



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

**Submission to the Senate Legal and Constitutional Affairs Committee – Migration
Amendment (Removal and Other Measures) Bill 2024**

11 April 2024

The Edmund Rice Centre for Justice and Community Education is a Sydney-based, not-for-profit organisation working for social justice, human rights and eco-justice through research, community education and advocacy. We have three primary areas of focus: Reconciliation and Rights for Aboriginal and Torres Strait Islander Peoples; Refugees and People Seeking Asylum and Climate Justice for Pacific Island countries.

Introduction

On 27 March 2024, the Australian government hastily introduced the *Migration Amendment (Removal and Other Measures) Bill 2024* (the Bill) to Parliament. The Bill seeks to make it a criminal offence for individuals not to cooperate with removal efforts, expands the Minister's authority to overturn protection findings, and allow for the imposition of travel bans on entire nations. The Bill primarily targets non-citizens, including holders of Bridging (Removal Pending) visas, Bridging (General) visas and potentially other non-citizens as specified in the Bill Regulations. Failure to comply with a removal direction could result in mandatory imprisonment between 1 and 5 years, significant fines or both, without consideration given to the risk of persecution or other serious potential harm associated with removal from Australia.

Human Rights Concerns

The Bill raises significant human rights concerns, particularly regarding Australia's obligations under the Refugee Convention and its protocols. The most troubling aspects of this Bill include:

Criminalisation of People Seeking Asylum: One concerning development is the Bill's proposal to criminalise non-cooperation with removal from Australia, even for individuals who genuinely fear harm if returned to their home country. The Bill imposes a mandatory minimum of 12 months imprisonment for those who do not cooperate with their removal, which could contravene Australia's obligations under the Refugee Convention.

Indefinite Detention: Another troubling aspect of the Bill is the potential for indefinite detention of individuals who cannot be removed due to genuine fears of harm or their medical condition. This raises serious human rights concerns, including the right to liberty and the prohibition of arbitrary detention.

Separation of Families: The Bill also allows for the separation of families by requiring compliance with removal directions, regardless of the impact on family members. This could result in Australian citizens being forcibly separated from their parents if the parents were coerced to return to their home country.

Expansion of Ministerial Powers: Additionally, the Bill grants the Minister extensive powers to designate a visa ban or "removal concern countries" and decide on exemptions, without transparency or safeguards. This expansion of Ministerial powers raises concerns about accountability and the rule of law.

Impact on Australian Families

The Bill has significant implications for Australian citizens with families overseas. As at June 2022, it was estimated that out of Australia's population of 26 million, 7.7 million (29.5%) were born overseas. The provision in the Bill to impose visa bans on entire countries could intentionally separate families. This provision is unjustifiable and contrary to common sense. Many of those who could be affected by this Bill are from non-democratic countries where the government does not prioritize the welfare of citizens who are forced to flee their homeland.

Shay, who was born in Iran and is now an Australian citizen, is a mother of two, a human rights activist, and a journalist. She stated her concerns as follow:

"As a female political refugee from Iran, my ability to invite members of my immediate family to Australia for a visit is a crucial concern under this Bill. I have not seen my brothers since 1996, and if this Bill passes, I will permanently lose this opportunity. I lost my mother during the COVID-19 pandemic and I have not seen my elderly father in over 16 years. I refuse to submit to the despots in Iran and the only hope of reuniting with my family lies in inviting them to Australia. This Bill threatens to strip me of this fundamental human right, one that has been denied to me by the Iranian regime for years."

Kalyani Inpakumar, Coordinator of the Tamil Refugee Council NSW, has expressed profound concern regarding the proposed new powers outlined in the Migration Amendment (Removal and Other Measures) Bill 2024:

"The Tamil Refugee Council collaborates with asylum seekers and refugees at various stages of their journey towards permanent protection. All of these individuals fear persecution from the Sri Lankan government, army, police, and general populace due to the ongoing genocide. The situation remains perilous for Tamils, as their lands, sacred sites, and livelihoods are subjected to daily atrocities, including murder, sexual abuse, torture, and incarceration."

In its current form, this Bill violates Australia's internationally legislated responsibilities towards asylum seekers. If implemented, it has the potential to tear families apart and expose an already suffering cohort of traumatised and abused individuals to further harm, if not death”.

Habib, an Australian citizen of Afghan descent, expressed deep disappointment in the Australian government's proposed draconian bill. He stated,

"The bill gives me the sense that I am going to live under the barbaric Taliban regime, not in a democratic and free Australia. I fled Afghanistan because I am an ethnic and religious minority and didn't have the freedom to practice my culture and religion. I was subjected to persecution. However, I am the only one from my family who fled to a safe country like Australia. My family is still in Pakistan, waiting for their refugee application to be processed. If this bill passes, I have no hope of reuniting with my family."

Our Recommendation

After carefully examining the Bill and consulting with individuals and communities likely to be directly affected, we have concluded that the Bill contradicts fundamental Australian principles and values. These include multiculturalism, compassion, family, freedom, and dignity for all, which are deeply cherished by Australians and define our nation. Additionally, the Bill has the potential to violate the International Convention on Refugees and its Protocols, as well as basic human rights. Specifically, it infringes upon Article 31 of the UN Refugee Convention, which states that signatory countries cannot penalise refugees for entering or residing without authorisation, or unduly restrict their freedom of movement.

The Bill is highly likely to result in the separation of Australian families and inflict suffering on individuals who have been forced to flee their homelands and are at risk of persecution due to their ethnicity, religion, political views or sexuality. Additionally, the Bill is also highly likely to negatively impact on Australia's reputation for upholding human rights on the international stage.

The Edmund Rice Centre for Justice and Community Education strongly opposes the Bill and recommends it does not proceed to become legislation.

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