



Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

29 August 2014

Dear Secretary,

Inquiry into the Migration Amendment (Protecting Babies Born in Australia) Bill 2014

Thank you for the opportunity to make a submission to the inquiry.

UnitingJustice Australia is the justice policy and advocacy unit of the Uniting Church in Australia Assembly (the national council), pursuing matters of social and economic justice, human rights, peace and the environment. UnitingJustice exists as an expression of the Uniting Church's commitment to working towards a just and peaceful world.

In July 2002, the Uniting Church released its Policy Paper on Asylum Seekers, Refugees, and Humanitarian Entrants. In this paper, the Church states its commitment to policy which reflects a just response to the needs of asylum seekers and refugees, recognises Australia's responsibilities as a wealthy global citizen, upholds the human rights and safety of all people, is culturally sensitive, and is based on just and humane treatment including non-discriminatory practices and accountable transparent processes.

UnitingJustice Australia supports the proposed amendment to the *Migration Act 1958*.

The legislation as it stands allows for a baby born in Australia to asylum seeker parents who have arrived by boat or who are in Australia without a current visa to be subject to detention and removal to a regional processing centre. We believe such action would breach our obligations under the United Nations Convention on the Rights of the Child.

The Uniting Church in Australia has a long-standing concern for the wellbeing of asylum seekers who are mandatorily and indefinitely detained in detention centres onshore and offshore. The Church is especially concerned for the welfare of children. The centres on Christmas Island and Nauru are entirely unsuitable places for children and babies.

For a World Reconciled

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The current Australian Human Rights Commission (AHRC) *National Inquiry into Children in Immigration Detention 2014* is hearing evidence of the devastating effects of detention on the health and wellbeing of children. It is clear that children suffer because of the detention environment itself and also because of inadequate healthcare and lack of access to education.

UnitingJustice Australia believes that the indefinite and mandatory detention of children is a gross violation of international human rights laws, including (but certainly not limited to):

- the Convention on the Rights of the Child (CRoC), particularly articles 2, 3, 18, 22, 24, 27, 28 and 37;
- the International Covenant on Civil and Political Rights (ICCPR), particularly articles 2, 6, 9, 10 and 23;
- the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly articles 2, 10, 13 and 15; and
- the Convention Relating to the Status of Refugees and the Protocol Relating to the Status of Refugees.

In our submission to the AHRC inquiry we stated that,

We believe that the fundamental human rights of the... child asylum seekers on Nauru are in grave danger, and we support the urgent transport of the children and their families to the Australian mainland.¹

It is almost inconceivable that a baby born in Australia could be classified as having 'entered Australia by sea' and so be subject to removal to Nauru and such potentially egregious breaches of their human rights.

The simple amendment proposed in this Bill does nothing more than ensure that a child born in Australia will remain in Australia with their parents while their protection claim is processed under Australian law. In the best interests of children born in Australia, we urge the Committee to recommend adoption of the Bill.

Yours sincerely,

(sent electronically)

Rev. Elenie Poulos
National Director

¹ <http://www.unitingjustice.org.au/refugees-and-asylum-seekers/submissions/item/954-ahrc-national-inquiry-into-children-in-immigration-detention-2014>