

# **SUBMISSION TO THE INQUIRY ON THE MIGRATION AMENDMENT (REPAIRING MEDICAL TRANSFERS) BILL 2019**

This is a Public Submission

Submitted by: **GRANDMOTHERS AGAINST DETENTION OF REFUGEE CHILDREN**

## **Introduction**

The **Grandmothers Against Detention of Refugee Children** is a movement of women (and friends of Grandmothers) with long years of practical experience in the care, growth and development of children. Our movement was called into being five years ago (2014) in the extreme circumstances of indefinite detention of innocent children and their refugee families.

Our movement's purpose begins by building awareness in the community of the unjust treatment of refugees, especially children and their families. The violations of the 1989 Convention on the Rights of the Child and the 1951 Refugee Convention are our major concerns.

We are not party political. We make representations to elected representatives across the political spectrum. Our current and urgent focus is in these **Four Demands of the 46<sup>th</sup> Parliament:**

- End all forms of detention for refugee children
- End refugee family separation
- Take all refugees off Manus and Nauru to safe settlement
- Ensure refugee children and their families seeking asylum are not held longer than 72 hours to enable basic identity and health checks

## **Concerns in brief**

**Our concerns with the Bill under review may be summarised as follows:**

- the wrongful assertions that the Bill meets Australia's international human rights obligations
- the misleading statements by Minister Dutton in his second reading speech to the House

- the cumulative failures in duty of care when the impact of the Bill under review will prolong the unsustainable situation of indefinite detention and its compounding consequences.

### Context in brief

We begin by noting that, despite dire warnings of ‘floodgates’ being opened, manageable numbers of patients have been evacuated for treatment under the provisions of the legislation this Bill seeks to repeal. Our advice is that, as of 1 August 2019, at 3pm, 107 people (from both Nauru and PNG) had been approved for medical evacuation with 69 already transferred. On that same date, we understand that there were 14 applications before the Minister.

### Discussion of concerning issues

1. Our concerns with this Bill begin with the wrongful assertions in the obligatory **Statement of Compatibility with Human Rights** attached to the Bill certifying that it meets Australia’s international human rights obligations. This is, in our view, an attempt to mislead the Parliament and is a serious matter for the Committee’s scrutiny.
  - a. This Bill would add to the suite of already extreme measures that breach Australia’s international legal obligations.
  - b. Targeting people who came to Australia by boat to seek asylum, the Bill would specifically breach Article 31 of the Refugee Convention, which prohibits penalising people seeking asylum for their mode of entry.
  - c. To knowingly compound the breaches of human rights in Australian law would constitute, in our view, a serious breach of commitments made when Members and Senators are sworn in as Parliamentary representatives.
2. We are further concerned by misleading statements by Minister Dutton in his second reading speech to the House. This is not able to be explained away or justified as mere political rhetoric.
  - a. The Minister’s speech contradicts the fact that the terms of the existing medevac legislation give the Minister the power to determine whether or not a medical evacuation proceeds. In evidence, as many as seven people have been denied medical evacuation under the current provisions on the Minister’s determination. There is no need, therefore, for the Repeal Bill when

the powers sought for the purpose of stopping “those with bad character” from entering the country already exist.

- b. The Minister in his speech finds it relevant to cite advice that *“since the Migration Amendment (Urgent Medical Treatment) Bill was first introduced by the former Member for Wentworth in December 2018, there has been a marked increase in self-harm behaviours in regional processing countries. Many of these acts are undertaken for the explicit purpose of manipulating the system and gaining access to our country.”* The figures will show that the distressing spate of self-harming by more than 90 people held on Manus Island began in response to the hopes for a change in refugee policy dashed by the re-election in May 2019 of the Morrison Government. To ignore the depths of despair felt by these dozens of men is a measure of the Minister’s empathy. To characterise the self-harm, including an act of self-immolation, as a manipulation of the system is misleading the Parliament and deserves to be called out as such by the Committee.
3. Our further concerns are with the failures in duty of care by the Government and the potential for compounding failures of care inherent in this Bill.
  - a. We point to the overall failure of the Government to prevent 12 deaths, the 90 or more cases of self-harm and the fact that there are still around 800 people offshore after almost six years - most of whom have been accepted as refugees yet face ongoing and indefinite detention.
  - b. The unsustainability of the cycle of indefinite detention causing ill health, providing people with treatment and then returning those people to the very situation which is the source of their medical illness is evident - but ignored by the current Government. The ‘return provisions’ of this Bill would commit the Government to repeat its policy failures *ad nauseam*.
  - c. Genuine treatment for recovery from ill health needs to be targeted at the source. The source of illness in these cases is the indefinite detention of refugees and people seeking asylum. The compounding impact of this Bill will prolong this unsustainable cycle known to cause illness and harm. When the indefinite detention of innocent people causes deaths, physical and mental illness and the high numbers of recent self-harm related to utter despair and hopelessness, those in power (including members of this Committee) have a duty of care to respond to alleviate the causal conditions as well as the symptoms of ill health.

## Summary and recommendation

The Grandmothers Against Detention of Refugee Children stands alongside others in the Australian community who stand up for refugees and their rights.

Whilst this submission makes no attempt to address each and every concern held for the current treatment of refugees, we support the general thrust of other submissions calling for justice and humanitarian responses to the local manifestation of our global refugee dilemma.

Finally, as elders in our communities, we are deeply concerned with the loss of commonly held values that make Australia a civil society. The quality of government policy in sustaining the civility that unites us is a matter of concern for citizens of a democracy. If all reasoned argument fails, the Bill under review deserves to be marked down by the Committee for its failure to uphold Australia's civil society.

We respectfully urge the Committee to adopt the following recommendation that:

**This Committee does not support the Migration Amendment (Repairing Medical Transfers) Bill 2019 and advises the Senate and the community accordingly.**

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