

[http://www.aph.gov.au/senate/committee/legcon\\_ctte/antipeoplesmugging/submissions.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/antipeoplesmugging/submissions.htm)

In this submission I remind the committee of the hideous law they just allowed to pass which makes it a crime to give refugees a ride, financial support or any means of support in any country of the world in breach of so many human rights law and treaties I simply lost count.

Suffice to say that every treaty and convention on the list of 7 supplied is breached by these laws.

They are all in conflict with the racist policy of jailing innocent people for seeking asylum, no amount of obfuscation by the parliament can take away the fact that it is the only reason they are jailed because a visa is not a legal requirement and a bridging visa can easily be granted and catching a boat to an island is not illegal but good sense if the people cannot swim or catch a plane.

I have been through all the provisions of the 7 committees and we have fallen foul of every section that I can see but the most important breach is always over looked. That is article 30 of the Universal human rights that states that no-state shall take away any of the other 29 human rights for any reason or as an excuse to excuse themselves of human rights protection.

The bill as drafted mentions citizens, what of the millions of non-citizen visitors, migrants, students and refugees and asylum seekers who are within our borders.

A specific example is the rights of the child which were completely over thrown by the High Court and allowed for permanent detention of children even if they were born in Australia and if both parents are not citizens.

Al Kateb breaches every human rights law known to any country on earth and the poor devils locked in Gitmo have habeas corpus rights that this law does not allow.

s134 stripped human rights and family reunion rights from refugee families by a majority of 5-2 and the family were subsequently found by the ICCPR committee to have been illegally detained for many years.

s157 strips all but the most minimal human rights access to courts, only rare natural justice cases ever escape the privative clause in s 157.

Article 9 of the declaration of human rights insisted on by Australia in the drafting states that no person shall be subjected to arbitrary arrest or detention but we jail innocent refugees for having the gall to arrive here and ask for help and we do it for months, years or forever.

Singh of 2004 decrees that the birth canal is a migration path but makes it legal to deport children born in detention if parents are non-citizens.

The government might con some people into believing that they believe in this framework but the laws they have passed in recent days and the illegal suspension of processing for the two groups most in need of protection followed by illegal and arbitrary detention in desert prisons shows me again they have no interest in human rights whatsoever.

There are still the unresolved torture and trauma claims of David Hicks and Mamdouh Habib whose human rights were abrogated by Australia as they languished for years in Guantanamo Bay.

The illegal deportations of many 'failed' asylum seekers on false documents to the wrong countries is another example of law breaking by the government and has not been addressed.

The interception and jailing of asylum seekers in foreign countries abrogates our responsibility under the law of non-refoulement which the committee are well aware encompasses any of our agents illegally stopping a single person from seeking asylum in any territory where they cannot guarantee their safety or guarantee they will not be tortured or returned to danger. Jailing people to be

tasered and tortured in Indonesia is an egregious breach of the refugee convention Article 33 which this government is well aware of.

The so-called intervention into the NT is nothing more than a racist attack on the first people of this country, it has been condemned by all human rights groups on the world yet it continues and the first peoples are treated like unmentionables in India.

I conclude by stating for the record that this is a hoax on the public and will do nothing to further the human rights protection of a single Australian citizen let alone the rights of any group the parliament decides to target for abuse, especially in an election year.

Was it intentional to leave out non-citizens because the universal declaration endows equal rights on all people no matter where they are, the colour of their skin, their religious beliefs, the lack of citizenship and many others.

I also notice the convention on the rights of the stateless is missing from the list along with the refugee convention and protocol, but then the convention is enshrined in the Migration act and we still ignore it so I do not see the point of this framework when even the work already conducted by HREOC and the committees involved are completely ignored.

Let's now add the delusion that it was legal to suspend applications for refugee claimants from Afghanistan and Sri Lanka when the attached questions on notice show clearly there was a 40% increase in the applications approvals by Sri Lankans as at 11 June this year and barely a decline for Afghans. This is an expensive, criminal exercise designed to do nothing but torture the couple of thousand innocent men, women and children from Afghanistan and Sri Lanka for politics and I condemn it.

Then we come to the lunacy of using East Timor, a situation Human Rights watch state clearly has no legal basis, trouble is the entirety of the countries leadership and media ignored it.

<http://www.hrw.org/node/92320>

### **Offshore Processing of Asylum Claims**

The broad proposal by some parties to "stop the boats" and forcibly transfer asylum seekers who reach Australia to an offshore regional processing center undermines Australia's obligations under international law. From the information currently available, offshore processing in Timor-Leste or Nauru would effectively amount to a repeat of the expensive, highly criticized, and ultimately ineffectual "Pacific Solution" of the Howard era. It should be rejected as a violation of both the letter and the spirit of the Refugee Convention, and because the last attempt at a Pacific Solution caused considerable and unnecessary hardship to individuals and families.

Forcible removal to an offshore processing site is highly questionable under international law. First, Timor-Leste and Nauru do not have functioning asylum processing systems and cannot guarantee refugees' effective protection. Second, the Australian-bound asylum seekers did not first pass through Timor-Leste or Nauru en route to Australia and have no other ties to those countries. Third, the transfers would be involuntary. While some governments have at times legitimately returned asylum seekers to countries of first asylum that have comparable asylum standards and procedures and through which the asylum seekers first passed en route to their final destination, this is not the case with either the ALP or Coalition proposals. Australia has little basis under international law for forcibly sending them to such third countries.

Australian political parties have also not yet explained how, where, and when refugees processed offshore would be resettled. Long delays in resettlement could expose refugees, including children, to extended periods of detention, potentially violating the right of all persons to be free from arbitrary detention. Also, no plan for oversight and monitoring of conditions in detention has been put forward, despite credible allegations of abuses in Australian-funded detention centers in Indonesia (see below).

The framework as envisaged will not do a single thing to protect anyone in the world from Australia's parliament breaking the law whenever it is expedient.

Then we come to the stupid case of Hadi Ahmadi, a refugee from Iraq, who helped refugees in Indonesia but was "extradited" from Indonesia because some refugees he helped in Indonesia became refugees in Australia.

According to his lawyer the judge said the refugee convention and people smuggling protocol which forbid this sort of punishment were irrelevant and leaves Australia alone in the world being able to render any person in any country who might have helped any refugee to arrive here at some point, precisely the disaster Mary Crock and others envisaged in the anti-people smuggling bill where the law was utterly ignored.

As stated by Human Rights Watch in the letter.

To play games with Afghans taxpayers have been forced to spend almost \$500 million on new jails while 51 Afghan women die in child birth every day and 25% of their children die before they are 5. To underscore the ignorant stupendously ignorant waste in new prisons for internationally recognised arbitrary and illegal detention, we only gave the entire country of Afghanistan \$120 million in aid last year.

Marilyn Shepherd