

# Indonesia Institute

Indonesia Institute Inc.

(The Indonesia Institute is a Western Australia-based and internationally recognized non-government organization established to represent Australian and Indonesian social, cultural, political and community interests. It acts as an effective and responsible lobby group to government and facilitates networking opportunities for those interested in Indonesia-Australia affairs.

## Senate Inquiry into the incarceration and detention of Indonesian minors in Australian adult prisons

We wish to make the following submission to the Inquiry into the incarceration and detention of Indonesian minors in Australian jails.

### **1. Who are we?**

The *Indonesia Institute* is a fully incorporated association registered in Western Australia. We are a non government organisation and a not-for-profit group.

Our primary objectives are:

- To improve Australia-Indonesia relations at a cultural, social, business and community level.
- To act as a 'think tank' on matters relating to Indonesia and Australia with a particular emphasis on WA.
- To promote cultural, social, and community activities between Indonesia and WA and, in association with the AIBC, build improved trade and commerce links and opportunities.
- To lobby governments in both WA, Australia and Indonesia on matters relating to our bi-lateral relations.
- To act as a commentator on matters relating to Australia-Indonesia relations.
- To assist the WA Department of State Development in the building and sustaining of the 'Sister-State' Relationship between WA and East Java.
- Develop and maintain close relations with the Indonesian Consul-General in WA and to assist their office where possible.
- To provide Indonesia with a 'voice' in Australia to generate an improved understanding about 'today's Indonesia'.

### **2. Our involvement in the 'Children in jail' matter.**

We have been a key lobby group since our inception as an incorporated body- and we continue to work through our networks and government to have matters concerning the incarceration of minors reviewed.

### ***3. Our over-arching view***

The Institute believes firmly that young children and also adult fishermen in remote parts of Indonesia have been targeted by 'people smuggling' syndicates operating in Indonesia, for the purpose of carrying asylum seekers to Australia (Christmas Island).

The current law as applied in Australia therefore treats these fishing people – by definition-as people smugglers.

As a result two completely unacceptable outcomes have occurred:

- Adult fisherman are jailed as people smugglers, leaving behind families with no income or means of existence.
- Children-as young as 13 years of age – are working on these boats, and upon arrival into Christmas Island the children are treated as 'adults' until such time their ages is confirmed.

In the latter circumstances the time taken to verify the age of the boat crew has consistently taken longer than two years. This has resulted in children being incarcerated in Australian Adult Maximum security jails for periods of 2-3 years without trial or their case being heard.

Accordingly we make the following submission:

#### ***1. Recommendation Number One:***

Any Indonesian crew member who is arrested by Australian authorities, and who claims they are a child (under 18) should be treated as such until their age can be verified. They should NOT under any circumstance be placed in adult prisons.

#### ***2. Recommendation Number Two***

The Senate Inquiry should investigate the feasibility of these crew-members being placed on 'bail' within the Indonesian community here in Australia whilst awaiting determination of their age. The crew members pose no threat to the Australian community and therefore should not be detained at a great expense in adult maximum security prisons.

#### ***3. Recommendation Number Three***

Indonesian prisoners should be allowed to remit prison monies home to their families in Indonesia. Their 'pocket money' earned from within the system should not be 'garnished' or "withheld" under any circumstances.

#### **4. Recommendation Number Four**

The law concerning mandatory sentencing needs to be repealed as soon as possible. Judges must have the option to exercise 'common sense' when dealing with these cases.

#### **5. Recommendation Number Five**

The use of the Greulich and Pyle form of x-ray testing to determine the age of a suspected people smuggler who claims to be a child should be stopped immediately. This method is totally discredited and illegal in the UK. The utilisation of the above tests and the results that have resulted in the incarceration of dozens of Indonesian children should be independently reviewed on a case by case basis and where mal-administration is identified it should be referred for possible professional disciplinary action and where appropriate criminal prosecution.

#### **6. Recommendation Number Six**

That the senate inquiry investigate if the laws that have resulted in children being incarcerated can be amended retrospectively.

There are a large number of children and young adults in our prison system following convictions for 'people smuggling'. They should not only be not classified in this way but also should have their sentences revoked so they can be returned home to their villages.

Furthermore, those children who have been incorrectly incarcerated should be compensated for the mental and financial costs that have incurred. Such compensation could be used to help their family to improve and rebuild their lives and to obtain assistance for counselling that would be necessary.

Not only the children but their families should be compensated for the actual damage and any psychological or contingent damages.

#### **7. Recommendation Number Seven**

The Senate inquiry should give serious consideration to recommending that some financial compensation should be made to the families of minors have been jailed.

This will allow their families to rebuild their lives and to recover from the trauma of having been 'locked-up' for up to five years.

**Summary.**

We fully support this inquiry and wish you every success in having this matter fully examined and the truth as to why young children have been unnecessarily incarcerated for 'people smuggling' when the real 'masterminds' go about their terrible trade untouched.

Yours sincerely

*Ross Taylor*

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Chairman

Indonesia Institute Inc.

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