speculation. In my view, I can draw no inference from these IHMS notes that psychiatrists disagreed with the view repeatedly expressed by STARTTS psychologists that ongoing detention was having, and would continue to have, serious negative consequences for Mr CS’s mental health.
55. It may be expected that there appear to have been fluctuations in Mr CS’s psychiatric health over time. Whilst it appears that some aspects of Mr CS’s symptoms were related to other events, including his experiences in Burma/Myanmar, the information before me leads me to conclude that his condition was significantly exacerbated as a result of his detention by the Commonwealth, in combination with the arbitrary and prolonged nature of that detention.
56. Based on all of the information before me, I find that Mr CS’s prolonged detention amounted to cruel, inhuman or degrading treatment within the meaning of article 7 of the ICCPR. I therefore find that, with respect to Mr CS, the two acts described in section 4.1 above were inconsistent with the right protected by that article.

5 Findings and recommendations

57. For the reasons above, I have found that the Commonwealth's failure adequately to consider alternatives to closed detention was inconsistent with the rights of Mr CR and Mr CS contained in article 7 of the ICCPR.
58. 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 recommendation for preventing a repetition of the act or a continuation of the practice.¹³
59. In my report resulting from my inquiry into the complainants' previous complaints of arbitrary detention, I made a number of recommendations. Some of those recommendations were directed to the personal circumstances of Mr CR and several other complainants, who at the time of my report remained in immigration detention. As Mr CR and Mr CS have now been released from immigration detention, I do not repeat those recommendations here.
60. In my previous report, I also made a recommendation to the Minister, intended to ensure that other persons in the position of the complainants are not held in indefinite immigration detention unless due consideration has been given to what risk they may pose if placed in a less restrictive environment, and whether any such risk could be mitigated other than by holding them in closed detention. As the relevant Ministerial Guidelines applicable to persons in the situation of the complainants have not relevantly changed since the complainants' release from detention, I repeat that recommendation, for the reasons given in my previous report.¹⁴

Recommendation 1

The Minister for Immigration and Border Protection indicate to his department that he will not refuse to consider a person in immigration detention for release from detention or placement in a less restrictive form of detention because the department has received an adverse security assessment in relation to that person from ASIO, unless the department has taken appropriate steps to determine whether any risks the individual might pose could be mitigated (for instance, through the imposition of appropriate conditions).

6 The Minister's and the department's responses

61. By letter dated 17 March 2017 the department responded to my notice, noting the recommendation directed to the Minister.
62. By letter dated 20 March 2017 the Minister responded to my findings and recommendation. The Minister noted my findings, and provided the following response to my recommendation:

Recommendation 1

I do not accept this recommendation.

It is Government policy that individuals who have been assessed to be directly or indirectly a risk to Australia's security will remain in immigration detention until such time that a durable solution for individuals with adverse security assessments is found that is consistent with Australia's international obligations.

Given the serious nature of the Assessment by ASIO, and in light of Government policy, I am not minded to exercise my Ministerial intervention powers in respect of individuals with adverse security assessments.

63. I report accordingly to the Attorney-General.



Gillian Triggs
President
Australian Human Rights Commission

April 2017

Endnotes

- 1 Opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976). The Covenant is reproduced in Schedule 2 of the *Australian Human Rights Commission Act 1986* (Cth).
- 2 Pursuant to s 189 *Migration Act 1958* (Cth).
- 3 The Commonwealth has been advised of the reports in which these findings were made. The reasoning leading to these findings is the same as that contained in Commission reports [2013] AusHRC 64.
- 4 Section 3(1) of the AHRC Act defines human rights to include the rights recognised by the ICCPR.
- 5 See, *Secretary, Department of Defence v HREOC, Burgess & Ors* ('Burgess') (1997) 78 FCR 208.
- 6 See note 3 above.
- 7 See note 3 above.
- 8 Communication No 900 of 1999, UN Doc. CCPR/C/76/D/900/1999.
- 9 Communication No 900 of 1999, UN Doc. CCPR/C/76/D/900/1999 [8.4].
- 10 *F.K.A.G. et al. v Australia* Communication No 2094 of 2011, UN Doc CCPR/C/108/D/2094/2011 [9.8]; *M.M.M. et al. v Australia* Communication No 2136 of 2012, UN Doc CCPR/C/108/D/2136/2012 [10.7].
- 11 Dated 7 November 2011, 9 January 2012 and 12 February 2012.
- 12 *Australian Human Rights Commission Act 1986* (Cth) s 29(2)(a).
- 13 *Australian Human Rights Commission Act 1986* (Cth) s 29(2)(b).
- 14 See note 3 above. The current relevantly applicable Ministerial Guidelines are the guidelines issued by the Minister for Immigration and Border Protection's residence determination power under section 197AB and section 197AD of the Migration Act 1958 (issued on 29 March 2015), and the 'Guidelines on Minister's detention intervention power – section 195A of the Migration Act 1958' (issued on 29 April 2016).

Further Information

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