

# Submission to the Senate Inquiry into the Migration Amendment (Removal and Other Measures) Bill 2024

8<sup>th</sup> April 2024

AUSIRAN LTD

Australian Company Number : 674 805 862

ABN: 66674805862

## Introduction:

AUSIRAN LTD, is an independent, non-profit organisation dedicated to working towards the establishment of fundamental human rights including but not limited to freedom, justice, and democracy in Iran. We also advocate for the rights and well-being of the Australian-Iranian community. As an organisation without affiliation to any political party or religion, we stand in solidarity with the Iranian community in Australia and those who have been forced to flee their homeland due to persecution and oppression.

As an organisation deeply connected to the Australian-Iranian community, we are particularly concerned about the impact of the proposed Migration Amendment (Removal and Other Measures) Bill 2024 on Iranian asylum seekers and refugees in Australia. The proposed legislation presents additional uncertainties and challenges for many members of our community who have fled the oppressive regime in Iran and sought protection in Australia. Therefore, we submit this document to advocate for our community rights and ensure they are heard for the upcoming senate hearing.

In the following, we outline a few critical points essential for understanding how the proposed legislation will impact our community in both the short and long term.

## **Key Points:**

### **I. Discrimination against Iranians:**

The legislation's ability to designate a particular group such as Iranians by the immigration minister to be blacklisted is preposterous. The legislation's ability to halt visa processing for Iranians under the pretext of their country's non-cooperation with involuntary returns deeply affects those fleeing conflict and oppression. The psychological and emotional toll of indefinite family separation cannot be overstated, exacerbating the vulnerability of already distressed individuals and contributing to a cycle of trauma and uncertainty.

Prolonged uncertainty about one's legal status, combined with the fear of being returned to a country where they face persecution, can lead to chronic stress, anxiety, depression, and post-traumatic stress disorder (PTSD) among Iranian asylum seekers and refugees. According to the Department of Home Affairs, as of 31 December 2023, there were 186 Iranians in immigration detention, constituting one of the largest nationality groups in detention [1].

Moreover, the legislation's discriminatory nature may contribute to a sense of marginalisation and alienation among the Australian-Iranian community, affecting their sense of belonging and integration into Australian society. This can lead to social isolation, reduced participation in community activities, and difficulties in accessing essential services such as healthcare and education [2].

### **II. Contradictory approach:**

The proposed legislation presents a contradiction in Australia's stance towards Iran, placing side by side, strict immigration measures against Iranians with the continuation of diplomatic and trade relations with the Islamic Republic in Iran [3]. This inconsistency not only raises questions about the alignment of Australia's foreign policy with its human rights values but also underscores a complex dilemma facing Iranians who seek refuge.

This legislation will send mixed signals about Australia's stance on human rights and refugee protection, while this duality could be perceived as Australia prioritising economic interests over human rights, affecting its global image and relations with other nations prioritising human rights.



### III. Violation of human rights:

The proposed legislation introduces provisions that criminalise the act of non-cooperation with removal proceedings, assigning severe imprisonment and financial penalties. This approach not only penalises individuals irrespective of their genuine fears of persecution or harm upon return but also starkly contravenes the principle of non-refoulement.

This principle, a cornerstone of the 1951 Refugee Convention to which Australia is a committed signatory, mandates that no one should be returned to a country where they face serious threats to their life or freedom [4]. By enforcing penalties on those fearing harm, the legislation directly violates Article 33 of the Refugee Convention. This action raises profound ethical and legal questions about Australia's adherence to its international obligations.

The high rejection rates of Iranian asylum seekers, particularly under the fast-track processing system—which has faced criticism from the UNHCR for lacking procedural fairness—highlight the complexities and dangers they face [5]. Penalising such individuals without adequately considering their claims for asylum disregards their fundamental rights and the realities of their precarious situations.

### IV. Lack of due process:

The accelerated push to enact this legislation, bypassing comprehensive stakeholder engagement and meticulous evaluation of its broader impacts, marks a deviation from democratic principles and the essential tenets of due process.

This hurried legislative process overlooks the critical need for a thorough dialogue with affected communities including our community and requires multiple round tables to hear different viewpoints. The consultation also should include legal experts, human rights organisations, and other stakeholders, thereby sidelining diverse perspectives and expertise that could inform a more balanced and just policy.

The legislation also endows the Minister with expansive powers, including the ability to reverse protection findings, without sufficient checks and balances. This concentration of power, coupled with a lack of adequate judicial oversight, raises significant concerns about the potential for arbitrary decision-making and the erosion of the rule of law. The absence of safeguards to temper these powers undermines the principles of transparency and accountability that are fundamental to democratic governance.

Recent High Court challenges, such as the cases of ASF17 and AZC20, underscore the legal and ethical complexities surrounding the detention of Iranian asylum seekers [6]. These individuals, detained for extended periods amid fears of persecution and torture if returned to Iran, highlight the urgent need for legislative and procedural reforms that ensure fairness and respect for human rights. The proposed bill's approach, in contrast, risks exacerbating these issues, further entrenching the vulnerabilities of asylum seekers within the legal system.



