Senate Legal and Constitutional Affairs Legislation Committee

Migration Amendment (Health Care for Asylum Seekers) Bill 2012

Hearing, Friday 23 November 2012

President Gillian Triggs, Australian Human Rights Commission

Question on notice

Senator PRATT: Professor Triggs, I want to ask you how this bill lines up against how other arrangements might evolve, noting specifically the government has accepted the findings of the expert panel that for the protection and welfare arrangements for people transferred to Nauru the monitoring of care and protection arrangements be by a representative group drawn from government and civil society in Australia and Nauru. I am wondering if the Human Rights Commission has a view about the overall arrangements for independent oversight of detention, noting that there are a number of proposals.

Prof. Triggs: That is right. The position of the expert panel that there should be appropriate monitoring both by government bodies and civil society is of course a general and, we would say, sensible recommendation. I would see the commission to be set up in relation to the health care for asylum seekers bill as being part of that general oversight but again we as the national human rights body and an agency of the government would see us as having a role in that oversight as well but clearly without the expertise that would be appointed to the health care commission.

Senator PRATT: I would agree, clearly the Human Rights Commission will have a role. I suppose I am concerned there would be a plethora of organisations without somebody having thought through what systemically oversight inspectorate arrangements should actually look like.

Prof. Triggs: I think that is an important point. We could end up with a fragmented response which would be unhelpful, which may be one reason why it will be invaluable to look at the commission in relation to the health care for asylum seekers being connected with the ombudsman or with the Australian Human Rights Commission so it is possible to have a more joined up response to this monitoring when it is going to take place by different entities.

Senator PRATT: It would strike me though that, even if you had all of those three bodies joined up, they do not necessarily have the same kind of function as other inspectorate services that take a more detailed, independent oversight. I am wondering if you have a view as to how those things might be married.

Prof. Triggs: To be honest I have not thought about how that could be achieved. I would certainly like to talk to my colleagues. Indeed, I am meeting with the Commonwealth Ombudsman early next week. Would it be acceptable to you if I raised this in that meeting of the relevant agencies in these areas? It might be helpful

if I were to raise it with them and see if we could get some kind of agreed view as to what might be an appropriate way of responding to your question, because I do think you raise an important issue.

Senator PRATT: Thank you.

Answer

The Commission believes that there should be independent monitoring of conditions of detention in ‘regional processing countries’. The agencies who are involved in monitoring conditions in immigration detention facilities in Australia are committed to working together in the most efficient way possible. If there were a body established to conduct independent monitoring of the health of asylum seekers in ‘regional processing countries’ it should work in collaboration with any other agency that might also have a monitoring role.