Youth detention Royal Commission ‘compromised’

By ERWIN CHLANDA

Alice Springs News, 29 July 2016

Peak Aboriginal organisations say the appointment of former NT Chief Justice Brian Martin (pictured) as the Royal Commissioner to investigate youth detention in the NT “does not satisfy any threshold of independence.

“Only a few weeks ago he delivered to the NT Government a report about the establishment of a regime to investigate corruption, at the instigation of the now disgraced and former NT Corrections Minister, John Elferink,” says Olga Havnen, the Deputy Chair of the Aboriginal Medical Services Alliance NT (AMSANT).

She says: “He sat at the apex of the NT’s justice system. He presided over all judicial officers who sentenced young Aboriginal offenders to detention, and he knew them all; he himself sentenced juveniles to detention.

“Worse, although Mr Martin retired as NT Chief Justice in 2010, he was later that same year appointed as an additional judge of the Supreme Court of the Northern Territory and he continues to hold that appointment.”

Ms Havnen’s statement is part of a media release late yesterday from the Northern and Central Land Councils and AMSANT whose Chief Executive John Paterson said on behalf of the three organisations: “We are hurt and furious because, yet again, we have been ignored – this time on the most important matter of the safety of our children.

“We are also deeply disturbed that NT Chief Minister Adam Giles was party to developing the terms of reference and selecting the Royal Commissioner.”

Mr Martin was not available for comment, but a spokesperson for him said “I am sure he will be considerate” of the request.

Mr Patterson says the “Royal Commission is compromised from the start”.

He says organisations calling for an “independent” expert heading up the enquiry included the Central Australian Aboriginal Legal Aid Service and North Australian Aboriginal Justice Agency “which are both unable to comment … because they will likely be representing parties before the Commission”.

Says Ms Havnen: “There are many other eminent former judges around the country who would qualify as truly independent, but the Prime Minister clearly did not canvas that field.

“Although Mr Martin retired as NT Chief Justice in 2010, he was later that same year appointed as an additional judge of the Supreme Court of the Northern Territory and he continues to hold that appointment.

“We are further upset that the terms of reference are not cast widely enough to include the wider NT youth justice system, rather than a narrow focus on youth detention, and that they do not specify an examination of the huge over-representation of Aboriginal youth in detention.

“Not only does the Northern Territory justice system lock up more juveniles than any other jurisdiction, more than 90 per cent of those detainees are Aboriginal. ”

Meanwhile the Australian Lawyers Alliance (ALA) says the Turnbull Government has missed a once in a generation opportunity to deal with the inherent racism of the Australian legal system towards Indigenous people.

The alliance questioned whether Mr Martin was the right choice as Royal Commissioner “given the high rates of incarceration of youth and adults, particularly Indigenous people, in which the judiciary has played a part”.

ALA spokesman Greg Barns said that Prime Minister Malcolm Turnbull should have heeded widespread community opposition to his view that a royal commission into NT youth detention ought to be narrowly focused: “The revelations of what is happening in the NT should have resulted in a broad Royal Commission.

“The risk now is that mistreatment and abuse in other parts of Australia will continue, out of sight and out of mind of the narrow Royal Commission in the NT.”