## Our Recommendations:

1. Repeal the proposed bill and adopt a more humane and considered approach to immigration that respects the rights and aspirations of asylum seekers and refugees, particularly those from Iran who are fleeing oppression and seeking protection.
2. Engage in comprehensive stakeholder consultations, including with AUSIRAN, to better understand the implications of the proposed changes on the Australian-Iranian community and those fleeing the oppressive regime. These consultations should be conducted transparently and inclusively, with adequate time for public input and debate.
3. Reaffirm Australia's commitment to the principle of non-refoulement and ensure that any changes to the migration law do not violate international human rights obligations, including the 1951 Refugee Convention and the Convention against Torture. This should include a thorough review of the proposed bill by legal experts and human rights organisations to ensure compliance with these obligations.
4. Review Australia's diplomatic relations with the Islamic Republic of Iran and consider the impact of these relations on the situation of Iranian asylum seekers and refugees. This should include an examination of trade relations and their potential to support the oppressive regime, as well as the use of targeted Magnitsky-style sanctions and diplomatic pressure to hold the regime accountable for its human rights abuses.
5. Provide adequate support and resources for Iranian asylum seekers and refugees in Australia, including access to mental health services, education, and employment opportunities, to help them rebuild their lives and contribute to Australian society. This should include funding for community organisations that provide direct support and advocacy for the Australian-Iranian community.
6. Establish a dedicated refugee resettlement program for Iranians fleeing persecution, with a focus on those who are at high risk of harm if returned to Iran, such as political activists, journalists, and minorities including members of the LGBTQ+ community. This program should be developed in consultation with Iranian community organisations and human rights experts to ensure that it effectively meets the needs of those seeking protection.
7. Work with the international community to apply pressure on the Islamic Republic regime to respect human rights and end its oppressive practices, including through targeted sanctions, diplomatic isolation, and support for the democratic aspirations of the Iranian people. Australia should take a leadership role in this effort, using its position on the United Nations Human Rights Council to raise awareness of the situation in Iran and advocate for meaningful change.

8. Ensure that any changes to the migration law are subject to rigorous parliamentary scrutiny and oversight, with adequate time for public consultation and debate, and the opportunity for experts and stakeholders to provide evidence and recommendations.
9. Implement a more transparent and accountable system for reviewing protection visa applications, with access to independent legal advice and the right to appeal decisions in a timely manner. This should include measures to address the concerns raised by the UNHCR about the fast-track process and ensure that all asylum seekers have access to a fair and efficient determination process.

### Conclusion:

AUSIRAN strongly opposes the Migration Amendment (Removal and Other Measures) Bill 2024 in its current form. We believe that the proposed changes disproportionately affect Iranians seeking refuge and undermine Australia's commitment to human rights and international obligations. The bill not only discriminates against Iranians but also violates the principle of non-refoulement and lacks due process. We urge the Senate to carefully consider the implications of this bill and to adopt a more compassionate and principled approach to immigration that respects the rights and dignity of all individuals, regardless of their country of origin. Furthermore, we call on the Australian government to review its diplomatic relations with the Islamic Republic of Iran and to prioritise the protection and support of Iranian asylum seekers and refugees who have fled oppression and persecution.

As an organisation deeply connected to the Australian-Iranian community, we stand ready to work with the Australian government and other stakeholders to develop practical and effective solutions that uphold the rights of Iranian asylum seekers and refugees while supporting their integration into Australian society. By engaging in meaningful consultation, upholding our international obligations, and providing adequate support and resources, we can ensure that Australia remains a beacon of hope for those fleeing oppression and persecution, including the brave Iranian people who are risking their lives in the fight for freedom and democracy.



## References:

- [1] Tillett, A. (2024, March 26). Tough visa rules would ban entire countries. *Australian Financial Review*. Retrieved from <https://www.afr.com/politics/federal/government-rushes-new-laws-to-deport-failed-asylum-seekers-20240326-p5ff9y>
- [2] Alizadeh, H., & Chavan, M. (2016). Cultural competence dimensions and outcomes: a systematic review of the literature. *Health & Social Care in the Community*, 24(6), e117-e130. <https://doi.org/10.1111/hsc.12293>
- [3] Department of Foreign Affairs and Trade. (2023). Iran Country Brief. Retrieved from <https://www.dfat.gov.au/geo/iran/iran-country-brief>
- [4] United Nations High Commissioner for Refugees. (1951). Convention and Protocol Relating to the Status of Refugees. Retrieved from <https://www.unhcr.org/3b66c2aa10>
- [5] Kaldor Centre for International Refugee Law. (2022, June 20). 'Fast tracking' refugee status determination: *Research Brief*. UNSW. Retrieved from [https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-research-briefs/2023-09-Research-Brief\\_Fast-track\\_final.pdf](https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-research-briefs/2023-09-Research-Brief_Fast-track_final.pdf)
- [6] Human Rights Law Centre. (2024, March 26). *Human Rights Law Centre to intervene in High Court challenge to indefinite detention on behalf of client AZC20*. Retrieved from <https://www.hrlc.org.au/news/2024/3/26/hrlc-high-court-challenge-indefinite-detention-azc20>